

HOUSE COMMITTEE ON NATURAL RESOURCES ENVIRONMENT AND ENERGY SUBCOMMITTEE

May 5, 1993 Hearing Room D 1:00 p.m. Tapes 86 - 87

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

VISITING MEMBER: Rep. Tim Josi

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

MEASURES CONSIDERED: Public Hearing - SB 64 A-Engrossed - SB 65  
A-Engrossed - SB 5

WITNESSES: GARY LYNCH, Department of Geology and  
Mineral Industries TOM BARROWS, Supervisor, Mineland Reclamation  
Program, Northwest Mining Association RICHARD ANGSTROM, Oregon  
Concrete and Aggregate

Association DON HULL, State Geologist and Director of the Oregon

Department of Geology and Mineral Industries STEVE PURCHASE, Assistant  
Director, Division of State Lands RON GEITGEY, Industrial Minerals  
Geologist, Department of Geology

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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 ---]

TAPE 86, SIDE A

005 CHAIR REPINE: Calls meeting to order at 1:08 p.m.

OPENS PUBLIC HEARING ON SB 64 A-Engrossed

020 CATHERINE FITCH, Committee Administrator: Senate Bill 64  
A-Engrossed was voted out of the Senate with a 20 - 6 vote. It was  
originally

requested by the Department of Geology and Mineral Industries, and  
allows them to impose civil penalties on non-chemical process mines  
which exceed permit requirements or do not have a permit. Currently,  
the department must either close down these operations or take criminal  
action.

041 GARY LYNCH, Supervisor, Mineland Reclamation Program,

Department of Geology and Mineral Industries: Presents written testimony (EXHIBIT A)

in support of SB 64 A. The operations for which civil penalties would be imposed would be operating without a permit, operating outside a permit boundary, or operating in disregard to a specific permit condition. Currently, there may be a disincentive to follow the rules in certain instances. A \$1,000 one-time fine may actually encourage operators to mine an area and pay the fine instead of going through an expensive permit process at county and state levels.

073 REP. LUKE: Is that \$1,000 fine a one-time penalty?

075 LYNCH: Yes.

076 REP. LUKE: How much does it cost to obtain a mining permit?

078 LYNCH: The initial permit is \$575, with an annual renewal fee of \$425.

091 REP. DOMINY: Is there an estimate of how many violations there were?

094 LYNCH: We had 82 violations last year, which included everything from late payment of fees, to an individual who blew a berm onto a road with dynamite. We can only estimate how many of those violations could have

come under civil penalty; perhaps we would have imposed civil penalties on three of those 82 violations.

110 REP. DOMINY: What three violations would have had civil penalties imposed?

112 LYNCH: One instance occurred in the Columbia River Gorge, when a berm was blown onto the old Columbia River Highway. The department ended up

spending \$26,000, but received only \$7,000 since we settled out of

court. In another instance, an operator placed a large amount of

material on an unstable slope, which was above an anadromous fishery

creek. Although we issued a closure order to the operator, the

individual continued to put material on the unstable slope. We're still dealing with that issue. In the third situation, an operator was

operating without a permit to meet contract specifications. Several

other operators in the area who were permitted didn't get that contract, and were upset because they felt the operator without the permit was

rewarded for not having a permit.

143 REP. MARKHAM: Which line contains the warning provision?

146 LYNCH: It is in Section 12.

We may go directly to civil penalties when there is a blatant, willful

violation which would also result in irreparable harm. 153 CHAIR  
REPINE: Would the Columbia River Highway incident fit that  
category?

156 LYNCH: Yes.

161 REP. JOSI: Would this also apply to the illegal removal of  
aggregate from river beds?

163 LYNCH: We don't have authority within the beds and banks of  
rivers. The Department of State Lands would regulate that, and they have  
their

own civil penalty.

181 CHAIR REPINE: Is this bill similar to penalties imposed by  
the Department of State Lands?

183 LYNCH: This is far more specific than penalties used by other  
agencies. We wanted specifics so implementation would be easier.

192 REP. LUKE: What is the appeal procedure on this?

195 LYNCH: It goes to our governing board, and if appealed, would go  
to the Court of Appeals.

198 REP. LUKE: When you're talking about "mining," are you also  
referring to thunderegg beds, or are you referring to aggregate mining  
only?

203 LYNCH: Most of our thunderegg or sunstone mines are below the  
threshold required for our permits. The gemstone operations are too  
small to be

permitted. This civil penalty authority would apply to aggregates,  
quarry stone, industrial minerals, metal mines, etc. which move more  
than 5,000 yards of material.

218 REP. PETERSON: How large a problem is this in Oregon?

221 LYNCH: District attorneys are very busy. When the one-time  
penalty is only \$1,000, they tell us they have other more important  
issues. Rogue

operators do what they want to do, to the dismay of the members of their  
own industry. However, these problems are not rampant; last year, we  
had 82 violations out of about 780 permits, many of which were  
procedural complaints.

273 TOM BARROWS, Northwest Mining Association: Testifies in support of SB 64 A.

285 REP. FISHER: My industry is well-regulated, yet it has still failed to weed out disreputable operators. Do you truly feel this will resolve

those problems?

300 BARROWS: There will always be violators who won't get caught. However, this bill is an improvement over the present system.

310 RICHARD ANGSTROM, Oregon Concrete and Aggregate Association: Testifies in support of SB 64 A. The Department of Geology needs to have a civil

penalty authority, because once a case goes into litigation, the parties involved may spend tens of thousands of dollars in litigation. Most of

our operators will find that the new 48-hour notification offers them

the opportunity to rectify the problem.

Addition to the record: SB 64 A Fiscal Analysis (EXHIBIT B) SB 64 A Revenue Impact Analysis (EXHIBIT C) SB 64 A Preliminary Staff Measure Summary (EXHIBIT D) SB 64 A Senate Amendments to SB 64 (EXHIBIT E)

CLOSES PUBLIC HEARING ON SB 64 A-Engrossed

OPENS PUBLIC HEARING ON SB 65 A-Engrossed

399 FITCH: SB 65 A was prepared at the request of the Department of Geology and Mineral Industries. It passed from the Senate with a vote of 29 -

0. This is an omnibus bill, in which the department attempts to update

and clarify items in the statutes. The bill would require the

department to undertake items which are currently discretionary, such as studies and surveys of mineral resources, hazard assessments and serving as a bureau of information. Explains additional impact the bill will

have on the department.

TAPE 87, SIDE A

006 DON HULL, State Geologist and Director of the Oregon Department of Geology and Mineral Industries: Presents written testimony (EXHIBIT F)

in support of SB 65 A.

044 REP. HOSTICKA: What's the difference between "shall" and "may"?

046 HULL: We are compelled to do all the listed activities in Section 2 under "shall" that budget resources allow.

066 Our governing board is a policy board, which hires and fires the

state geologist for not conducting statutorily-mandated activities. With the

public input in the governing board, there's a fair amount of accountability.

081 REP. DELL: Requests explanation of department's role in monitoring earthquake activity.

085 HULL: Under current law, our role is to develop a scientific understanding of the hazards of earthquakes, and we're also charged to

mitigate loss of life and property from future earthquakes. Since the earthquake of March 25, we're all reminded that we need to accelerate that activity, because Oregon is terribly unprepared.

107 REP. DELL: Why was the language "subject to funds available" taken out of Section 2?

114 HULL: It was the judgment of legislative counsel that it was a given for all agencies, and that it was not necessary to repeat that language in that area of the bill.

112 Continues testimony.

211 REP. LUKE: Is it difficult to find a geologist with a mining background or to find a mining engineer? 214 HULL: I thought there was unfairness in the current system. There are employees within the organization who have both technical and

administrative skills which would qualify them for the position of director, and it would be unfair to exclude them from consideration because of some statutory requirement.

231 REP. LUKE: My concern is that this not become a political appointment.

234 HULL: I share your concern. There was some discussion about that by our board and in the senate committee.

Additions to the record: SB 65 A Preliminary Staff Measure Summary (EXHIBIT G) SB 65 A Fiscal Analysis and Revenue Impact Analysis (EXHIBIT H) Senate Amendments to SB 65 (EXHIBIT I)

CLOSES PUBLIC HEARING ON SB 65 A-Engrossed

OPENS PUBLIC HEARING ON SB 5

272 FITCH: Senate Bill 5 was drafted at the request of the Division of State Lands. It passed in the Senate with a 29 - 0 vote, and repeals a

section of statute which permits the DSL to grant mineral extraction

claims on state lands. The department has determined that there have never been any claims filed. There are other rules already in place which allow DSL to permit the lease, sale or exchange of mineral or geothermal rights.

285 STEVE PURCHASE, Assistant Director, Division of State Lands: Presents written testimony (EXHIBIT J) in support of SB 5.

313 RON GEITGEY, Industrial Minerals Geologist, Department of Geology: Testifies in support of SB 5. This is a housekeeping bill, and would

simplify procedures for the exploration of minerals in Oregon.

Addition to the record: SB 5 Preliminary Staff Measure Summary, Fiscal Impact Assessment, and Revenue Impact Analysis (EXHIBIT K)

375 CHAIR REPINE: CLOSSES PUBLIC HEARING ON SB 5

Adjourns meeting at 2:02 p.m.

Submitted by:

Reviewed by:

Karen McCormac  
Administrator

Kathryn Van Natta Assistant

EXHIBIT LOG:

A - SB 64 A Testimony - Gary Lynch - 2 pages B - SB 64 A  
Fiscal Analysis - Staff - 1 page C - SB 64 A Revenue Impact  
Analysis - Staff - 1 page D - SB 64 A Preliminary Staff Measure  
Summary - Staff - 1 page E - Senate Amendments to SB 64 - Staff - 1  
page F - SB 65 A Testimony - Don Hull - 9 pages G - SB 65 A  
Preliminary Staff Measure Summary - Staff - 1 page H - SB 65 A Fiscal  
Analysis and Revenue Impact Analysis - Staff - 2 pages I -  
Senate Amendments to SB 65 - Staff - 1 page J - SB 5 Testimony -  
Steve Purchase - 2 pages K - SB 5 Preliminary Staff Measure Summary,  
Fiscal Impact Analysis and Revenue Impact Analysis - Staff - 2 pages