

HOUSE COMMITTEE ON NATURAL RESOURCES ENVIRONMENT AND ENERGY SUBCOMMITTEE

May 24, 1993 Hearing Room D 1:30 p.m. Tapes 120 - 122

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: Kathryn Van Natta, Committee Administrator Kathy
Taylor, Committee Clerk

MEASURES Public Hearing CONSIDERED: - SB 315 - HB
2962 Public Hearing and Work Session - SB 544 A-Engrossed Work Session
- HB 2932 - HB 3353

WITNESSES: SENATOR BILL DWYER DIANA YOUNG DAVID HARRIS,
TRUAX HARRIS ENERGY CO. OLIVIA CLARK, DEPT. OF ENVIRONMENTAL QUALITY LON
REVAL, DEPT. OF ENVIRONMENTAL QUALITY DIANA GODWIN, REGIONAL DISPOSAL
CO. SHAWN MAC PHERSON, ASST. TO REP. NORRIS JOHN ELTO, PETRO PETROLEUM
RETAILERS BILL MOSHOFSKY, OREGONIANS IN ACTION TOM GALLAGHER,
DESTINATION RESORTS MIKE KANE, PUBLIC UTILITIES COMMISSION MARK HELLMAN,
PUBLIC UTILITIES COMMISSION JIM ANDERSON, PACIFIC POWER BRUCE
HELLEBUYCK, PACIFIC POWER MIKE GRAINEY, DEPARTMENT OF ENERGY ROSEMARY
MANNIX, DEPARTMENT OF FORESTRY DON BYARD, DEPARTMENT OF TRANSPORTATION

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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 120, SIDE A

005 CHAIR REPINE: Calls meeting to order at 1:35

OPENS PUBLIC HEARING SB 315

022 KATHRYN VAN NATTA, Committee Administrator: Provides
background information regarding SB 315. - Submits for the record
Staff measure Summary, A-Engrossed bill,

Senate voting action, Revenue and Fiscal impact statements (EXHIBIT A).

030 SEN DWYER: Submits and reads written testimony in support
of the A-Engrossed bill (EXHIBIT B).

073 CHAIR REPINE: The trucking in of soils from other areas,
is it subsection two that explains how you deal with it?

075 SEN DWYER: If its in a heavy commercial area there is nothing

wrong with on site aeration In some cases it is better to be treated where it is at.

085 REP HOSTICKA: Are these regulations going to be more strict than the Federal Regulations? You can't just say this stuff is going to disappear.

093 SEN. DWYER: I don't think so. This does allow on site aeration, which in some cases make a lot more sense than trucking it. What it says is

they have to have rules and regulations in regards to putting it in, and you don't put it next to a school or in a residential area. You put it in commercial or areas that don't have those kinds of ramifications that common sense would dictate that you wouldn't do anyway.

100 REP. FISHER: What distance was the dirt hauled?

110 SEN. DWYER: About 35 blocks.

112 REP LUKE: Don't the people that dig these tanks up have to get a permit now?

117 SEN. DWYER: Yes, to dig it up and store it, but there is nothing in regards moving it or storing it unless the city has a ordinance. The

State is silent on this issue, that's why we want something to specify how these things are handled so it is uniformed throughout the state.

120 CHAIR REPINE: They don't have to submit a plan on how they are going to handle the dirt in the tanks? 125 SEN DWYER: I am not sure if they do or not, conceivably they should but they were allowed in a case as you'll hear from Diana Young. Once they

get the soil out no one wants to own it, no one wants to take responsibility for it.

145 DIANA YOUNG: Supports SB 315, relates story of Halsey company dumping their contaminated soil next to her property in Brownsville only 30 feet from her water well. There are more than 10 houses each with their own

water well around this site. DEQ required this company to remove this soil, but did not care where it was going to be dumped and treated. We had our water tested and the chemist told us that some of the chemical nutrients and fertilizers used to break down gasoline are more harmful than the diesel or gasoline. This bill should be passed to protect the people of the state of Oregon.

215 DAVID HARRIS, TRUAX HARRIS ENERGY: I have served on four

separate advisory committees over the past eight years, two of which are

remedial action and the environmental clean-up. I support SB 315. In section three of the bill states the applicant would provide a map identifying the land use of the proposed storage and treatment site and surrounding 1000 feet of the site. In section two it does not require DEQ to put out any rule language or model ordinance language regarding adjacent property uses. One of the needed modifications to the bill would be an amendment to specify what the appropriate land use could be within that given boundary. The Second modification I would like to see is to have this become a State Statute not just a model ordinance. The concern for those of us who are trying to comply with environmental regulations is that we keep from having a patchwork across the state with conflicting regulations and additional fee schedules.

275 CHAIR REPINE: Asks for clarification of state statute. Something established within this committee, or change the direction of SB 315?

277 HARRIS: Yes, it should go beyond just a model, and turn it into a State statute and make it more comprehensive than it's presently written.

280 REP. FISHER: Asks for idea on how to implement that change.

285 HARRIS: Those are issues that the environmental advisory committees have spent hundreds of hours on. We ought to try to utilize that

research within this bill and the administrative rules that would be developed as a result of it.

292 OLIVIA CLARK, DEQ: The bill directs DEQ to develop a model ordinance for counties and cities, I assume we would put together an advisory

committee. We have no position on the bill.

310 CHAIR REPINE: Could you take us through the present criteria that DEQ uses on the disposal?

328 LON REVAL, DEQ: The examples you heard earlier, were done under our old process. We have a lot of cleanup activity, over 3,000 active sites with 80 new sites a month. We do review each and every plan now to

determine if the location is appropriate.

350 CHAIR REPINE: what is different under your new standards in regarding replacing that soil on some other piece of property? 355

REVALL: For the off-site locations we would require land- use approval from the county and our regional staff both in the process. Before, the plan could look adequate, and therefore no one ever went out to look at the site. Now, we work together with local agencies making inspections of the off site locations to make sure it is appropriate.

360 REP LUKE: Are there higher fees for someone who is taking it off site than someone who is leaving it on site, and is there a different permit process?

365 REVALL: There are three options. Landfilling, thermal treatment or one-time process either on site or off site that the bill directed to.

Landfilling costs vary throughout the state but is about 60 dollars per yard plus transportation costs. Thermal treatment is a little more expensive. The on site method, if you can do it properly and reuse it, you can do it for about one third of the cost. The cost associated with it are for the off site locations.

380 REP. LUKE: Is there a permit process which is separate if you are taking it off-site?

385 REVALL: Yes, the permit process covers both the on site treatment and whether they are going to take it someplace off site. There is an

option of paying a permit fee under our solid waste requirements, which is \$500 dollars or oversight costs are the tool that has been used in environmental cleanup programs to oversee projects. If all they are going to do is store the soil on site, and later to haul it to a landfill, there is no fee they just have to tell us what they are going to do with it.

400 REP. DELL: How are you going to rely on counties, and what do you want the counties to do in this process?

416 REVALL: The main thing we want the counties to do is to participate in the process, so we all know what the requirements are. We would be

working closely with the city or county to make sure particularly the off-site location is appropriate.

425 REP. DELL: I need more information, are they going to have to go out an look at sites, are they going to have to take some kind of liability,

are they going to have to write a local ordinance? What cost and impact for cities and counties?

430 CLARK: What the bill does is ask us to set up a model ordinance. It does not direct the counties or cities to do anything with

that, I think there is a potential for a partnership. We ask for land use

compatibility statement whether its in the county or inside the city depending on were the soil pile is going to be located.

438 REP. FISHER: The finding of a location to put this dirt is going to be a major problem. Is there any possibility of using landfills and having a place where the soil can be treated and then reused.

442 REVAL: Yes, that is a possibility. Most of the time when the landfill hears of taking it they think its contaminated. If we can work

something out that they can have a treatment area and then use the treated soil as cover.

445 REP FISHER: County Landfills could just be used as treatment locations.

447 REVAL: Yes, it can be used for fill or road grade.

TAPE 121, SIDE A

042 CHAIR REPINE: Based on what your rules are today, if you were to implement this model language, would it work well with what you

presently do in regards to tank and soil removal?

044 CLARK: Some of the methods listed in Section 2 we are already working on, and would make those available in the model ordinance for local

government if that local government chose to adopt an ordinance

052 CHAIR REPINE: In section three, the mapping of a 1000 foot area. Based on what your doing now in the field, is that a pretty arduous task that it presents on behalf of the applicant?

054 CLARK: I think that's a question for local government

055 REVAL: I don't think we have a foot requirement. We certainly want to know what the land use is and is it compatible.

057 CHAIR REPINE: I am somewhat nervous when the bill talks about mapping a 1000 feet, but it does not define what that mapping might entail, that

could become a very costly process. Is it a drawing or does a surveyor go out and create legal mapping.

060 REP FISHER: What percentage of dirt, once it's aerated does not meet the standards? How much can't be treated and have to go to a landfill ?

068 REVAL: I depends on the contamination, gasoline aerates real

well. Diesel takes longer maybe up to a couple years. If they enhance it with bugs and turning it you can get the diesel contamination down.

078 DIANA GODWIN, Regional Disposal Company: We use these soils for daily required cover for landfill at about \$19 or \$20 dollars per ton plus

transportation costs. Landfill is a good option for using these soils. Some local governments are taxing these soils, if they go to a landfill, at such a high rate it almost prevents these soils from coming to landfill. They tax it at \$19 dollars a ton, so basically a 100 percent tax. That is a issue we are

wrestling with. The gasoline station owners are facing some real tough financial costs for cleanup.

113 REP. FISHER: Hauling costing alone could be prohibitive.

120 GODWIN: As of January 1992, the Metro area government banned off-site aeration mandating that they stay on site or go to landfill or thermal

destruction unit. So what we are seeing in the Metro area is some really inappropriate on-site aeration, places too small to effectively spread the soil out and treat it.

CLOSES PUBLIC HEARING ON SB 315 OPENS WORK SESSION HB 3353

166 VAN NATTA: Provides background information on HB 3353 Submits for the record Staff Measure Summary, Revenue Impact Statement

(EXHIBIT C).

173 REP. NORRIS: Submits for the record -5 amendments (EXHIBIT D), -7 amendments (EXHIBIT E), summary of -7 amendments (EXHIBIT F), HB 3353

Hand Engrossed with -7 amendments (EXHIBIT G). - States that self service gas dispensing will not prohibit attended

service. - HB 3353 offers marketing option. - Relates history of bill. - Refers this concept to the people to be included in a primary election in May of 1994.

242 SHAWN MAC PHERSON: Reads -7 amendments.

301 REP. FISHER: What is the percentage of disabled persons who would utilize this?

318 MAC PHERSON: My guess is that it would be very low, but you can get the number of disabled drivers from DMV.

322 REP. FISHER: This requires that whatever a non-disabled persons receives a disabled person is also entitled to.

331 REP. DOMINY: Most stations don't provide the service anyway, will this just put that in writing so we won't expect it.

358 MAC PHERSON: No, if a station provides window washing etc. at a higher price to a non-disabled person then they would provide that as well to a disabled person.

364 REP. NORRIS: There is no intent to tell them how to run their business, beyond a certain level

of equity.

380 REP. HOSTICKA: Submits -6 Amendments (EXHIBIT H) sponsored by the gasoline dealers association. The amendments eliminates the exemption

of card lock facilities, if people need assistance and people are helping dispense gasoline to the disabled, that should apply everywhere.

400 JOHN ELTO, PETRO PETROLEUM RETAILERS: Submits and reads amendments to HB 3353 (EXHIBIT I).

438 CLOSES PUBLIC HEARING ON HB 3353

OPENS WORK SESSION ON HB 2932

TAPE 120, SIDE B

010 VAN NATTA: Provides background information on HB 2932 Submits for the record Staff Measure Summary, Fiscal Analysis, Revenue

Impact (EXHIBIT J). 038 BILL MOSHOFSKY, Oregonians in action: Speaks in opposition of the -3 amendments.

156 CHAIR REPINE: You had asked me to comment regarding the cost threshold changing from \$2 million to \$7 million.

160 MOSHOFSKY: Based on '84 dollars that \$2 million dollars has only inflated 37percent using cost of living. We believe you should leave a

lot of flexibility.

172 REP. DELL: Concerns about putting number on this kind of development? I understand the need for quality control. It is a step forward to say

if you spend this much money on it you can have it.

183 MOSHOFSKY: We philosophically question an arbitrary ceiling like that. It ought to be aimed at the kinds of improvements that you want.

200 MIKE DEWEY, Destination Resorts: Coalition of parties have been meeting to come to agreement on amendments we speak in support of this bill as a step in the right direction. Submits for the record - 3 amendments

(EXHIBIT K).

238 GREG WOLF, Department of Land Conservation & Development:

We did involve all interested parties in the negotiations of the working group you established, I think the - 3 amendments reflect that work. We still have one outstanding disagreement on the number of weeks. Forty weeks

is in the bill, we would prefer forty five weeks.

250 CHAIR REPINE: How was the figure of \$7 million chosen?

258 WOLF: We tried to find a balance. The number of overnight units required, and making sure we would have a destination resort that we

were trying to attract to this state.

262 TOM GALLAGHER: The requirement of 150 overnight units at an average price of 50,000 dollars is well over \$7 million dollars alone, without

adding the amenities which include the recreational features and golf course. Golf courses range from about \$4.5 million to on down to about \$3 million, you can build one cheaper but not a resort style. This statute is designed for large attraction facilities that bring enough people into the area so they can contribute to the overall economic development without over burdening the area with cost to local government schools etc. They are attraction sites and if you don't put the amount of dollars up front you don't really create enough economic generation, to justify this exception to EFU land. If you want to site something smaller, if you want to do something different then you've got to battle your way through exemption statute, do we want a different kind of statute here? We have chosen not to come in and argue for a different kind of statute, we except the national industry standard of what is a large destination resort as being the criteria that meets this exception to citing in EFU land. If you want something different than that it wouldn't be what we started out with as a destination resort. That's something you could look at in another bill or gut this statute all together. I know the \$7 million

has been a big issue for people out there, \$7 million is more than \$2 million, but \$2 million didn't meet anything, it was just a number.

When you get done counting out the requirements of building a resort there was no relationship to the \$2 million.

299 REP. LUKE: Are there destination resorts without golf courses and if they don't have a golf course are they going to have a problem

meeting

that \$7 million? What I have in mind is like the Rock Springs Guest Ranch in Bend which is mostly horseback riding and country-getting-away-from-it-all.

312 GALLAGHER: That was a question we discussed a lot. It's hard to get to \$4 million dollars with tennis courts, you would need about \$7 thousand. What other kind of thing attracts a lot of people, either the site

itself, or if you put in a lodge and a restaurant and the meeting room space that is required under this \$7 million and you add some dollars in building up the amenities. You could build one for less, but the people I've talked to are not uncomfortable with dollar amount being necessary to reach that centrifugal mass that is a true destination resort.

333 CHAIR REPINE: Will the fiscal statement be changed based on the -3 amendments?

339 WOLF: Yes it will be, this was based on the original bill. I think the fiscal impact will be nominal at this point.

350 MOTION: REP. BAUM moves to adopt the HB 2932 -3 amendments dated 5-10-93 Hearing no objection, the motion CARRIES.

MOTION: REP. BAUM moves HB 2932 as amended to the House Committee on Natural Resources with a DO PASS RECOMMENDATION.

VOTE: In a roll call vote the motion CARRIES with all members voting AYE, Rep. Peterson is excused.

CLOSES WORK SESSION ON HB 2932

TAPE 121, SIDE B

OPENS PUBLIC HEARING ON SB 544 A-ENGROSSED

005 VAN NATTA: Reviews Status of SB 544 A-Engrossed and submits for the record Staff Measure Summary, A-Engrossed bill, Senate vote sheet,

Revenue and Fiscal Impact statements (EXHIBIT L).

014 MIKE KANE, PUBLIC UTILITIES COMMISSION: Submits and reads written testimony (EXHIBIT M). Speaks in support of the bill.

065 REP. LUKE: Which program of conservation are you referring to?

074 KANE: Generally any conservation program which may cause the utility to sell electricity. It would also provide an incentive for the utility to purchase the resource at some subsidy, and provide some financial

incentive for the utility to do that.

078 REP. LUKE: In the bill, it gives the commission discretion to employ mechanisms that provide the utilities some protection against loss of

margin, does that mean rate increases?

086 KANE: It may be in the long run that a rate increase would be necessary. If an expense is incurred it can be deferred until a time we have a rate case and then at time the expense can be reflected.

092 REP. LUKE: What other mechanisms do you have? What kind of incentives are you going to give them to move ahead with conservation?

093 MARK HELLMAN, PUBLIC UTILITIES COMMISSION: Most of the incentives we look at are ones that share the benefits that conservation makes

available, that conservation would cost less than another resource. The benefits to society go between the utility and rate payers. It is

possible that rates would go up. If the conservation is cost effective, the total cost, the total bill supplying energy services to Oregonians

would go down. The total amount of dollars that your shelling out would go down.

107 REP. LUKE: How much longer can we go using conservation until we need to build new generation facilities?

118 KANE: Utilities least cost plans state how they are going to meet their electrical needs over the next twenty years. It says they will bring on cost-effective conservation as they become cost effective, there are

some conservation efforts that are very expensive. Other measures may

be gas driven turbine, solar or wind facilities. There is no one answer to say when a supplier resource will come on, what we try to do is make conservation that's cost effective when the demand is there the most

cost effective to the utility.

135 REP. FISHER: Are we taking strictly about power companies when we are talking about public utilities?

142 KANE: We are basically talking about the investor-owned electric and gas utilities?

144 REP. DELL: I understand the need to provide more incentives so we get more conservation programs, but even though they may not have done

enough there have been a lot of really good programs without this incentive. Are we going to have to start paying for something that has been working well?

155 KANE: Hopefully not, we are trying to eliminate free

riders. To initiate a program that most people will use in the absence of this

incentive. Business looks to see which are the programs in which the market needs a little bit of help in getting people to use, as opposed to those that they will use without it.

179 JIM ANDERSON, PACIFIC POWER: Submits and reads written testimony (EXHIBIT N).

204 REP. LUKE: What plans do you have for new generation facilities?

217 ANDERSON: Renewable sources, co-generation, small site specific plans. Conservation is still one of our major resources we are going to try to develop that resource, this bill is going to give us and the commission a tool to allow us to develop that resource. But our eye into the

future is also on generation, there will have to be a resource out there, conservation is not going to be the only answer to deal with the growth.

241 REP. LUKE: What about helping the older homes conserve, which are high energy users? Will a bill like this help you move down that road also?

244 BRUCE HELLERBUYCK, PACIFIC POWER: I don't think this particular legislation really favors new or older homes. The same incentives will

be available for both.

260 MIKE GRAINEY, DEPT OF ENERGY: Submits and reads written testimony in support of SB 544 (EXHIBIT O).

297 REP. LUKE: Could you clarify, was that one-quarter of the fifteen hundred megawatts?

320 GRAINEY: Fifteen hundred megawatts is about twice the output of the Trojan nuclear plant for example. The coal plant at Boardman is about

five hundred megawatts so this is three times that amount. The Natural gas combustion turbine facilities that are pending are anywhere from between 200 and 400 megawatts.

328 CHAIR REPINE: With all the conservation efforts, when will extra power be needed?

330 GRAINEY: We are there now, the conservation contributes one-fourth of the need for the new resources, that is a substantial amount. Clearly

we will need additional resources. In the future energy efficiently

will have to be built in. Those investments in the industrial and commercial sector are the largest potential, that is where this bill is very important.

CLOSES PUBLIC HEARING ON SB 544 A-ENGROSSED

OPENS WORK SESSION SB 544 A-ENGROSSED

375 MOTION: REP. LUKE moves SB 544 A-ENGROSSED to the House Natural Resources with a DO PASS RECOMMENDATION

VOTE: In a roll call vote the measure PASSES with all members voting AYE.

CLOSES WORK SESSION ON SB 544 A-ENGROSSED

OPENS PUBLIC HEARING ON HB 2962

435 VAN NATTA: Introduces meeting materials, including a Staff Measure Summary, Fiscal and Revenue Impact Statements (EXHIBIT P). Gives

overview of the bill.

TAPE 122, SIDE A

030 REP. PETERSON: Submits written testimony from Friends of Greensprings (EXHIBIT Q). Submits petition of area citizens (EXHIBIT R). Gives

background information. Speaks in support of HB 2962.

075 ROSEMARY MANNIX, Department of Forestry: SB 1125 of the 1991 Legislative Session added a scenic highway provision to the Forest

Practices Act. Highway 66 was not on the list in 1991. Explains the forest practices required.

100 REP. MARKHAM: How many homeowner would be affected?

110 REP. PETERSON: Primary land owner is Boise Cascade.

118 REP. HOSTICKA: Was Highway 66 not chosen before or was it on oversight?

120 REP. PETERSON: Highway 66 was just left off.

127 REP. FISHER: Looking at the petition signatures, only about a third are from the immediate area.

135 REP. PETERSON: It is well known Scenic Highway, used by people all over southern Oregon.

152 REP. MARKHAM: How does this work if I were logging up to the highway?

158 MANNIX: The scenic corridor starts at the edge of the highway right of way boundary. The first area reaches from the right of way boundary 150 feet back; the second area is 150 feet beyond that. If you operate in

the area closest to the highway, there is a leave-tree requirement. You may come back and harvest those later, once the stand has grown up beyond that. There is a reforestation standard. You can trade off some activity in the second zone as long as one of the 150 areas has some trees in it to act as a buffer to the background activities. It was never intended to be a no-harvest area. You can trade off activity within the two zones.

180 REP. LUKE: In some areas where the trees are not cut close by the road there have been problems. The snow and ice is not melting, presenting a traffic hazard, and the inability to see the deer before they possibly

come onto the highway. Do you have problem with any of your scenic highway roads?

193 MANNIX: I have not heard of those particular problems but there is a provision that allows the Board of Forestry to make rules in cooperation with the Department with of Transportation.

235 DON BYARD, DEPARTMENT OF TRANSPORTATION: Submits and reads written testimony (EXHIBIT S).

CLOSES PUBLIC HEARING ON HB 2962

Meeting adjourns 3:50 p.m.

Submitted by:

Reviewed by:

Kathy Taylor
Administrator

Kathryn Van Natta Clerk

EXHIBIT LOG:

Testimony - Dwyer - 5 pages C -HB 3353 SMS, Impact statements -
Staff - 2 pages D -HB 3353 Proposed -5 Amendments - Norris - 3 pages
E -HB 3353 Proposed -7 Amendments - Norris - 3 pages F -HB 3353
Summary of -7 Amendments - Norris - 1 page G -HB 3353 Hand-Engrossed
- Staff- 4 pages H -HB 3353 Proposed -6 Amendments - Gasoline
Dealers Assoc. - 3 pages I -HB 3353 Proposed Amendments - Petroleum
Retailers of OR - 1 page J -HB 2932 SMS, Impact statements - Staff -
3 pages K -HB 2932 Proposed Amendments- Destination Resorts - 7
pages L -SB 544 SMS, Impact Statements - Staff- 4 pages M -SB
544 Testimony - Kane - 4 pages N -SB 544 Testimony - Anderson - 2
pages O -SB 544 Testimony - Grainey - 1 page P -HB 2962 SMS,
Impact statements - Staff - 3 pages Q -HB 2962 Testimony - Friends
of Greensprings - 4 pages R -HB 2962 Petition - Friends of
Greensprings - 9 pages S -HB 2962 Testimony - Byard - 19 pages