

## SENATE COMMITTEE ON WATER AND LAND USE

April 23, 2003  
3:00 p.m.

Hearing Room D  
Tapes 53 - 56

**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 590 Work Session**  
                                  **HB 3375 Public Hearing and Work Session**  
                                  **HB 2545A Public Hearing and Work Session**  
                                  **SB 293 Work Session**

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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.

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<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
<b>TAPE 53, A</b>		
005	Chair Ferrioli	Calls meeting to order at 3:21 p.m. and opens work session on SB 590.
<b><u>SB 590 – WORK SESSION</u></b>		
018	Judith Callens	Committee Administrator. Provides overview of SB 590 and -3 amendments dated 4/21/03 ( <b>EXHIBIT A</b> ).
038	Adam Sussman	Water Resources Department (WRD). States support for SB 590.
040	Richard Kosesan	Water for Life. States support for SB 590.
<b>045</b>	<b>Sen. Ringo</b>	<b>MOTION: Moves to ADOPT SB 590-3 amendments dated 4/21/03.</b>
<b>050</b>		<b>VOTE: 3-0</b> <b>EXCUSED: 1 - Sen. Atkinson</b> <b>Hearing no objection, declares the motion CARRIED.</b>
<b>055</b>	<b>Chair Ferrioli</b> <b>Sen. Ringo</b>	<b>MOTION: Moves SB 590 to the floor with a DO PASS AS AMENDED recommendation.</b>
<b>058</b>		<b>VOTE: 3-0</b> <b>EXCUSED: 1 - Sen. Atkinson</b> <b>Hearing no objection, declares the motion CARRIED.</b> <b>SEN. FERRIOLI will lead discussion on the floor.</b> Closes work session on SB 590 and opens public hearing on SB 3375.
<b><u>HB 3375– PUBLIC HEARING</u></b>		
080	Art Schlack	Association of Oregon Counties. Provides testimony in support of HB 3375 ( <b>EXHIBIT B</b> ). States that HB 3375 will return to cities and counties the authority to manage the placement of residential dwellings in identified landslide areas and discusses SB 12 (99).
111	Ray Wilkeson	Oregon Forest Industries Counsel. Provides testimony in support of HB 3375. Talks about how SB 12 (99) amended the Forest Practices Act.
136	Keith Mills	Oregon Department of Forestry. Provides testimony in support

		of HB 3375 and refers to submitted written materials <b>(EXHIBIT C).</b>
148	Harlan Levy	Oregon Association of Realtors. States support of HB 3375.
156	Vicki McConnell	Department of Geology and Mineral Industries. Provides testimony in support of HB 3375 and refers to submitted written materials <b>(EXHIBIT D).</b>
174	Chair Ferrioli	Summarizes HB 3375. Closes public hearing and opens work session on HB 3375.

**HB 3375 – WORK SESSION**

<b>188</b>	<b>Sen. Ringo`</b>	<b>MOTION: Moves HB 3375 to the floor with a DO PASS recommendation.</b>
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<b>090</b>		<b>VOTE: 3-0</b>
		<b>AYE: In a roll call vote, all members present vote Aye.</b>

	<b>Chair Ferrioli</b>	<b>EXCUSED: 1 - Sen. Atkinson</b>
		<b>The motion CARRIES.</b>

**SEN. METSGER will lead discussion on the floor.**  
Closes work session on 3375 and opens public hearing on HB 2545A.

**HB 2545A – PUBLIC HEARING**

198	Judith Callens	Committee Administrator. Provides overview of HB 2545A.
215	Jeanette Holman	Division of State Lands (DSL) Director. Provides testimony against HB 2545A. Discusses unintended consequences of HB 2545A:

- Increased difficulty in disposing of state lands
- Increased cost of the sale of state lands
- Loss to the Common School Fund
- Conflict between the provision of the new section 3 and the provisions of section 1

262	Steve Purchase	DSL Assistant Director. Provides examples of how HB 2545A would be detrimental to the Division of State Lands. Refers to submitted written material <b>(EXHIBIT F).</b>
304	Sen. Metsger	Asks for clarification on what actions DSL could for mineral or geothermal access on residential property because of other restrictions placed on residential property.
320	Purchase	Explains what actions DSL could and could not take on residential property.
338	Sen. Metsger	Discusses options involved with the sale of DSL properties.
362	Purchase	Elaborates on the options.
384	Sen. Metsger	Inquires how often DSL sells properties and retains mineral rights.
388	Purchase	Replies that historically, DSL retains the mineral rights to all the properties sold.
394	Chair Ferrioli	Comments that the burden of proof is on the applicant and explains a series of barriers.
419	Purchase	Believes that the Department of Veterans Affairs (DVA) does not always release mineral rights.
422	Chair Ferrioli	Clarifies that DVA does retain mineral rights on ranch properties but does not generally retain mineral rights on residential properties.
430	Sen. Ringo	Asks if the state has investigated drilling underneath the neighborhoods of Klamath Falls.
436	Purchase	Responds that DSL has not investigated drilling under

438	Sen. Ringo	residential properties in Klamath Falls. Inquires if there are private entities conducting drilling in residential areas of Klamath Falls.
441	Purchase	Responds he is unsure and explains that the Bureau of Land Management (BLM) plans to revise geothermal rules with for the purpose of opening geothermal resources in Oregon, which will lead to new interest in some areas of the state.
<b>TAPE 54, A</b>		
030	Harlan Levy	Oregon Association of Realtors. Provides testimony in support of HB 2545A and refers to submitted written materials <b>(EXHIBIT G)</b> .
080	Jim Hall	Provides testimony in support of HB 2545A and refers to submitted written materials <b>(EXHIBIT H)</b> for a discussion of his personal experience.
160	John Totten	Appraisal Institute of Oregon. Provides testimony in support of HB 2545A. Believes that geothermal and mineral rights on urban properties have no significant value to the state and elaborates.
195	Cory Neu	Cheryl Neu Real Estate. Provides testimony in support of HB 2545A and refers to submitted written materials <b>(EXHIBIT I)</b> .
232	Sen. Metsger	Asks about the retroactive provision that states anyone who owns residential property can petition and DSL shall release the mineral rights.
248	Levy	Responds that DSL will be equivalent to the Department of Veterans Affairs.
275	Chair Ferrioli	States the retroactive question should be addressed. Requests a conference between interested parties. Closes work session on HB 2545A and opens public hearing on SB 293.

**SB 293 – PUBLIC HEARING**

299	Randall Edwards	Oregon State Treasurer, Land Board member. Provides testimony in support of SB 293. Gives an overview of navigability issues and the compromises resulting from the work group.
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**TAPE 53, B**

004	Sen. Metsger	Asks if the management plan can be applied to rivers already declared navigable.
012	Edwards	Believes the SB 293-6 amendments allow the plan to be applied to rivers already declared navigable.
019	Chair Ferrioli	States his appreciation for the hard work the State Treasurer has put into the issue and the work group.
040	Joan Silver	Eastern Oregon land owner. Provides testimony in support of SB 293 and -6 amendments. Believes the compromises provide an acceptable solution.
110	Jean Wilkinson	Oregon Farm Bureau. Provides testimony in support of SB 293. Believes the compromises are as close to an acceptable solution as possible. Believe the pilot program will allow for changes through time with the John Day River management.
144	Gary Benson	Association of Northwest Steelheaders. Provides testimony in support of SB 293. States that the Northwest Steelheaders can support a legislative compromise and believes that any legislative solution should be substantially similar to the Montana Stream Act.
178	Phil Donovan	Association of Northwest Steelheaders. Provides testimony in support of SB 293. Believes the work group came up with the

207	Al Elkins	best solutions possible and supports the SB 293-6 amendments. Oregon Hunters Association. Provides testimony in support of SB 293. Believes that the SB 293-6 amendments are the next best step in the process.
222	Harlan Levy	Oregon Association of Realtors. Provides testimony in support of SB 293 and -6 amendments. Expresses concern about the sources of funding for the law enforcement and compensation for landowners as a result of vandalism provided for in SB 293-6.
242	Glen Stonebrink	Oregon Cattlemen Association. Provides testimony in support of SB 293. Expresses concern for the funding mechanism.
278	Inga Deckert	Oregon State Treasury. Explains the SB 293-6 amendments. <ul style="list-style-type: none"> <li>• Scales back the pilot project to one river for four years, with the opportunity for other rivers to be added later at the request of landowners</li> <li>• Outlines the rights of the public to use the beds and banks of the river</li> <li>• Provides for emergency uses</li> </ul>
348	John Lilly	Division of State Lands Assistant Director. Explains the provisions to suspend the development or initiation of a navigability study.
373	Sen. Metsger	Inquires about allowing the Land Board to make a determination to suspend a navigability study.
389	Lilly	Explains the intent to find money in the next biennium to fund the implementation of the management plan.
412	Sen. Metsger	Asks if the management plan could be placed on rivers that were already declared navigable.
430	Lilly	Replies that SB 293 addresses rivers that are subject to navigability studies and not rivers that have already been declared navigable.
<b>TAPE 54, B</b>		
010	Sen. Metsger	Asks if there is any objection to adding rivers that have been declared navigable to SB 293.
014	Lilly	Explains that the Land Board would like to limit SB 293 to rivers that are subject to navigability studies.
016	Sen. Metsger	Asks if the work group discussed adding rivers that have already been declared navigable.
025	Lilly	Believes it is possible to add rivers that have already been declared navigable.
030	Bob Skinner	Oregon Cattlemen's Association. Provides testimony on SB 293 and refers to submitted written materials ( <b>EXHIBIT J</b> ). Expresses concerns regarding SB 293.
105	Sharon Livingston	Grant County. Provides testimony on SB 293 and refers to written materials ( <b>EXHIBIT K</b> ). Expresses concern that SB 293 should not be put in place until enough funds have been raised for law enforcement, public rest rooms, and garbage services.
170	Randy Clark	Wheeler County. Provides testimony against SB 293 but states he will support the current bill and -6 amendments. States his opposition to the navigability study and expresses concern for funding sources for implementation of the management plan.
205	Margita Clark	Wheeler County. Provides testimony on SB 293. Expresses concern for the way the public abuses the river banks.
235	Bob Hawthorne	Grant County. Provides testimony against SB 293 and refers to

368	Leland Spencer	submitted written materials ( <b>EXHIBIT L</b> ). Grant County. Provides testimony against SB 293. States opposition to the removal of property rights and refers to submitted written materials ( <b>EXHIBIT M</b> ).
429	Myrt Williams	Tillamook County. Provides testimony against SB 293 and refers to submitted written materials ( <b>EXHIBIT N</b> ).
<b>TAPE 55, A</b>		
036	Leslie Pittman	Tillamook County. Provides testimony against SB 293 and refers to submitted written materials ( <b>EXHIBIT O</b> ). Requests that SB 293 not be amended to include the Trask or Kilchis Rivers.
063	Chair Ferrioli	Discusses the issue of floatage. Clarifies that SB 293 is a request to develop a recreation management plan and does not affect ownership. Summarizes issues surround SB 293.
102	Greg Leo	Sandy River Property Owners. Explains that the SB 293-2 amendments do not allow the Land Board to extend the navigability study to the Sandy River or rivers that have already been determined to be navigable.
120	Sen. Metsger	Asks about giving decision-making responsibilities onto the landowners instead of the Land Board.
127	Leo	Explains how the Land Board would participate in the implementation of a management plan. Explains the SB 293-4 amendments and the removal of private property.
180	Vice-Chair Ringo	Asks for the fiscal impact associated with the SB 293-4 amendments.
181	Leo	Responds there is no fiscal impact
182	Vice-Chair Ringo	Asks if there should be a fiscal impact.
183	Leo	Responds that he unsure how a fiscal impact would be assessed and elaborates.
195	Sen. Metsger	Comments that if judicial review was sought and navigability was determined, then navigability would be the final decision.
200	Leo	Replies that the decision would provide clarity and elaborates.
230	Art Israelson	Association of Northwest Steelheaders. Provides testimony against SB 293 and expresses concern about the SB 293-5 amendments.
330	Israelson	Continues testimony against SB 293.
<b>TAPE 56, A</b>		
008	Sen. Ringo	Comments he would like to hear testimony from ranchers in Wheeler and Grant County.
020	Glen Seidler	North Santiam Riverguides Association. Provides testimony against SB 293 and refers to submitted written materials ( <b>EXHIBIT P</b> ).
089	Chair Ferrioli	Asks for his opinion on the work group results and amendments for SB 293.
094	Seidler	Elaborates on his opinion of SB 293.
137	Larry Beaver	Association of Northwest Steelheaders. Provides testimony in opposition to SB 293 and refers to submitted written materials ( <b>EXHIBIT Q</b> ).
230	Chair Ferrioli	Clarifies that some members of the Association of Northwest Steelheaders support a legislative compromise involving delineated rights including the 10 foot rule and some members do not.
240	Beaver	Affirms and elaborates.
256	Chair Ferrioli	Asks if there is some support for a legislative compromise or if groups are polarized and will approve a compromise.

274	Beaver	Explains that he is not interested in the ownership issue but in issues of the public rights of citizens.
285	Chair Ferrioli	States that every interested party agrees that citizens who abuse the river should be removed.
290	Sen. Metsger	Talks about a key issue of the use of waterways without ownership. States concern for access issues and state ownership of the banks that might effect the environment at some future point.
340	Israelson	Provides a statement from the President of the Association of Northwest Steelheaders. States support for a compromise similar to Montana.
375	Jim McConnaughey	Multnomah County. Provides testimony against SB 293 and refers to submitted written materials ( <b>EXHIBIT R</b> ).
<b>TAPE 55, B</b>		
017	Anthony Boesen	Marion County. Provides testimony against SB 293 and refers to submitted written materials ( <b>EXHIBIT S</b> ). Expresses concern over the way to funding mechanism.
042	Chair Ferrioli	Talks about the conflicting issues of SB 293 and comments on ways to sustain management issues.
050	Gary Lutman	Association of Northwest Steelheaders, Lane County. Provides testimony in opposition to SB 293. Believes that landowners and sportsmen desire the same results.
090	Don Smethers	Tillamook County. Provides testimony on SB 293 and refers to submitted written materials ( <b>EXHIBIT T</b> ).
125	Chair Ferrioli	Asks if he would accept a floatage plan.
130	Smethers	Affirms.
135	Jan Tommaso	Sandy River Property Owner. Provides testimony in support of SB 293 and refers to submitted written materials ( <b>EXHIBIT U</b> ). States support for SB 293-2, -3, -4 and -6 amendments.
170	Beverly Jones	Sandy River Property Owners. Provides testimony in support of SB 293 and states support for a management plan and SB 293-2, -3, -4 and -6 amendments.
198	Sen. Metsger	Comments that most of the testimony appears to support a management plan.
228	Lawrence Edwards	Marion County. Provides testimony against SB 293 and refers to submitted written materials ( <b>EXHIBIT V</b> ).
350	Chair Ferrioli	Closes public hearing on SB 293 and adjourns meeting at 6:30 p.m.

### **EXHIBIT SUMMARY**

- A – SB 590, SB 590-3 amendments dated 4/21/03, staff, 1 p.
- B – HB 3375, written testimony, Art Schlack, 1 p.
- C – HB 3375, written testimony, Keith Mills, 2 pp.
- D – HB 3375, written testimony, Vicki McConnell, 1 p.
- E – HB 3375, written testimony, Linda Ludwig, 1 p.
- F – HB 2545A, written testimony, Steve Purchase, 2 pp.
- G – HB 2545A, written testimony, Harlan Levy, 7 pp.
- H – HB 2545A, written testimony, Jim Hall, 2 pp.
- I – HB 2545A, written testimony, Cory Neu, 2 pp.
- J – SB 293 written testimony, Bob Skinner, 2 pp.
- K – SB 293, written testimony, Sharon Livingston, 2 pp.

L – SB 293, written testimony, Leland Spencer, 2 pp.  
M – SB 293, written testimony, Bob Hawthorne, 2 pp.  
N – SB 293, written testimony, Myrt Williams, 1 p.  
O – SB 293, written testimony, Leslie Pittman, 1 p.  
P – SB 293, written testimony, Gary Seidler, 1 p.  
Q – SB 293, written testimony, Larry Beaver, 37 pp.  
R – SB 293, written testimony, Jim McConnaughey, 5 pp.  
S – SB 293, written testimony, Anthony Boesen, 1 p.  
T – SB 293, written testimony, Don Smethers, 1 p.  
U – SB 293, written testimony, Jan Tommaso, 1 p.  
V – SB 293, written testimony, Lawrence Edwards, 2 pp.  
W – SB 293, written testimony, Don Stout, 1 p.  
X – SB 293, written testimony, Richard Blum, 1 p.  
Y – SB 293, written testimony, Frank Dayton, 1 p.  
Z – SB 293, written testimony, Linda Gay, 1 p.  
AA – SB 293, written testimony, Marden Jensen, 1 p.  
BB – SB 293, written testimony, Gus Peterson, 1 p.  
CC – SB 293, SB 293-2 amendments dated 4/22/03, 1 p.  
DD – SB 293, SB 293-3 amendments dated 4/22/03, 1 p.  
EE – SB 293, SB 293-4 amendments dated 4/22/03, 1 p.  
FF – SB 293, SB 293-5 amendments dated 4/23/03, 11 pp.  
GG – SB 293, SB 293-6 amendments dated 4/23/03, 10 pp.