

HOUSE COMMITTEE ON
NATURAL RESOURCES
SUBCOMMITTEE ON ENVIRONMENT & ENERGY

February 1, 1995 Hearing Room 50
1:30 PM Tapes 3 - 4

MEMBERS PRESENT:

Rep. Leslie Lewis, Chair
Rep. Lisa Naito, Vice-Chair
Rep. Bill Fisher
Rep. Dennis Luke
Rep. Chuck Norris
Rep. Terry Thompson
Rep. Judy Uherbelau

STAFF PRESENT:

Mark Bauer, Committee Administrator
Paula Hird, Committee Assistant

MEASURES HEARD:

HB 2245 Public Hearing
HJM4 Work Session
HB 2080 Work Session

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 3, A

005 CHAIR LEWIS: Meeting called to order at 1:35 p.m.

Opens PUBLIC HEARING on HB 2245.

Witnesses: Olivia Clark, Department of Environmental Quality
Richard Reiter, Department of Environmental Quality
Mike Sims, Oregon Gasoline Dealers Association
Troy Dixon

017 MARK BAUER, COMMITTEE ADMINISTRATOR: Summarizes HB 2245.

031 OLIVIA CLARK, ASSISTANT TO THE DIRECTOR, DEPARTMENT OF ENVIRONMENTAL
QUALITY Submits and reviews written testimony on HB 2245. EXHIBIT A

064 CLARK: Continues to testify.

098 RICHARD REITER, MANAGER, UNDERGROUND STORAGE TANK (UST) COMPLIANCE AND
CLEANUP SECTION, DEPARTMENT OF ENVIRONMENTAL QUALITY:: Refers to page 3 of
written testimony. EXHIBIT A.

109 REITER: Refers to table 2, page 5.

159 REITER: Refers to list of potentially eligible stations in the written
testimony.

181 REP. LUKE: Asks if any of these tanks are in stations that are closed.

185 REITER advises that potentially stations could be closed after December
of 1988, the effective date of the rule

191 REP. LUKE: How many of these stations are large franchise stations.

193 REITER: States their opinion would be none would be owned by major oil

companies, or for that matter regional distributors in Oregon.

204 REP. THOMPSON: Will this qualify for other businesses which have tanks in the ground?

209 REITER: No, it is limited to retail facilities; people who sell motor fuel.

212 VICE-CHAIR NAITO: Inquires about the success rate of funds already granted and what effects card-lock sales are having in rural communities.

221 REITER: Directs the committee's attention appendix 1 & 2 of the written testimony and responds to the question of card lock sales.

258 REP. FISHER: States that one of the criteria is nine or more miles between facilities in incorporated areas.

268 REITER: Nine miles is highway miles as you drive by car.

295 REP. FISHER: Asks Mr. Reiter to explain a little bit better the tier 1 up to the tier 4

299 REITER: Explains each tier.

339 REP. FISHER: Are Oregon tank removal standards more stringent than federal standards.

327 REITER: Believes the answer is no as EPA has not adopted any standards.

Each site is judged as they work on that site.

358 REP. FISHER: Asks if the federal EPA decisions have been numerous enough that we can apply our conditions in a given instance to EPA decisions made in other places.

387 REITER: Most programs are being administered by state agencies such as DEQ, believes their standards are similar to what most other states are doing.

407 REP. WELSH: Asks what options are available for upgrade.

412 REITER: Most of existing tanks in Oregon are bare steel tanks, depending on age & condition, the owner could hire a company to line their tanks. Describes the process involved in lining tanks.

Explains that the most common method in Oregon is for the business owner to replace the tank.

480 REP. WELSH: Wonders if there's an option for above ground replacement.

484 REITER: Says they are allowing people to replace the tank with an above ground tank, but because of fire regulations, more likely in rural areas than urban.

TAPE 4, SIDE A

038 REP. WELSH: Asks what the costs are for replacing the typical 1500-3000 gal. tank.

040 REITER: Average cost for equipment was \$71,000 and average cleanup cost was \$18,000.

055 REP. WELSH: Are the cleanup costs assessed and paid to DEQ.

056 REITER: We're paying 75% of those costs and local business is paying 25%.

062 REP. UHERBELAU: State that it looks like the cost of the grants far exceed the amount in the fund. Wants to know how they deal with that.

067 REITER: Provided information to all retail owners of tanks, and advised

that the funds would be provided on a first come, first serve basis to any business that submits a completed application.

074 REP. NORRIS: Reads from line 25, 26 on the first page of bill)

081 REITER: Interpreted that to be site cleanup and replacement of the tanks.

082 REP. NORRIS: Asks if before they could look at tank replacement they would have to have a leak and a contaminated site? They wouldn't be able to do precautionary tank replacement?

085 REITER: States that their experience is that every site has some contamination, they don't always know the level of contamination.

093 REP. NORRIS: If a site was clean, we could help them replace their tanks on a preventative basis

096 REITER: States that's his interpretation of that sentence.

097 REP. LUKE: What did we spend last session and how much is this going to cost.

099 CLARK: Last session the legislature appropriated about 4.4 million and that will be encumbered by the end of the biennium, this session it will cost 11.5 million

103 REP. LUKE: Over seven million more than we had last time.

105 REITER: The 11 million is for '95-'97. The program actually goes to 1998.

112 REP. WELSH: Asks Ms. Clark if she supports HB 2245 at this time.

110 CLARK: States she does not have a position, they are there to provide information for the committee.

120 MIKE SIMS, OREGON GASOLINE DEALERS ASSN.: Testifies in support of HB 2245.

126 REP. UHERBELAU: Asks if they represent retailers throughout the whole state.

127 SIMS: Responds in the affirmative.

128 REP. UHERBELAU: Asks if there is any division between the parts of the state that do not qualify because of the under 80% criteria.

130 SIMS: Responds in the negative.

138 BRIAN BOE, OREGON PETROLEUM MARKETERS ASSN.: States they have some concerns about the way the bill is structured, but there are elements they like.

188 Continues to testify in regard to the competitive imbalance this bill would create.

228 REP. LUKE: Asks if self-service gas is coming to us this session?

222 BOE: Says he heard a rumor that it would be coming.

241 REP. NAITO: Asks if he feel the decline in the number of service stations is due primarily to this.

243 BOE: Says the decline in stations is due to the federal regulations and the inability to meet those.

263 REP. NAITO: Says she recalls in the '91 session ,the proposal that was thrown out by the courts, they were trying to do more on a sliding scale.

266 BOE: Says they had the tier 4 which they're still trying to implement.

275 REP. FISHER: Asks how much this has affected the areas where help has not been available just because of the county designation, as compared to the counties that have been able to get into this program.

274 BOE: Says it isn't on a county designation now, just the nine mile radius.

302 MIKE SHADBOLT, INDUSTRY AND SMALL BUSINESS DEVELOPMENT COORDINATOR, OREGON ECONOMIC DEVELOPMENT DEPT. AND TEAM LEADER FOR AN INTERAGENCY RURAL GAS STATION TEAM. States they will not be taking a position on the bill but wishes to introduce the team and offer their assistance to the committee

352 Research shows that many of these stations in rural Oregon are pumping less than 50,000 gallons annually, which leave a small gross margin to cover other expenses.

362 REP. FISHER: Does your offer of assistance include funds?

364 SHADBOLT: Says one of their strategies is to analyze existing programs and determine eligibility for rural gas stations. Their business finance program cannot currently make loans to these businesses.

390 REP. WELSH: Asks if there are going to be some opportunities for some of these individuals to upgrade these facilities within that nine mile radius.

384 SHADBOLT: Says that continues to be a dilemma.

417 REP. FISHER: Asks if he heard correctly that under HB 2245 if you had stations within nine miles that it would not affect them.

427 SHADBOLT: States that in his reading of the DEQ analysis of the bill he does not believe that HB 2245 would preclude assistance to stations that were within nine miles of each other.

TAPE 3, SIDE B

010 REP. WELSH: Asks to sit with Mr. Dixon and provide some additional information the Rice's had.

017 CHAIR LEWIS: Answers in the affirmative.

022 TROY DIXON, OWNER, THE LOW PASS STATION AND MARKET: States his business is on Hwy. 36, 18 miles East of Junction City. There are three service stations within nine miles of each other, if none of the three get this there won't be any gas for almost 50 miles from Junction City.

069 REP. WELSH: Offers testimony for Mr. Rice, owner of Horton Market. Enumerates questions they have with regard to the bill as far as who would qualify and under what process.

103 DIXON: Says he is a service station, not just gas, and the next service station is 50 miles.

119 REP. NAITO: Asks if he doesn't get the grant, what would he have to do to upgrade his tanks.

121 DIXON: Says you couldn't raise the price high enough to cover it, because they are charged more for their gas than the larger stations because they can't take a truck and trailer load.

142 REP. FISHER: Says many people forget how important a rural gas station is, asks Mr. Dixon to state his feelings about the "gas station roulette."

156 DIXON: Says they don't have enough business at night to stay open 24 hours.

Closes PUBLIC HEARING on HB 2245.

172 CHAIR LEWIS: Says they will defer the work session on HB 2245 until the committee gets fiscal impact information.

174 Opens WORK SESSION on HJM4

175 CHAIR LEWIS: States there is invited testimony from an expert in the field and asks REP. THOMPSON to introduce him.

197 Asks if everyone has a copy of the HJM4 dash one proposed amendments

203 REP. THOMPSON: Introduces Robin Brown.

219 ROBIN BROWN, LEADER OF THE MARINE MAMMAL PROGRAM, OREGON DEPARTMENT OF FISH & WILDLIFE: Gives an overview of his background dealing with these types of issues.

264 REP. LUKE: Says it is his understanding the people at Oregon Department of Fish & Wildlife could not take a position on measures before the public. Asks if Mr. Brown is speaking from his position at OFDW.

277 BROWN: Believes that he has been asked to come and provide technical information based on his experience and past work.

322 Points out some things about the recent 1994 amendments of the Marine Mammal Protection Act.

365 Refers to Section 120 of the Marine Mammal Protection Act as amended in April, 1994, which directs the Secretary of Commerce to determine the impact of pinniped perdition on salmonid stocks by October 1, 1995.

418 REP. UHERBELAU: Says that the information Mr. Brown has given is new to her and would like to clarification on some points. Asks if when the act was amended it said if there was a known sea lion preying on the stocks, you could eliminate it.

438 BROWN: Says in general that's correct.

441 REP. UHERBELAU: Says with the new information it would be important for the committee to get a copy of the relevant part of the federal statute.

455 REP. LUKE: States there are new people in charge in Washington, D.C., and is it Mr. Brown's testimony that because it's been done this way for 40 years they might not take the opportunity to look at amending that act again?

466 BROWN: Says no he wouldn't presume to try to guess what actions the legislature that's now in effect would take.

479 MARK BAUER, COMMITTEE ADMINISTRATOR: Asks REP. THOMPSON if there is additional information in writing from Mr. Brown that they should have distributed.

TAPE 4, SIDE B

032 REP. THOMPSON: Says the task force has opened the door to allow them to be able to harvest these animals. He says the problem is there are several hurdles that have been put in the way.

045 BROWN: Says he has copies of the relevant section of the Marine Mammal Protection Act as amended. Says the lethal removal provisions as it stands is very restrictive.

074 REP. THOMPSON: States that Mr. Brown is the only expert the State of Oregon has that really deals with this problem.

079 BROWN: Says "that's correct."

080 REP. THOMPSON: Asks if they should really address this problem

082 BROWN: Responds that we are looking at something that is not going to go away. They are looking at California sea lion and pacific harbor seal populations growing at a rate of 6 to 8 percent per year for the past 20 years.

113 Continues to discuss the negative impact of the sea lion and seal

population on the salmonid stocks.

119 REP. NORRIS: With respect to the national marine fisheries and their proposed restoration and recovery plan for the threatened and endangered salmon in the Columbia basin, released a week ago today, didn't recognize anything in salt water.

125 BROWN: Would agree in general that marine mammal concerns have been on one of the bottom rungs.

133 REP. FISHER: Refers to Section 120 line 17. States that he is under the impression that these animals have been protected by the marine mammals act, but asks if they are also on the endangered species act.

145 BROWN: Responds that the stellar sea lion is the only pinniped in our area listed on the federal endangered species act.

156 REP. UHERBELAU: States that in the form it is now we do not acknowledge that the U.S. Congress has done anything in this area.

168 REP. THOMPSON: We have to address the secretary in order to get the process working. Asks what the status of it is now in the Dept. of Fish & Wildlife.

174 BROWN: Responds that they have not moved forward on any such request.

193 REP. THOMPSON: States that to his knowledge the only study done in the State of Oregon was done in 1984 by Bruce Maid on the Rogue River. What studies there are, are out of date and not pertinent to the types of streams involved. Asks what they can do to make sure these studies are done.

202 BROWN: Says their effort with marine mammals within the Oregon Department of Fish & Wildlife has been relatively small.

228 REP. LUKE: States that it is not his intention to minimize the importance of an HJM but they have spent a lot of time on this. Suggests that perhaps they should address the concerns of the witness in an ORS instead of an HJM.

246 MOTION: REP. LUKE: Moves HJM4 dash 1 amendments to HJM4.

249 REP. NORRIS: At the appropriate time he would like to move an amendment to the amendment.

254 States he has looked through the federal act that may be cited, the marine mammal protection act amendments of 1994, and it's a monument to bureaucratic inaction.

254: REP. NORRIS: He is proposing an amendment to the amendment on line 22, "to grant authority to affected states" to allow the systematic removal of the California sea lion.

274 REP. UHERBELAU: Thinks the addition of two words would take care of her concerns. On line 18 of the dash one amendments, after "Marine Mammal Protection Act of 1972" add "as amended in 1994" would at least tell them that we know they did it.

290 REP. THOMPSON: Says that with the permission of the committee he will make some contacts in Washington D.C., and explain the reasons why they're doing this. He thinks it will accomplish more than working any farther today.

301 MARK BAUER: Asks if Rep. Luke had withdrawn his original motion.

304 REP. LUKE: Says no, he accepted those as friendly amendments to his motion.

319 CHAIR LEWIS: It has been proposed to amend line 22 of the dash one amendments to read "to grant authority to affected states to allow the systematic removal of California sea lions, etc."

HEARING NO OBJECTIONS THE AMENDMENT IS ADOPTED..

325 It has been proposed by Rep. Uherbelau to amend lines 17 and 18 to read

"the Congress of the United States is memorialized to enact legislation amending the Marine Mammal Protection Act of 1972, as amended in 1994" as follows:

HEARING NO OBJECTIONS THE AMENDMENT IS ADOPTED.

337 CHAIR LEWIS: Restates Rep. Luke's motion to adopt the dash one amendments.

as amended. Hearing no objection calls for a vote.

VOTE: 7-0 MOTION PASSES

AYE: Fisher, Luke, Naito, Norris, Thompson, Uherbelau, and Lewis.

361 MOTION: REP. LUKE: Moves HJM4 as amended to the full committee with a

DO PASS RECOMMENDATION.

VOTE: 7-0 MOTION PASSES

AYE: Fisher, Luke, Naito, Norris, Thompson, Uherbelau, and Lewis.

380 Closes the WORK SESSION on HJM4

Opens the WORK SESSION on HB 2080

389 MARK BAUER, COMMITTEE ADMINISTRATOR: Says that what he will hand out is

a hand engrossed version of HB 2080 with the amendment they had discussed.

400 CHAIR LEWIS: Says they do have the version from LC but they don't have

copies for everyone.

403 MARK BAUER: The amendment that have been added to HB 2080 is merely on what will be line 25 (a) sub (j) will read "the State Department of Agriculture, for purposes of hearings under ORS 215.705 and for the information of the subcommittee that subsection has to do with dwellings under the Department of Agriculture.

416 MOTION: REP. LUKE: Moves HB 2080 as hand engrossed to the full committee with a DO PASS RECOMMENDATION.

423 CHAIR LEWIS: It has been moved that we send HB 2080 as hand engrossed to the full committee with a do pass recommendation.

429 REP. UHERBELAU: Wants to know where they got the ORS reference because she does not want them to be referencing something that is incorrect.

433 REP. LUKE: Says it's on the summary of the bill.

CHAIR LEWIS: Asks the secretary to call the roll.

VOTE: 7-0 MOTION PASSES

AYE: Fisher, Luke, Naito, Norris, Thompson, Uherbelau, and Lewis.

HB 2080 as hand engrossed is passed to the full committee with a DO PASS RECOMMENDATION

CHAIR LEWIS: Closes the WORK SESSION on HB 2080.

469 ADJOURNS the meeting at 3:28 PM.

Submitted by,

Reviewed by,

Paula Hird
Committee Assistant

Mark Bauer
Committee Administrator

EXHIBIT SUMMARY:

A -- Testimony on HB 2245 -- Olivia Clark, Assistant to the Director, Department of Environmental Quality, and Richard Reiter, Manager of the Department of Environmental Quality's Underground Storage Tank Compliance and Clean-up Section -- 4 pages