

SENATE COMMITTEE ON  
AGRICULTURE, NATURAL RESOURCE AND ENVIRONMENT

April 3, 1995 Hearing Room 343  
1:00 P.M. Tapes 62, 63, 64A 65A

MEMBERS PRESENT:

Sen. Bob Kintigh, Chair  
Sen. Bill Bradbury  
Sen. Bill Dwyer  
Sen. Tom Hartung  
Sen. Rod Johnson, Vice-Chair  
Sen. Marylin Shannon

STAFF PRESENT:

Bruce McIntosh, Committee Administrator  
Catrina Victor, Committee Assistant

MEASURES HEARD: SB -829, Public Hearing and Work Session  
SB -949, Public Hearing  
SB 950, Public Hearing  
SB 1011, Public Hearing

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

Tape 62, A

003 CHAIR KINTIGH: Opens meeting at 1 :08 P.M .

004 Opens PUBLIC HEARING on SB -1011

010 SEN. SORENSON: Gives reasons for his support of SB 1011 and how the funds are

dispersed. Concerned with the issue of protecting the fish. Wishes the committee luck in the decision on the bill.

SEN. DVVYER: How much money are we taking about?

061 SEN. SORENSON: \$2.4 million.

070 SEN. BRADBURY: Asks if it was Sen. Sorenson's intent to take the currently allocated money for the Developmental Fisheries Board through this action.

080 SEN. SORENSON: No. Want to increase the amount of fish screening by getting a higher "casting the net wider" on who pays. If a problem will be created by taking 75 % of those

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receipts, license fees and ad valorem fees, urges committee to exercise

caution. Wants to

collect as much money as possible without harming the other things the

money is being used

for.

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090 Recesses PUBLIC HEARING ON SB 1011

Opens PUBLIC HEARING on SB -829

Witnesses:

Gary Lynch, DOGAMI

John Brenneman, Newmont Mining

Bob Danko, DEQ

Staff Measure Summary on SB 829 (EXHIBIT A), and April 3, 1995 memo from Jeannette Holman, Legislative Counsel (EXHIBIT B), are submitted for the record.

110 GARY LYNCH: Discusses and expresses DOGAMI's support for the SB 829-2 amendments

before the committee.

The goal of SB -829 is to let the rules work as designed. SB 829-2

amendments implement that intent.

175 SEN. KINTIGH: Asks Lynch to comment of subsection 4.

180 LYNCH: Subsection 4 is more subtle, but says that you can't change this by implication.

Gives example.

190 SEN. DWYER: Asks who determines whether or not the delays are unreasonable and if there has been a good faith effort.

200 LYNCH: The Department of Geology ultimately makes that analysis. It is a difficult test, but if someone is actively exploring a site and collecting baseline data to ultimately permit the site, that would constitute not being an unreasonable delay. Further explains delay processes.

Intent is to make delay information more SE ~cific in rule.

213 JOHN BRENNEMAN: Reviews Newmont Mining's preferences.

242 LYNCH: Language was drafted by DOGAMI's assistant attorney general.

Reviews

258 SEN. BRADBURY: Was opposed to mining ballot measure and believes Oregon has tough mining laws. Would like to see Newmont Mining move forward. Can not prevent the people from enacting initiatives. States his views.

320 SEN. KINTIGH: Closes PUBLIC HEARING on SB 829  
Opens WORK SESSION on SB 829

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325 BRENNEMAN: Leaves it to committee's discretion on which version of amendments to adopt, but would like the bill moved.

Concurs with Lynch s suggestion of adding "human" in SB 829-2 amendments (EXHIBIT C).

330 MOTION: SEN. SHANNON MOVES TO INCLUDE EMERGENCY CLAUSE IN SB 829.  
VOTE: WITHOUT OBJECTION, AMENDMENT IS ADOPTED.

335 MOTION: SEN. DWYER MOVES TO DELETE SUBSECTION 4 FROM SB 829-2 AMENDMENTS.

350 SEN. BRADBURY: Indicates support for the motion. Believes provisions of rest of bill are valid.

355 VOTE: WITHOUT OBJECTION, AMENDMENT IS ADOPTED.

357 MOTION: SEN. DWYER MOVES TO ADD "HUMAN" ON PAGE 1, LINE 22, BEFORE "HEALTH".  
VOTE: WITHOUT OBJECTION, AMENDMENT IS ADOPTED.

375 CHAIR KINTIGH: Reviews amendments adopted.

377 MOTION: SEN. DWYER MOVES SB 829-2, AS AMENDED, INTO THE BILL.

VOTE: WITHOUT OBJECTION, AMENDMENT IS ADOPTED.

380 MOTION: SEN. DWYER MOVES SB 829, AS AMENDED, TO THE FLOOR WITH A DO PASS RECOMMENDATION.  
VOTE: ON A ROLL CALL VOTE, MOTION PASSES UNANIMOUSLY. ALL MEMBERS ARE PRESENT.

388 SEN. SHANNON: Volunteers to carry the bill on the floor.

390 CHAIR KINTIGH: Closes WORK SESSION on SB 829  
Opens PUBLIC HEARING on SB 949.

Witnesses:

Ted Hughes, Northwest Paint Council and Paint Manufacturers and Retailers, and Oregon Association of Nurserymen

Bob Danko, DEQ

Staff Measure Summary on SB 949 is submitted for the record (EXHIBIT D).

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400 TED HUGHES: Testifies in support of SB 949 and suggests proposed changes to reflect original intent of the bill.

SB 949 should say "exempts manufacturers from record keeping requirements relating to containers if the recycling rate is being met".

Reviews provisions of 1991 Recycling Act.

Tape 63, A

027 HUGHES: Continues to review proposed amendment. Refers to section 2, line 6 of SB 949.  
The record keeping requirements on product manufacturers and packaging manufacturers of ORS 459a.660 to 665, and delete (1), (3), and (4), shall not apply to manufacturers of any container of the type the Department of Environmental Quality determines is being recycled at the rate mandated. Delete other requirements from the middle of line 9 through the end of the bill.

035 CHAIR KINTIGH: Asks if Hughes has seen -1 amendments (EXHIBIT ~).

040 HUGHES: Yes. It appears those amendments also talk only about the rigid plastic container, and it was not my intent to just address that container.

043 CHAIR KINTIGH: Requests Hughes to provide proposed amendments in writing.

040 HUGHES: Agrees to provide his hand engrossed version for copying.

055 BOB DANKO: Outlines his confusion with Hughes' comments.

Summarizes how DEQ determines recycling rate for compliance from written testimony (EXHIBIT E).

105 HUGHES: Glad to hear that DEQ will promulgate a rule that does what I was asking in SB 949, but rules can be changed. Not my intent to restrict the bill to plastics.

111 CHAIR KINTIGH: Asks Hughes and Danko to talk and then return to the committee if legislation is needed.

Closes PUBLIC HEARING on SB 949

130 Opens PUBLIC HEARING on SB -950

Witnesses:

Bob Danko, DEQ

Larry Edelman, DEQ's attorney, Department of Justice

Paul Cosgrove, Soap and Detergent Association

Terry Witt, Oregonians for Food and Shelter

Chris Taylor, OSPIRG

Judy Crockett, Association of Oregon Recyclers

Staff Measure Summary on SB 950 is submitted for the record (EXHIBIT G).

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140 SEN. BRADBURY: Is having a series of meetings with proponents of several recycling bills to see what might be worked out with SB 361 and SB 950.

153 BOB DANKO: Reviews provisions of SB 950 from written testimony (EXHIBIT H).

200 Reviews Table 1 in (EXHIBIT G).

235 Continues reading his testimony (EXHIBIT G).

321 LARRY EDELMAN: Describes the visual aids exhibited and how they would be exempt with SB 950 and reviews content of his September 28, 1994 letter to DEQ (EXHIBIT G).

Believes that language in SB 950 is too broad in terms of coverage and potential exemptions of FIFRA regulated products and hazardous materials.

410 SEN. DWYER: Asks what it would do to the recycling rate of the balance of containers if we exempted some containers.

420 EDELMAN: The way the law and SB 950 are written, exempting containers from regulation does not exempt them from the count, so the recycling rate would not be affected.

Tape 62, B

007 CHAIR KINTIGH: Reads portion of federal code related to recycling and asks if Oregon would be in compliance.

020 EDELMAN: This is not an additional packaging requirement. Do not view this as a labeling requirement even though it is required to be on the package to demonstrate what type of resin is required.

023 CHAIR KINTIGH: Asks if the number two recycled container can end up as a food container.

025 EDELMAN: No.

045 PAUL COSGROVE: Reviews the legal issues of Mr. Edelman's Opinion.

Compares requirements in other states and reviews options provided in Oregon law.

Disagrees with the statements provided by Edelman and recommends getting additional legal advice.

070 SEN. DWYER: Asks what SB 950 is intended to "cure?"

080 COSGROVE: We are now in a position that if the rates should drop we have requirements in Oregon law that are inconsistent with some of the federal requirements. SB 950 would recognize the preemption in federal law and remove them from regulation in Oregon.

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083 TERRY WITT: Testifies in support of SE -950.

Currently, people have to choose to follow state or Federal law or be penalized. Manufacturers are at the "mercy" of the recycling rate. This problem is not only limited to Oregon, but is a national issue. Lists items that may be made from these plastics for recycled items.

235 Because there is a potential risk in co-mingling these containers the issue needs to be addressed. Concerned that now there is no secure place to

store or separate contaminated containers. There are differing opinions on this issue. Appears that everyone disagrees with Attorney General's office. Submits October 20, 1994 letter from John DiLorenzo, Jr. Letter regarding pesticide containers (EXHIBIT 1).

285 SEN. BRADBURY: Asks why the issue has not been taken to court for clarification.

300 COSGROVE: The Commission decided to "punt" and take it to the Legislature rather than take it to court. Commission would prefer not to litigate with the state.

322 WITT: If it can be dealt with outside the courtroom, that is what they want. Notes that California exempts pesticides regulated under FIFRA.

360 CHRIS TAYLOR: Testifies in opposition to SB 950 from (EXHIBIT J).

Tape 63, B,

004 TAYLOR: Continues his testimony.  
Urges the committee to reject SB 950.

045 SEN. BRADBURY: Asks how these containers can fit into the recycling stream?

055 TAYLOR: Feels the containers can be recycled with today's technology.

Gives an example of a firm and its steps in cleaning the plastic into a recyclable product.

078 SEN. DWYER: Asks for explanation of "burning" the containers.

080 TAYLOR: Understands they are being burned in cement kilns. Not sure if they are replacing other fuel sources with plastic.

093 JUDY CROCKETT: Testifies in opposition to SB 950 from written testimony (EXHIBIT ~

131 CHAIR KINTIGH: Asks if Crockett is talking about the large containers.

135 CROCKETT: Yes.

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Page 7 Continues her testimony from (EXHIBIT K).

165 WITT: Clarifies his previous comments regarding TRIRINSE and the use of chipped plastic. Discusses the storage of much of Oregon's plastics in other states. Reviews use of plastic lumber and other reuse of plastic pesticide containers. We want our containers to be reused safely, and not stored in landfills.

282 CHAIR KINTIGH: Closes PUBLIC HEARING on SB -950

Testimony of Bruce Walker, City of Portland, is submitted for the record (EXHIBIT L).

Reopens PUBLIC HEARING on SB 1011.

Witnesses:

Ken Evans, Oregon Anglers

Rep. Terry Thompson

Paul Hanneman, Oregon Travel Commission

Jim Dalhstrom, Oregon Anglers

Dave Nichols, ODFW

Rod Ingram, ODFW

Bruce Harpole, Oregon Fishing Club

Rep. Larry Sowa

301 KEN EVANS: Test)files in support of SB 1011.

380 SEN. BRADBURY: Reviews his understanding of funding for SB 1011.

404 EVANS: Agrees.

Tape 64, A,

030 SEN. BRADBURY: So you aren't creating any new money but moving existing money around.

043 Another way to have done would have been to have funds allocated from the General Fund rather than this approach.

050 EVANS: Yes. In fact, we have done that in SB -334.

063 SEN. BRADBURY: Asks if it was the intent to take funds away from the salmon.

077 EVANS: No. It is not our intent to remove dollars from developmental fisheries.

116 SEN. DWYER: Asks how many unscreened diversions there are on the coast.

125 EVANS: Between 700 and 800.

126 SEN. DWYER: Asks how many of the diversions are less than 30 cfs, the ratio of large to small diversions, and the cost of screening.

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129 EVANS: Unsure of the exact dollar cost. Understand 90 plus percent of the 3,000 screens are

25 cfs or less. Most represent one to five cfs. About 60 to 70% of the diversions are in the

one to five cfs category.

140 SEN. DWYER: Reviews the existing unscreened diversions and existing law.

162 EVANS: The funds will be used to promote partnership with people to do the right thing. If we do not appropriate the funds and repeal the sunset on the state's fish screening program, we would be left with a mandatory screening of diversions.

165 SEN. DWYER: Asks how we know the money will be used to fund diversions on the coast.

170 EVANS: Does not know. Could check with Dave Nichols of ODFW.

182 SEN. DWYER: Feels it is time to mandamus the department to do what they are required to

do by law, or find a director that will abide by the law.

188 REP. TERRY THOMPSON: Expresses his concerns with SB 1011.

Reviews graph of poundage fees (EXHIBIT R).

Feels taking all the money into fish screening and the salmon industry isn't fair to the other fisheries.

Land owners who use the water should pay for the diversions.

200 SEN. DWYER: Breaks down the costs of diversions.

240 REP. THOMPSON: Believes FEMA money might be available.

244 PAUL HANNEMAN: Test)files in opposition to SB 1011.

331 JIM DAHLSTROM: Test)files in support of SB -1011.

390 SEN. DWYER: Wants ODFW to testify how the department enforces the screening law and reasons for lack of ability to enforce the law.

Tape 65, A

010 DAVE NICHOLS: Reviews screening progress on 140 diversions over 30 cfs.

Have had three screens constructed, one currently under construction, prototype screen scheduled for testing this spring, and another screen will be constructed this summer for a total of six.

Also entered into agreement with one irrigation district to screen three of their diversions over the next three years.

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For the last two years, the department has had the position of working cooperatively with people willing to work with the department.

042 SEN. DWYER: Asks about the other 38 years since the department is only accounting for two years.

044 NICHOLS: The record speaks for itself. The remainder of the 140 diversions have not been screened.

050 SEN. DWYER: Comments on the inaction on laws passed and his disappointment.

060 SEN. BRADBURY: Comments on pilot program enacted in 1993 for diverters under 30 cfs.

Asks about progress on the pilots.

075 NICHOLS: A moratorium has been in place for the last four years for enforcement of the screening statutes for water diversions under 30 cfs. If any were to be done, they were to be done under the provisions of the cost sharing program which had narrow funding constraints

and numbers of diversions to be done.

In the last three and a half years, will have screened approximately 70 diversions out of 3,000.

We have lowered the average cost of screening from \$15,000 to approximately \$6,000.

092 SEN. DWYER: Asks how many over 30 cfs screens are in the coastal estuaries.

098 NICHOLS: Does not have that number. A fairly low percentage of the over 30 cfs diversions would be along the coast - probably 20 to 25.

104 SEN. DWYER: Comments on screening program.

125 SEN. BRADBURY: Asks for information on how Commercial Fishery Fund is spent.

118 ROD INGRAM: ODFW received \$14.7 million from the General Fund for the 1993 - 1995

biennium. For the 1995 - 1997 biennium we will be reduced about \$2.5 million in General

Fund money. The majority of the money goes into fisheries, with 60% going to hatcheries.

Gives the break down of the ODFW budget by category.

162 SEN. BRADBURY: Believes there is a provision in law that relates to a portion of the fund

that comes from developmental fisheries going back to the Developmental Fisheries Board. It

may be enhanced by the Lottery Fund.

167 INGRAM: ODFW had set two hatcheries on line as closing down to satisfy the cut in general

funds. Those were picked up by the Governor in his recommended budget and are in lottery

169 dollars. They are Trask River and Salmon hatcheries.  
BRUCE HARPOLE: Explains operation of Oregon Fishing Club.  
Testifies in support of SB 1011.

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218 REP. LARRY SOWA: States his position on screening diversions and need to continue screening program.

251 SEN. BRADBURY: Explains where the funds are coming from. Is strong supporter of fish screening but does not want to do it to the detriment of another program.

Asks Rep. Sowa to speak to the House bill which continues the fish screening program.

280 REP. SOWA: The House Bill is a continuation of the existing program. Both the Senate Bill and House Bill request money from the General Fund. We are trying to use whatever funds are available.

312 JIM MYRON: Testifies in support of SB 1011 from written testimony (EXHIBIT S).

334 SEN. BRADBURY: Would be comfortable sending SB -1011 down to Ways and Means and indicating the Committee's concerns and support for continuing the pilot efflrt.

Would not support the bill as written, without amendments.  
377 SEN. SHANNON: Believes committee should deal with substantive issues then send it down to Ways and Means.

395 SEN. BRADBURY: Reviews the policy issues in the bill. January 30, 1995 letter from Richard Kosesan, Oregon Agricultural Chemicals and Fertilizers Association (EXHIBIT M), SB 1011 Staff Measure Summary (EXHIBIT P), and 4/3/95 C.

M. Daeges letter (EXHIBIT T) are submitted for the record.

424 SEN. KINTIGH: Closes PUBLIC HEARING on SB -1011

Adjourns meeting at 3:50 p.m.

Transcribed by,  
Pat Zwi

#### EXHIBIT LOG

A	SB 829-Staff Measure Summary-Staff-1 page
B	SB 829-413195 J. Holman Memo-Staff-1 page
C	SB 829-SB 829-2 Amendment-Staff-2 pages
D	SB 949-Staff Measure Summary-Staff-1 page
E	SB 949-Testimonyn. Danko-3 pages
F	SB 949-SB 949-1 Amendment-Staff-1 page
G	SB 950-Staff Measure Summary-Staff-1 page
H	SB 950-Testimony-B. Danko-16 pages
I	SB 950-10/20/94 DiLorenzo Letter-5 pages
J	SB 950-Testimony-Chris Taylor-2 pages

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K	SB 950-Testimony and Exhibits-J. Crockett-16 pages
L	SB 950-Testimony-Bruce Walker-2 pages
M	SB 950-1/30/95 R. Kosesan Letter-2 pages



N Not Used  
O Not Used  
P SB 1011-Staff Measure Summary-Staff-1 page  
Q Not Used  
R SB 1011-Testimony-Paul Hanneman-1 page  
S SB 1011-Testimony-Jim Myron-1 page  
T SB 950-4/3/95 C. M. Daeges Letter-Staff-2 pages

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