

HOUSE COMMITTEE ON NATURAL RESOURCES ENVIRONMENT AND ENERGY SUBCOMMITTEE

May 3, 1993 Hearing Room D 1:30 p.m. Tapes 82 - 85

MEMBERS PRESENT: Rep. Bob Repine, Chair Rep. Marilyn Dell, Vice-Chair  
Rep. Sam Dominy Rep. Bill Fisher Rep. Carl Hosticka Rep. Dennis Luke  
Rep. Bill Markham Rep. Nancy Peterson Rep. Ray Baum

STAFF PRESENT: Catherine Fitch, Committee Administrator Karen  
McCormac, Committee Clerk

MEASURES CONSIDERED: Public Hearing and Possible Work Session -  
HB 2932

Public Hearing - SB 42 A-Engrossed - SB 315 A-Engrossed - SB 544  
A-Engrossed - SB 1012

WITNESSES: FRED HANSEN, Department of Environmental Quality  
BOB DANKO, Hazardous and Solid Waste Division,

Department of Environmental Quality CHUCK DONALDS, Solid Waste Program  
Manager, Department of Environmental Quality MIKE DEWEY, Oregon Waste  
Systems; Columbia Ridge

Landfill GREG WOLF, Department of Land Conservation and

Development (DLCD) TOM GALLAGHER, Destination Resorts ART SCHLACK,  
Oregon Association of Counties DOROTHY COFIELD, Oregonians in Action  
CHRISTINE COOK, 1000 Friends of Oregon

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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. [--- Unable To Translate  
Graphic ---]

VIRGIL L. HARPER, Concerned Citizens for Smith Rock Area JEN TWINING,  
The Alliance for Responsible Land Use in

Deschutes County (ARLU-DECO) JIM BOZARTH, Smith Rock Nursery JEAN  
SMITHER, Citizen CLYDE EVERTON, Bend Resident LESLIE ELLIOTT, Culver  
Resident SANDRA SANDS, Redmond Resident PAULA ELAINI COZAED, Redmond  
Resident NICK CASEY, Bend Resident FRANCES EVERTON, Bend Resident CARRIE  
CARAMELLA, Redmond Resident MARC MIMS, SR., Redmond Resident BOB  
BROCKWAY, Sisters Resident MARION MILLARD, Redmond Resident MARCUS D.  
MIMS, JR., Redmond Resident DOROTHY CRONIN SCHOONMAKER, Portland  
Resident BRIAN SCHIEL, Former Redmond Resident

TAPE 82, SIDE A

005 CHAIR REPINE: Calls meeting to order at 1:42 p.m. Let the record

show that Rep. Josi is excused. We are rescheduling SB 315 A and SB 544 A

for another date.

OPENS PUBLIC HEARING ON SB 42 A-Engrossed AND SB 1012

020 FRED HANSEN, Department of Environmental Quality: Presents written testimony (EXHIBIT A) in support of SB 42 A and SB 1012. (Leaves to

testify at other hearing.)

163 BOB DANKO, Hazardous and Solid Waste Division, Department of Environmental Quality: Continues testimony.

201 REP. LUKE: Where are the synthetic liners used which are referred to on Page 2?

205 DANKO: Those only apply to new or expanded landfills, but do not apply to existing landfills. Without the flexibility we would be given if we

were an approved state, a landfill would would have to put in a liner system required by Subtitle D.

These liners are composite liners, with a layer of clay added to protect the plastic. It is important to obtain EPA (Environmental Protection Agency) approval, so we could approve an alternative design for liners in more dry areas of the state, such as eastern Oregon.

224 REP. LUKE: In Deschutes County, they're preparing to take septic disposal and apply to the ground. Is there anything in these bills

which would pre-empt that?

228 DANKO: Subtitle D deals only with the disposal of municipal solid waste. We would still regulate that, but it will not be restricted due

to Subtitle D. 232 REP. DELL: Are you familiar with the Riverbend Landfill? How would this affect that operation?

235 DANKO: Defers to next witness.

240 CHUCK DONALDS, Solid Waste Program Manager, Department of Environmental Quality: The rules in Subtitle D roughly correspond to the existing

rules we're already applying in Oregon. Subtitle D requires a plastic liner, then a clay liner. At Riverbend, after the first liner, they'll have a second collection system which includes a second plastic liner.

257 REP. DELL: Does this change the financial assurances portion?

260 DONALDS: Yes, in that under Subtitle D, a fund is required to pay for the potential closure of a landfill. Funds are also required to pay for post-closure costs, and if there is any release to the environment, a

third fund must be established which would clean up the problem.

278 REP. DELL: Does the language on Page 1, Line 26 of the bill assume that an expansion permit falls into one category?

288 DONALDS: The April 1994 date is a Subtitle D date. The Riverbend Landfill already has a closure fund, so the due date for the fund would not matter.

298 REP. DELL: Requests clarification of Section 2, beginning with Line 17.

310 DANKO: That is an error. It should be "acceptable," not "unacceptable."

330 REP. HOSTICKA: Does this only apply to open burning at designated landfill sites or does it change the regulation of open burning in any

other situation?

335 DANKO: This does not change the regulation of open burning, which we have generally prohibited except through variances at sixteen rural

eastern Oregon sites. This only refers to municipal solid waste landfills.

The federal Subtitle D rules will end open burning at rural sites in eastern Oregon. With approval to run the program, DEQ can continue a phase-down mode within the next two or three years. Without approval, they would be cut off and liable for citizen suits after October 9, 1993.

355 REP. LUKE: What is special about the Riverbend Landfill?

358 DONALDS: That site is located near a river. Ten years ago, it was thought that landfills should be located near rivers. Now we know that

any leaks near a river would potentially have an immediate effect on the surrounding area. The DEQ has the authority to designate specific landfills to build liners which are technically more advanced than the ones required by Subtitle D.

388 CHAIR REPINE: A landfill is due for closure in my district. Will these landfills also need to be monitored after closure? 405 DONALDS:

Any landfill which receives solid waste after October 9, 1993 falls subject to Subtitle D and the 30-year post-closure care period.

After ten years of post-closure care, the costs to monitor are relatively insignificant.

443 Our request for approval of the state program has already gone to the EPA. Probably next week, the EPA will approve our program, minus these

few areas. When this bill is passed, we will ask the EPA to amend their approval to a full approval of the state program.

TAPE 83, SIDE A

027 MIKE DEWEY, Oregon Waste Systems, Columbia Ridge Landfill: Testifies in support of HB 1012. Requests committee to approve the -3 amendments to

SB 42 A.

053 REP. MARKHAM: Did DEQ sign off on your amendments?

055 DEWEY: I believe they have.

058 CHAIR REPINE: Let the record show that Mr. Danko of the DEQ is acknowledging that DEQ supports the -3 amendments.

070 DEWEY: Testifies in support of SB 1012.

Addition to the record: Proposed -3 Amendment to A-Engrossed SB 42 (LC 857-1), 5-3-93

(EXHIBIT B)

CLOSES PUBLIC HEARING ON SB 42 A-Engrossed AND SB 1012

OPENS PUBLIC HEARING ON HB 2932

094 CATHERINE FITCH, Committee Administrator: The Subcommittee on Environment and Energy first heard HB 2932 on March 8. The Chair

determined that a working group should be developed to help make the bill more palatable.

097 GREG WOLF, Department of Land Conservation and Development (DLCD): Discusses findings by the Destination Resorts Working Group. The group

reached agreement on several major points, which are included in the -2 amendments.

These amendments add a process for the phasing-in of resort construction. Current law requires that there be 150 units of overnight lodging prior to the sale of individual lots. Because it was difficult

for developers to acquire financing, so we agreed to require only 75 units at the beginning of a project, phasing the remaining 75 units in over time.

The minimum investment for resort facilities was increased from \$2,000,000 to \$7,000,000.

We clarified which agricultural lands are eligible for resort development. Under current law, if a site has 50 or more acres of prime or unique agricultural land, a destination resort cannot be sited. That was slightly modified to allow siting if the 50 or more acres are at the border of a tract. We did not change current law which does not allow a destination resort to be sited within three miles of high-value cropland.

The amendments clarify the way mapping of eligible areas shall be done. Current law requires that 150 units of lodging be available for overnight use 45 weeks out of the year. The developers wanted it changed to 40 weeks per year. We were not able to come to an agreement on that point.

190 REP. LUKE: What units are you referring to which must be available 45 weeks during the year?

192 WOLF: Those are the 150 units which are dedicated for overnight lodging. The owners of those units can use them for their personal use

during the remaining weeks.

224 REP. DELL: During previous hearings, I noted that Yamhill County had conducted a viability study regarding the siting of a 75-room inn in the heart of Yamhill County's wine country. Was lowering the 150-unit

requirement discussed during the workgroup?

232 WOLF: The working group discussed the Yamhill County situation. There were so many parts of the law which would have to be modified to

accommodate that type of smaller resort that we opted not to address it. This would be better dealt with through the exceptions process.

235 TOM GALLAGHER, Destination Resorts: Presents written testimony (EXHIBIT C) outlining changes in HB 2932 made by the Destination Resorts Working Group.

426 REP. HOSTICKA: Are there any bonding requirements regarding destination resorts?

433 GALLAGHER: Yes. The same surety and bonding which are in existing statute were moved into this section.

TAPE 82, SIDE B

005 GALLAGHER: Continues testimony.

037 REP. MARKHAM: Are you saying that developers will pay for mapping by the county to identify areas for potential destination resorts?

039 GALLAGHER: We prefer that mapping be available before a developer decides to build on a specific site. Without mapping, we would run the

risk that there may be problems with a potential site.

Continues testimony.

107 REP. LUKE: Are there any counties which have already mapped the entire county?

115 GALLAGHER: I believe five counties have done so. 142 REP. MARKHAM: Why is there a dollar amount in the amendments regarding the minimum investment required for a destination resort?

144 GALLAGHER: The \$7,000,000 dollar amount will insure that there is an artful blending of what it takes to make a destination resort, and

includes lodging, site amenities and recreational facilities which are only available in a rural area. You cannot have this combination unless that amount of capital is available.

157 MARKHAM: Do resort developers have to bond before they can begin a project?

158 GALLAGHER: Before a permit is approved, all of those recreational amenities must already be in place and paid for. The bonding is for the rooms which have not yet been built.

170 REP. DELL: In Yamhill County, we want a nice country inn with 75 rooms designed to fit in and become part of our Oregon wine country. This

bill would require a huge resort that we don't want, or require that we go through the exceptions process, which is very difficult.

181 GALLAGHER: What you describe is not a destination resort under the statute definition. The working group discussed this type of project,

but the criteria for siting would open the destination resort statute to resorts of any size.

219 WOLF: This lodge would dovetail with the exceptions process. Offers to discuss proposal with Rep. Dell.

241 ART SCHLACK, Oregon Association of Counties: Testifies in

support of proposed amendments to HB 2932. The criteria which has been developed

is clear, objective and workable at the local level.

271 DOROTHY COFIELD, Oregonians in Action: Presents written testimony (EXHIBIT D) in opposition, and describes concerns with proposed

amendments.

379 REP. DELL: Can you think of any other part of our land-use regulations which require a dollar amount to be spent in order to gain approval?

406 WOLF: No. Destination resort law is unique.

413 REP. HOSTICKA: I think the Hard Rock Mining Act requires a certain dollar amount in order to continue the validation of a mining claim.

431 REP. DELL: Was this precedent discussed by the working group?

TAPE 83, SIDE B

012 WOLF: We did what was necessary to insure that the kind of use that is anticipated will actually occur. Even when the original legislation was drafted, it was felt that a dollar amount would help in guiding that

decision.

021 CHAIR REPINE: Mr. Gallagher referred to two destination resorts for which these changes would not provide any advantages. What are those

resorts?

028 WOLF: I'm not familiar with both resorts, but the proposed resort at Smith Rock in Deschutes County would not be allowed to go forward under this legislation, given the character of the onsite agricultural land

which exists in that area.

034 CHAIR REPINE: Would the original HB 2932 have allowed the Smith Rock resort to proceed?

036 WOLF: Yes. It would have allowed the county to consider it.

041 CHAIR REPINE: Thanks working group participants for compromising on the development of amendments to HB 2932.

068 CHRISTINE COOK, 1000 Friends of Oregon: Presents testimony (EXHIBIT E) which outlines both negative and positive aspects of proposed

amendments.

264 VIRGIL L. HARPER, Concerned Citizens for Smith Rock Area:

Presents written testimony (EXHIBIT F) in opposition to HB 2932.

376 REP. LUKE: The survey referred to in your testimony (in which 80% of Deschutes citizens opposed additional destination resorts) was called

into question by a lot of people, including the local newspaper.

421 CHAIR REPINE: Declares a ten-minute recess, to reconvene at 3:40.

Reconvenes meeting at 3:44 p.m.

TAPE 84, SIDE A

018 JEN TWINING, The Alliance for Responsible Land Use in Deschutes County (ARLU- DECO): Presents testimony (EXHIBIT G) in opposition to HB 293 2.

076 REP. LUKE: This law will affect the entire state. The original bill singled out an area as a site for destination resorts, but it has been

the goal of the working group and chair of this subcommittee to develop amendments which are not site-specific.

094 TWINING: I have attempted to point out in my testimony some specific items which, if not resolved, will surely lead to litigation.

097 JIM BOZARTH, Smith Rock Nursery: Presents written testimony (EXHIBIT H) in opposition to HB 2932. The biggest share of criticism of the survey

(wherein 80% of the respondents in Deschutes County opposed additional destination resorts) came from developers. This survey was commissioned by officials in Deschutes County, and conducted by a credible research

company. 168 JEAN SMITHER, Citizen: Presents written testimony (EXHIBIT I) from Suzanne Smither in opposition to HB 2932. 221 CLYDE EVERTON, Bend Resident: Presents written testimony (EXHIBIT J) in opposition to HB 2932.

266 REP. LUKE: Are you against HB 2932 or against destination resorts?

270 EVERTON: I am against relaxing the present Goal 8 standards, which is what HB 2932 will do.

282 LESLIE ELLIOTT, Culver Resident: Presents written testimony (EXHIBIT K) in opposition to HB 2932.

372 SANDRA SANDS, Redmond Resident: Presents written testimony (EXHIBIT L) in opposition to HB 2932.

TAPE 85, SIDE A

086 SANDS: Concludes testimony.

088 REP. LUKE: Your testimony describes a worst-case scenario. I



don't know of any destination resorts in Deschutes County which are not on

their own sewer system.

091 SANDS: Eagle Crest is planning an expansion, which will be on our septic system. We are looking at a new 250-unit hotel with 250+

condominiums which will be uphill from our farm and from the river, because they do not want to put in a sewage treatment plant.

096 REP. LUKE: Have you had any testing done which shows the wells are dropping?

098 SANDS: Yes. And I also have water tests of the Deschutes River below the resort. I would be happy to provide you with copies.

101 CHAIR REPINE: Have you ever asked the city why the room tax from the resort is not used for things like sewer systems?

104 SANDS: No. Perhaps using a room tax to offset the negative effects of growth should be written into the bill.

110 CHAIR REPINE: Are you advocating an additional room tax?

113 SANDS: Perhaps there could be a statewide proposal which could relieve taxpayers from paying for growth.

124 REP. MARKHAM: What has happened to your property taxes since the resort was developed?

127 SANDS: My taxes have increased over \$1,000 in one year. I own ten acres.

142 PAULA ELAINI COZAED, Redmond Resident: Presents written testimony (EXHIBIT M) in opposition to HB 2932. 180 NICK CASEY, Bend Resident: Presents written testimony (EXHIBIT N) in opposition to HB 2932. Sun River has recently attempted to incorporate

as a city.

225 FRANCES EVERTON, Bend Resident: Presents written testimony (EXHIBIT O) in opposition to HB 2932.

270 REP. LUKE: The working group which developed these amendments has met with Deschutes County Commissioner Throop, who has signed off on every

aspect of this amended version of the bill. Additionally, 1000 Friends

and the Farm Bureau have also signed off, for the most part. 271

EVERTON: Do you have water studies from every county in Oregon?

285 REP. LUKE: No. But most counties would not site a destination resort without a water study, because that has become a major criteria.

297 CARRIE CAMELLA, Redmond Resident: Presents written testimony (EXHIBIT P) in opposition to HB 2932.

369 MARC MIMS, Sr., Redmond Resident: Presents written testimony (EXHIBIT Q) in opposition to HB 2932.

TAPE 84, SIDE B

028 MIMS: Concludes testimony.

030 REP. LUKE: It's been mentioned twice today that Sun River has been thinking of incorporating. This represents \$1,000,000 in room taxes.

045 BOB BROCKWAY, Sisters Resident: Presents written testimony (EXHIBIT R) in opposition to HB 2932.

065 MARION MILLARD, Redmond Resident: Presents written testimony (EXHIBIT S) in opposition to HB 2932.

138 MARCUS D. MIMS, JR, Redmond Resident: Presents written testimony (EXHIBIT T) in opposition to HB 2932.

179 DOROTHY CRONIN SCHOONMAKER, Portland Resident: Presents written testimony (EXHIBIT U) in opposition to HB 2932.

211 BRIAN SCHIEL, Former Redmond Resident: Presents written testimony (EXHIBIT V) on behalf of Richard Lance in opposition to HB 2932 and

Smith Rocks destination resort.

271 CATHERINE FITCH: Reads into the record testimony from Kent Gill (EXHIBIT W), of the Oregon Sierra Club, dated May 5, 1993.

Additions to the record: HB 2932 Testimony from Loren Ebner (EXHIBIT X)  
HB 2932 Proposed Amendments to HB 2932 (LC 1309), 4-30-93 (EXHIBIT Y)

275 CHAIR REPINE: CLOSSES PUBLIC HEARING ON HB 2932

Adjourns meeting at 4:58 p.m.

Submitted by:

Reviewed by:

Karen McCormac  
Administrator

Kathryn Van Natta Assistant

EXHIBIT LOG:

A - SB 42 A and SB 1012 Testimony - Fred Hansen - 18 pages B - Proposed Amendments to A-Engrossed SB 42 (LC 857-1), 5-3-93 - Staff - 1 page C - HB 2932 Testimony - Tom Gallagher - 4 pages D - HB 2932 Testimony - Dorothy Cofield - 4 pages E - HB 2932 Testimony - Christine Cook - 5 pages F - HB 2932 Testimony - Virgil L. Harper - 2 pages G - HB 2932 Testimony - Jen Twining - 3 pages H - HB

2932 Testimony - Jim Bozarth - 3 pages I - HB 2932 Testimony - Jean  
Smither - 1 page J - HB 2932 Testimony - Clyde Everton - 1 page K  
- HB 2932 Testimony - Leslie Elliott - 3 pages L - HB 2932  
Testimony - Sandra Sands - 3 pages M - HB 2932 Testimony - Paula  
Elaini Cozaed - 2 pages N - HB 2932 Testimony - Nick Casey - 1 page  
O - HB 2932 Testimony - Frances Everton - 1 page P - HB 2932  
Testimony - Carrie Caramella - 1 page Q - HB 2932 Testimony - Mark  
Mims, Sr. - 1 page R - HB 2932 Testimony - Bob Brockway - 1 page S  
- HB 2932 Testimony - Marion Millard - 3 pages T - HB 2932  
Testimony - Marcus D. Mims, Jr. - 1 page U - HB 2932 Testimony -  
Dorothy Cronin Schoonmaker - 2 pages V - HB 2932 Testimony - Brian  
Schiel - 1 page W - HB 2932 Testimony - Kent Gill - 1 page X -  
HB 2932 Testimony - Loren Ebner - 1 page Y - HB 2932 Testimony -  
Proposed Amendments to HB 2932 (LC 1309), 4-30-93 - Staff - 7 pages