

HOUSE COMMITTEE ON ENVIRONMENT AND ENERGY

March 3, 1997 Hearing Room E

1:00 P.M. Tapes 29 - 30

**MEMBERS PRESENT:**

Rep. Leslie Lewis, Chair

Rep. Frank Shields, Vice-Chair

Rep. Michael Fahey

Rep. Mike Lehman

Rep. Dennis Luke

Rep. Mark Simmons

Rep. Jim Welsh

**STAFF PRESENT:**

Judith Gruber, Policy Analyst

Marjorie Taylor, Administrative Support

**MEASURE/ISSUES HEARD:**

HB 2539 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 29, A		
004	Chair Lewis	Calls the meeting to order at 1:34 p.m. and opens the public hearing on HB 2539.
<b>HB 2539 PUBLIC HEARING</b>		
006	Rep. Repine	State Representative, District 49. Discusses the background and purpose for HB 2539. Indicates that several discussions were held with the Oil Heat Commission to talk about current and potential problems with in ground storage tanks. The bill is proposed to redirect to the Department of Environmental Quality (DEQ), a \$.02/gal fund established for the Oil Heat

		Commission to deal with abatement of storage tanks. Explains that a limited number of people have been able to access and use grants given by the Oil Heat Commission (OHC). Funds were focused on large projects.
063	Rep. Repine	Indicates that the banking industry is concerned with the issue of leaking underground storage tanks since they are financing properties with them. The banking industry is trying to find ways to help in the financing of tank removal. A fund at DEQ would be available to those without a banking avenue. Validates that the Oil Heat Commission has played an important role, but the demands are growing.
096	Rep. Shields	Asks why the OHC's grant program was set up the way it was.
103	Rep. Repine	OHC was a government commission to begin with and policies were adopted such that grants would be given to those who would be reinvesting in oil heating.
124	Rep. Luke	Asks if DEQ would have to present a budget for the program every biennium.
127	Rep. Repine	Suggests that DEQ would track the 2cents/gallon and that it would be in their internal budgeting process.
136	Rep. Luke	Asks how much money is needed for a program that will focus on fixing the problems.
140	Rep. Repine	Explains that the Oil Heat Commission currently has four full time equivalent positions and the workload is growing since the banking industry in getting more involved.
172	Rep. Fahey	Asks if at any time, it has been suggested to the industry that part of the cost of gas installation should be removal of oil tanks.
179	Rep. Repine	No, but the gas companies have provided other incentives.
194	Rep. Fahey	Suggests that removing tanks would free up the liability.
199	Rep. Repine	It might be a favorable idea to the utility companies.
204	Brian Boe	Representative, Oregon Petroleum Marketers Association (OPMA). Expresses opposition to HB 2539. Explains that the OHC was created at the request of OPMA and the oil heat industry, in response to the potential problems of leaking underground storage tanks. Believes that the transfer of duties to DEQ will make the programs less efficient and less responsive to citizens and increase the administrative costs. Indicates that passing HB 2539 would make the impression that Oregon doesn't welcome industry sponsored solutions ( <b>EXHIBIT A</b> ).
250	Boe	The OHC was designed to provide a unifying focus on conservation and education for the public and industry. Incorporated in the design was assisting homeowners with the clean up of leaking tanks. Some want to expand the mission of OHC to include abandoned tanks. OHC faces limited resources and the number of claims is going up.

311	Charlie Portchelli	The OHC is a model program for the nation. Oil dealers have been responsive and proactive in addressing the issue of leaking underground storage tanks. OHC has reduced the costs associated with cleanups by 50% and has a good working relationship with DEQ. Fears that DEQ won't be able to hold administrative costs down.
368	Al Peake	Owner, Peake Petrol. OHC is doing a good job
374	Rep. Luke	Asks if OHC budget numbers will be presented.
379	Boe	Terrie Heer from the OHC can answer questions.
384	Rep. Shields	Asks if private enterprise should preserve industry, not a commission.
<b>TAPE 30, A</b>		
014	Boe	Indicates that OHC was set up with a commodity commission model.
030	Rep. Fahey	Asks if representatives are available to speak about tank removal.
031	Boe	Answers affirmatively.
032	Rep. Fahey	Asks what the costs are to remove a tank.
036	Chair Lewis	Asks what percentage of the OHC budget is used for advertising.
040	Boe	Terrie Heer will have the best answer.
044	Chair Lewis	Asks how many tanks have been decommissioned.
048	Rep. Shields	Asks for data on the 50% price decrease in removal of tanks.
052	Portchelli	Originally, costs for cleanup were \$9,000-\$10,000. Working with DEQ, the OHC has brought costs down to about \$5,000/cleanup.
055	Rep. Luke	Indicates that he and Rep. Repine assisted in the lowering of costs.
060	Boe	Costs were a big concern and OHC has been recognized for their efforts in reducing them.
068	Rep. Shields	Asks if the cost savings are related to increased efficiencies.
069	Boe	OHC can address that specifically. Some standards have been changed in how much needs to be done in the cleanup.
078	Terrie Heer	Administrator, Oil Heat Commission. In the beginning, cleanup claims were averaging about \$10,000 each. Through various measures the OHC has brought cleanup costs down and set bench mark rates. OHC has a program called Risk Based Corrective Action (RBCA) which is a front-runner of it's kind ( <b>EXHIBIT B</b> ).
121	Rep. Shields	Asks if the programs are proactive, or if a leak must occur first.
128	Heer	The OHC would like to be more proactive, but so many claims are coming in that they can't. When tanks are replaced though, a 20 pound zinc anode

		is attached to the tank to double the life.
138	Rep. Luke	Asks if the OHC budget must be approved by Ways and Means.
140	Heer	No.
141	Rep. Luke	Asks for a copy of the budget.
144	Heer	Indicates that 2.25 cents of the budget goes to environmental protection and .75 cents goes to education and conservation. Approximately \$150,000 goes for public information about the program and tank maintenance.
156	Rep. Luke	Asks if OHC can get any money back from the program.
163	Heer	The purpose of OHC is to promote the efficient use of oil heat.
172	Rep. Luke	Verifies that the answer is no.
173	Heer	Yes and no. The customer is not asked to pay back, but the costs are shared with property owners.
183	Rep. Luke	Asks if insurance policies are available for tanks in the ground.
186	Heer	There are policies on the east coast and some homeowner's insurance will pay for tanks also.
189	Rep. Luke	Wonders if it would be easier to buy insurance policies instead of having a fund with OHC.
195	Rep. Shields	Asks what percentage of oil heat users know about and use the program.
199	Heer	There are approximately 80,000 homeowners with oil tanks in use. About .05% of those tanks are leaking. Oil dealers know about the program and are provided with literature for the consumers.
220	Rep. Shields	Asks what percentage of owners with leaks have been able to use the program.
231	Heer	States that anybody who heats with oil can use the program.
239	Rep. Fahey	Asks if there are other choices for tank decommissioning other than removal.
243	Heer	States that DEQ rules indicate that a tank does not have to be removed and other solutions are to fill it with gravel or dirt.
260	Rep. Simmons	Asks for percentages of above ground and underground tanks.
264	Heer	Approximately 65-70% of tanks are underground statewide. In the Portland area, 72% are underground.
280	Rep. Luke	Asks how much money from the fund goes to abandoned tanks.
286	Heer	None. OHC statute states that a tank must be in use the day DEQ is notified of the leaking tank.
289	Rep. Luke	Asks if it is in statute or rules.
295	Heer	Statute.
296	Rep. Luke	Asks what happens to the abandoned tanks.
300	Heer	They are left abandoned, many with oil still in the tank.

304	Rep. Luke	Asks how much money is needed to take care of the backlog of tanks.
307	Heer	There is a backlog of \$2.5-3 million. Indicates that with current revenue collecting processes approximately \$2.1 million is generated per year.
315	Rep. Lehman	Asks if the DEQ environmental cleanup requirements apply to local government agencies that use oil.
319	Heer	Answers affirmatively.
321	Rep. Shields	Referring to abandoned tanks, asks what will happen when they start to leak in the future.
330	Heer	Abandoned tanks will be a problem and they will need to be decommissioned.
339	Rep. Shields	Asks if the cost of cleanup for the abandoned tanks has been estimated.
344	Heer	DEQ would be able to answer that question.
347	Rep. Luke	Verifies that the number of abandoned tanks is only estimated since there is no registration of tanks.
350	Heer	Tanks are registered when they leak.
354	Rep. Fahey	Asks what the DEQ charges are for tank removal.
357	Heer	Explains costs of the removal program and suggest that DEQ can give more explanation.
400	Mary Wahl	Administrator for Waste Management and Cleanup, Department of Environmental Quality. Provides details on the number, type, and location of storage tanks in the state. Focusing on the background of the problem, homeowners see storage tanks as an environmental and economic problem <b>(EXHIBIT C)</b> .
<b>TAPE 29, B</b>		
012	Wahl	Currently, DEQ does not have people or funds available to track and oversee the decommissioning of residential tanks. Explains the options available for storage tanks: Pump out remaining oil in the tanks; Charge homeowners for cleanup oversight; Require decommissioning of tanks when a fuel source is changed; Bridge financing; Direct cleanup funding. States that HB 2539 addresses direct funding only which takes care of some sites, but not all of them. Suggests that revisions need to be made to HB 2539 to take care of more tanks.
054	Rep. Luke	Asks what happens to abandoned tanks.
056	Wahl	Responsibility lies with the homeowner. If the tank is leaking, it must be cleaned, otherwise there is not requirement that it be pumped out.
059	Rep. Luke	Verifies that a tank can be any size and have any size leak.
062	Wahl	Indicates that tanks up to 1100 gallons are not regulated unless they are leaking.
066	Mike Kortenhoff	Manager, Underground Storage Tank Program, Department of Environmental Quality. If a tank is used for heating it is not regulated.

072	Rep. Luke	Asks if oil can be sold that is pumped out of tanks.
078	Wahl	If the oil is fresh, people will want it.
081	Kortenhoff	Verifies that people will buy the oil back if the tank has recently been used but there are costs to the process.
087	Rep. Shields	Asks if DEQ had the chance to talk to Rep. Repine about HB 2539.
090	Wahl	There was a meeting with Rep. Repine after the bill was introduced.
094	Rep. Shields	Verifies that DEQ didn't know about HB 2539 until it was introduced and wonders if they want to be involved with what has been proposed.
097	Wahl	Expresses desire for a solution to the oil heat tank problems.
102	Rep. Luke	Verifies that DEQ has known of Rep. Repine's concerns with the OHC.
103	Wahl	Answers affirmatively.
105	Rep. Fahey	Asks what the average DEQ charges are to homeowners.
108	Wahl	The average is around \$300.
114	Kortenhoff	The only DEQ costs are associated with the oversight costs.
120	Rep. Fahey	Asks what will happen if DEQ takes over the OHC.
123	Wahl	Explains that there are technical assistance costs and cost recovery costs.
134	Rep. Fahey	Asks how many more tanks a year will be cleaned if DEQ takes over the program from OHC.
136	Wahl	It depends on what DEQ is told to do with the funds. Overseeing cleanups is faster and cheaper than doing the cleanups.
148	Rep. Fahey	Asks if more tank cleanups will be done with DEQ than with OHC.
151	Wahl	It depends on how the money is distributed in DEQ and what DEQ is mandated to do with it.
166	Rep. Fahey	Asks if homeowners will get notices from DEQ about tank removal funds and processes.
169	Wahl	That issue needs to be discussed. There is a backlog of people expecting help, so they need to be taken care of. It depends on how the funds are mandated to be distributed.
180	Rep. Fahey	Asks if DEQ is still understaffed and underfunded from previous years.
184	Wahl	Answers affirmatively and that time is running out for the federally mandated deadline for other tank removals.
195	Rep. Fahey	Asks what happens to the oversight fee.
197	Wahl	The fee pays for part of the technical assistance time.
203	Rep. Fahey	Asks if a breakdown of technical assistance hours is available.

204	Wahl	Answers affirmatively.
206	Rep. Shields	Asks how long it will be until abandoned tanks will be leaking. Verifies that in Multnomah county alone, there will soon be a huge problem.
220	Kortenhoff	Agrees that there will be a problem soon and that he has seen quote of up to 1/3 of the tanks are already leaking and most tank lives are 30 years.
230	Rep. Shields	Suggests ways to encourage the public to disclose the existence of underground storage tanks.
244	Wahl	Agrees with Rep. Shields' ideas for encouraging disclosure. Explains other methods of disclosure including requiring owners to do so when a fuel source is changed or when a tank is pumped out.
253	Rep. Shields	Asks what will happen to the abandoned tanks.
256	Kortenhoff	The abandoned tank issue is partially solved with SB 145 which requires pumping out of the tanks when they are not in use or when the property is sold.
262	Rep. Fahey	Asks if the OHC is doing a good job.
266	Wahl	Verifies that OHC is operating above board.
269	Rep. Fahey	Asks if DEQ supports HB 2539.
270	Wahl	DEQ is in a neutral position, but believes that HB 2539 does not solve all of the issues and problems related to the tanks.
280	Rep. Luke	States that during the 1995 session, standards for cleanup were lowered.
286	Wahl	DEQ has developed a process to easily identify what needs to be done at a sight to be clean.
293	Rep. Luke	Asks if the process would have been developed if the OHC hadn't requested it.
294	Wahl	States that it was a push in the right direction, but the Risk Based Corrective Action programs are gaining popularity across the country.
298	Rep. Fahey	Asks if Ms. Wahl knows of any county or city tanks that are leaking and not being cleaned up.
301	Wahl	States that field staff would know.
305	Rep. Fahey	States that leaking tanks have existed on Willamette Boulevard in his district for over three years.
306	Wahl	States that there is a backlog of sites but DEQ works on a priority basis, or what they are told to do.
317	Mike Fitz	Oil Heat marketer, Star Oil Co., Portland. States that he agrees with the principal of the OHC and that it helps to solve problems, but he doesn't feel responsible for abandoned tanks because consumers were told to not worry about them. Suggests that another fund be created to take care of abandoned tanks. There is a current backlog of tanks that need to be cleaned up, but the funds aren't available to do it. States that if the OHC

		program is turned over to DEQ they will be asking for general fund financing to take care of all tanks.
<b>TAPE 30, B</b>		
008	Fitz	DEQ is part of the problem, not the solution. States that he will not accept responsibility for abandoned tanks.
022	Lila Leathers-Fitz	Commissioner, Oil Heat Commission. President of an oil heat business. The OHC was created as a place for people to turn to when there is a problem with their tanks. States that the industry needs to take care of current customers, not the abandoned tanks. States that Oregonians are afraid of the government and DEQ. OHC was formed to take care of their own cleanups and only technicians who are licensed and recognized by DEQ are hired as contractors. States that the payback to OHC is equal to more oil sales and that OHC has a good working relationship with the DEQ.
062	Rep. Luke	Asks what the federal, state, and local tax is on heating oil.
064	Fitz	Zero.
066	Rep. Luke	Asks if customers are charged for the three cents that goes into the clean up fund or if it is removed from profit.
068	Fitz	Prices are set by competition, not the cost of actual goods.
074	Rep. Luke	Asks if competitors are called before prices are set.
078	Fitz	There is a price survey of companies.
086	Rep. Welsh	Asks if the current system will be able to help abandoned tanks.
090	Fitz	No. Homeowners will have to take care of abandoned tanks.
110	Ron Goodman	Owner, Goodman Bros. Inc. Contractor working on heating oil tanks. States that he arrived neutral on HB 2539 but is now in opposition.
130	Rep. Fahey	Asks what the cost is for decommissioning of a tank
133	Goodman	For straight decommissioning of an abandoned tank, it would be about \$500 assuming there were no problems. Explains the monitoring and decommissioning of abandoned tanks. States that it is obvious that tanks are not regulated by any agency.
173	Rep. Shields	Asks what the cost is of decommissioning a good tank and cleaning up a bad tank.
176	Goodman	Approximately \$560 to decommission a tank with no problems and \$5500 for a leaking tank. Suggests that regulating the tanks can help solve the problem.
195	Ted Spence	Public member, Oil Heat Commission. Current law directs the OHC to take care of active tanks. The process is a challenge to DEQ and OHC to solve the problem.
214	Rep. Luke	Suggests that a building permit be required for a homeowner to switch fuel sources. The tank and a plan for decommissioning would have to be registered before a switch could occur.



229	Goodman	The solution sounds simple, but no agency wants to regulate the tanks.
239	Rep. Luke	The OHC should have the knowledge of where the tanks are.
247	Chair Lewis	Closes the public hearing on HB 2539 and adjourns the meeting at 3:12 p.m.

Submitted By, Reviewed By,

Marjorie Taylor, Judith Gruber,

Administrative Support Policy Analyst

**EXHIBIT SUMMARY**

**A - HB 2539, Written testimony, Brian Boe, 1 p.**

**B - HB 2539, Written testimony, Terrie Heer, 2 pp.**

**C - HB 2539, Written testimony, Mary Wahl, 4 pp.**