

Via email: beth.patrina@state.or.us

February 14, 2012

Senate Committee on Environment
and Natural Resources
900 Court Street N.E., Room 347
Salem, OR 97301

Re: Senate Bill 1582

Honorable Sen. Dingfelder, Olsen, Hass, Prozanski, and Thomsen,

I am unable to attend today's hearing, so I appreciate the opportunity to provide comments on the above-referenced bill. I am both a soil scientist and wetland scientist who has over 20 years conducting wetland delineations in Oregon. I am also a part-time instructor for Portland State University that teaches classes on wetland delineation, hydric soils, wetland hydrology and wetland mitigation. I suspect that 50 percent or more of the wetland professionals in Oregon have been in one or more of my classes, training sessions and/or field trips. The provisions in this bill have merit and I would encourage the Committee to approve the bill for further consideration by the Oregon Senate.

1. I support the provisions in SB-1582 to have an arbitration option after the Director issues a final order, because it adds a "checks and balance relationship" for property owners or applicants. That is, the Director is mostly likely to issue a balanced and equitable decision if there is an opportunity that the final order can be adjudicated with a panel of three qualified arbitrators.
2. Another aspect of the bill that I support is the stipulation that the person requesting arbitration must first apply to DSL for reconsideration of the agency's decision, as per administrative rule. This is very prudent and assures that the issue has been previously vetted and heard by DSL staff.
3. I strongly support the provisions in the bill that require arbitrators to have prior approved wetland delineation reports and principal investigator status for those reports. I believe the 5-year experience in wetland delineation is NOT sufficient. I have found that the "cream of the crop" wetland delineators admit 10 years is the threshold where a professional has sufficient experience to be an expert. I have reviewed many reports by individuals having only five years experience, and those reports are often riddled with errors, bad judgment and inadequate documentation. I believe the appropriate minimum requirements for an arbitrator needs to be 10 years experience conducting wetland delineation and have a minimum of eight delineation reports approved by DSL within the previous five years.

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4. With respect to the wetland methodology provisions of SB-1582, I also support the language that the Agency shall have administrative rules that "must comply with those federal supplements and guidance documents." It is important to the public and wetland professionals that the state and federal agencies be "on the same page" to assure consistency and science-based decisions.
5. Lastly, I support the bill provisions relating to 10-year approval of wetland delineations. This is both efficient and good business – the current five-year approval window is simply too short to rely upon for planning and project execution. The requirement to have the land owner re-examine the property after 5 years is very wise. Many times, site conditions do not change in 5 years, but this re-examination requirement assures that when site conditions have changed, then a new delineation would be necessary.

Again, thank you for the opportunity to provide these comments. I am support of the Committee's efforts to improve accountability and have equitable solutions for issues between DSL and land owners/applicants.

Respectfully yours,



Phil Scoles, RPSS
Soil and Wetland Scientist

Cc: Sen. Frank Morse