

SENATE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

DATE: February 8, 1993 TAPES: 22 - 25 PLACE: Hearing Room C TIME:
8:00 AM

MEMBERS PRESENT: Senator Ron Cease, Chair Senator Jim Bunn,
Vice-Chair Senator Joyce Cohen Senator Bob Kintigh Senator Bob Shoemaker
Senator Dick Springer MEMBERS EXCUSED: Senator Gordon Smith STAFF
PRESENT: Peter Green, Administrator Chris Warner, Research Associate
Kus Soumie, Clerk MEASURES HEARD: SB 27 PUB H SB 42 PUB H SB 189 PUB
H AGENCY OVERVIEW: DEQ, Solid Waste

THESE MINUTES CONTAIN MATERIALS WHICH PARAPHRASE AND/OR SUMMARIZE
STATEMENTS MADE DURING THIS SESSION. ONLY TEXT ENCLOSED IN QUOTATION
MARKS REPORTS A SPEAKER'S EXACT WORDS. FOR COMPLETE CONTENTS OF THE
PROCEEDINGS, PLEASE REFER TO THE TAPES.

TAPE 22 SIDE A 005 CHAIR CEASE CALLS MEETING TO ORDER 8:00 AM DEQ
AGENCY OVERVIEW

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WITNESSES: Bob Danko Fred Hanson Chuck Donaldson

020 BOB DANKO, DEQ, Hazardous and Solid Waste Division, offers Agency
overview and presents EXHIBIT A. - 91 solid waste disposal sites in
Oregon - 89 are regular land fills - incinerator located in Coos Bay
phasing out at this time - map (EXHIBIT A) shows location of Oregon's
solid waste disposal sites - 66 sites are East of the Cascades -
capacity at larger sites is unlimited (constraints on economics and
design) 160 CHAIR CEASE: Is the Rabanco site in operation yet?

163 DANKO: Yes. It is in operation and is taking in excess of 1 million
tons yearly.

- continues agency overview of DEQ Solid waste - overview of disposal
fees \$.85 per ton state fee - additional fee on out of state waste \$1.40
per ton not being collected presently - out of state collection fee on
hold until courts decide legality of that fee - State courts found the
fee legal, it has been appealed at the State Supreme Court and case will
be heard in March 1993 - if decided in state's favor, fees to be
collected retroactive January 1, 1991 \$2-3 million (may go to \$5
million) will be collected if the state prevails in lawsuit

215 FRED HANSEN, Director, DEQ, answers questions regarding solid waste
clean up options at McCormick and Baxter, a portion of which may involve
digging, removing and shipping waste off site. Some would go to
Arlington and some may need to be incinerated.

230 DANKO: - continues overview of EXHIBIT A.

- major solid waste statutes - position of DEQ on infectious waste and
treatment facilities Health Division will address waste treatment issues
- Solid waste permitting compliance program is strong compared to other
states and is driven by Federal sub-title D solid waste rules - SB 66
(1991) solid waste reduction and recycling - future legislative issues
for 1995 Legislative Session ., . Senate Agriculture and Natural
Resources February 8, 1993 Page 3

360 CHAIR CEASE: Could you comment on the issue of the BLM sites in Eastern Oregon. How many are there and what is the status of all that?

376 CHUCK DONALDSON, Manager Solid Waste Permits and Compliance Program, DEQ, offers testimony on Solid waste and answers question from committee members. - 16 solid waste sites in eastern Oregon on BLM land - BLM started program to close these sites - BLM not sure of what to do with sites if they close - DEQ trying to determine who in BLM will make decisions on these sites - residents will not have disposal options when BLM sites close - National BLM policy that individual districts and resource areas are attempting self guidance for their solid waste sites - pressure from Federal Government for improperly run sites increased requirements for sites due to Subtitle D

TAPE 23 SIDE A 005 DONALDSON: - continues DEQ agency overview 016
HANSEN: - overview of the status of the Pollution Control Tax Credit Program - current law sunsets this program Dec 31, 1995 - DEQ legislation authorized by the Governor, would bring sunset date to June 30, 1993 055 HANSEN: - continues overview of landfill operation and rules PUBLIC HEARING ON SB 27

WITNESSES: Fred Hansen DEQ Bob Danko Chuck Donaldson Kristan Mitchell
Craig Starr Lauri Aunan Dianna Godwin 060 FRED HANSEN, Director DEQ, offers testimony on SB 27, and presents Senate Agriculture and Natural Resources February 8, 1993 Page 4

overview of EXHIBIT C.

- SB 27 changes state statute to conform with Federal rules governing solid waste landfills - passage will allow DEQ approval to operate Federal Municipal Waste Disposal Program in Oregon - overview of provisions for RCRA (Resource Conservation and Recovery Act) outlined in EXHIBIT C - citizen supervision provisions to enforce state's requirements DEQ enforcement orders for non-compliance

135 .SEN SHOEMAKER: Could you go over the citizen's suite provisions again? I imagine we will go over this again when dealing with SB 189.

The citizen's suite provision in Sub title D, can only be used to enforce the requirements as the state is implementing them. Only if the state takes over does the Sub title D citizen's suite provisions apply
144 HANSEN: No. The citizen suite provision applies to the Federal program if the Federal government is operating it but fails to take action or sources are not in compliance with that action. If there is a state implementation plan that is in place and unauthorized, only the provisions of what is in that state plan may be subject to that (...inaudible...). Because there is discretion allowed in how the state may structure that plan, if the state chooses to structure it differently than what the Federal government has as their program, the citizen's suit can apply only to the state requirements it cannot leap frog over those state requirements and say 'what we want to do is enforce against a Federal requirement. If there is a state approved plan, the citizen suite provides only the ability to enforce against what is provided for within that plan.

153 DANKO: The federal rule is very strict in how it defines what defines what must be done to meet the daily cover requirement. If the state is approved, it's given flexibility to apply the daily cover requirement in a different manner. If the state didn't have the

approval, citizen lawsuit would go right after what the Federal requirements are.

170 CHAIR CEASE: If this bill would not pass what would be the implications?

174 HANSEN: SB 27 takes the final steps needed for Federal authorization. We would be able to apply for partial authorization under current statute. DEQ in fact, expected to apply for that by April 1, 1993, EPA knowing we would be applying for more if SB 27 passes. If it does not pass, we are able to operate in partial authority till 1995. After that it would revert fully to the FED if we are not fully authorized. In that period of time, for what ever we do not have Senate Agriculture and Natural Resources February 8, 1993 Page 5

authorization to impliment, DEQ is not able to use flexibility allowed for under Federal law.

210 HANSEN: - continues overview of EXHIBIT C 242 SEN KINTIGH: What happens if someone cannot comply with these mandates? 246 HANSEN: There will be a substantial number of sites closing if they are not able to comply with these mandates.

- overview of open burning Federal Law requirements 276 HANSEN: - answers question on open burning and compliance with Federal Law.

- 1996 Federal phase out order for open burning - Federal Law automatically prohibits open burning which would be subject to EPA enforcement and/or citizen lawsuit - as of Oct 9, 1993 all operations must comply with Federal Law State Authorization is needed for phase in of Federal laws - issues of concern with burning regionally - Federal Government not flexible with burning

360 CHUCK DONALDSON, DEQ, gives testimony on SB 27, and answers questions form committee members.

380 HANSEN: - continues overview of EXHIBIT C and testimony on SB 27

390 KRISTEN MITCHELL, Government Affiirs Director, Oregon Sanitary Service Institute, gives testimony on SB 27 and presents overview of EXHIBIT D.

TAPE 22 SIDE B

005 MITCHELL: - continues testimony on SB 27 and overview of EXHIBIT D

- asks for amendment to the bill to remove reserve funds in the event of a cleanup, to insure there is no delay based on the inability to reach funds.

020 MIKE DEWEY, Oregon Waste Systems, which operates a land fill in Gilliam County (Columbia Ridge), gives testimony on SB 27, and notes that they would Prefer to work with the staff of DEQ and communicate with them as opposed to EPA and the big Folks in Seattle and Washington DC. We would be better Senate Agriculture and Natural Resources February 8, 1993 Page 6

off in terms of working through the process and getting things done.

- DEQ is very resonable to work with - proposed amendments relating to

criteria on page 2 line 31 of SB 27 - would like to see something more specific for the exemption clause - suggested amendments for page 5 section 9 line 32 - other than this we support the legislation

046 SEN SPRINGER: I would like to see this testimony in writing, especially if there are suggested amendments to a bill. 060 CRAIG STARR, Assistant Public Works Director, Lane County, offers testimony on SB 27, and presents overview of EXHIBIT E. - crucial for Oregon to become an approved RCRA state - need to avoid duplicate and conflicting regulation of solid waste by state and Federal agencies - flexibility of DEQ staff will be lost

066 LAURIE AUNNAN, OSPIRG, offers testimony on SB 27, and presents overview of EXHIBIT F. - concern that certain revisions may decrease current requirements in Oregon law for financial assurance. - page 4, line 11-23, what the department shall consider when looking at the amount of financial assurance proposed (what types of solid waste is being deposited, how far from drinking water sources, erosion control etc.) - proposed rule may cover the above, however, for certainty's sake these types of considerations should be retained as they are in current law - concerne with proposed deletion on page 4 lines 26 and 27 100 JOHN DELORENZO, Finley, Butler Land Fill, offers testimony on SB 27, and presents overview of previous testimony and will submit a list of concerns with that testimony.

- section by section outline of various concerns with SB 27 overview of concerns with DEQ and EQC authority - questions related to pertinent records, financial data and what protection is afforded to affected groups - suggests formation of work group for section 9 concerns 204 DIANNA GODWIN, Regional Disposal Company (joint operator with REBANKO Company in Washington State), offers testimony on SB 27, and presents overview of concerns with DEQ and EQC's authority and EXHIBIT F(a). Agriculture and Natural Resources February 8, 1993 Page 7

264 SEN SPRINGER: Could you describe the host fees to which you would be subject to either in Klickitat County or in Washington?

275 GODWIN: In Klickitat County, we are under contract to pay \$2.00+ person. We have a 40 year permit.

- answers questions from committee members

336 CHAIR CEASE: Requests that those presenting testimony also do so in writing.

PUBLIC HEARING ON SB 189

352 PETER GREEN, Committee Administrator, presents overview and background information on SB 189.

TAPE 23 SIDE B

005 CLEO WESTPHAL, CAP, (Citizens Against Pollution), offers testimony in favor of SB 189, and presents overview of EXHIBIT G.

- Riverbend landfill operating for 2 years in non-compliance - Riverbend operating under the guise of a local facility - of 194,000 tons deposited in Riverbend 118,000 was from out of county - trucks observed entering Riverbend from Canada and Puget Sound area - site is ecologically fragile - danger of aquifer contamination 100 SEN

SPRINGER: It iws my recollection from past sessions, that the city of McMinnville and other portiuons of Yamhill County are facing a shortage or an uncertainty around their future water supply from any source, survce or ground water.

105 WESTPHAL: McMinnville's water source is up in the Coast Range. They are having problems due to a weed that is a threatened or endangered species, and there is a lot a controversy around that. We may be short of water in the not too distant future.

- concerns that Riverbend was sold to a large corporation in Texas in 1991 - Riverbends local permit expired January 1992 Senate Agriculture and Natural Resources February 8, 1993 Page 8

- DEQ is drafting a renewal and possible regional permit - Riverbend located on highway 18 in the heart of a farming community

169 TED LOPUSZYNSKI, Yamhill County Commissioner, offers testimony in opposition to SB 189. - county residents overwhelmingly did not want this landfill - LUBA ordinance - reasons for opposition to SB 189 - there is presently no limit to the amount of waste allowed in Riverbend - Riverbend and citizens have always disagreed with franchise agreement

290 SEN SPRINGER: What does the county do with the money collected? How much does the county spend annually for solid waste or recycling, whether or not it goes for that purpose, whether it goes to pay for roads. Have you estimated how much have you and the county spent on litigation to defend yourselves?

300 LUPUSZYNSKI: We have a very active program \$1.20 of the \$3.30 per ton fee, goes to the recycling program. The balance goes to staff people involved in the solid waste program. The administrative costs are in excess of \$100,000.00. The balance is used for remediation and various studies. We have spent over \$8-10,000.00 or more thus far. - continues overview of opposition to certain provisions in SB 189. 338 SEN BUNN: What does the county have pollution in the aquifer? 347 LUPUSZYNSKI: Technically there are problems with the landfill and the situation is not life threatening at this time. Spending \$200,000 on testing the water.

400 DIANE KNOTT, CAP, offers testimony on SB 189, and presents overview of EXHIBIT H.

- we have proof that samples have come back showing various chemicals and heavy metals in them

TAPE 24 SIDE A

005 MICHAEL COYLE, CAP member, residing near Riverbend landfill, offers testimony on SB 189, and presents overview of EXHIBIT I. Senate Agriculture and Natural Resources February 8, 1993 Page 9

050 LEE FREASE, CAP, offers comments and testimony on SB 189, and presents overview of EXHIBIT -I.

057 COYLE: - continues testimony and overview of EXHIBIT I. 160 FREASE: - speaks to allegations of odor and pollution. - continues overview of EXHIBIT J in opposition to SB 189 - volume brought money from County in the last 6 years - the state should have this rather than the county - landfill and waste haulers are separate franchises and

don't reflect Riverbend's new ownership - there are lower rates for out of county haulers 353 GIL DEPUY, McMinnville Resident, presents testimony in opposition to SB 189 .

- landfill improperly sited and permitted - cattle have died due to contamination in Yamhill and ?? County - dumping regulations not followed TAPE 25 SIDE A

005 DEPUY: - continues testimony in opposition to SB 189. - noise and smell of operation is disruptive to local residents - leakage will occur in time - Canadian haulers have been seen at numerous times - Riverbend test well # 5 is contaminated - test wells are not located upstream - those living on landfill have illness feared to relate to contaminated water. - difficult to sell or finance property - problems in getting information from DEQ - denial of information and hearings through DEQ - hydrologist for DEQ says there is no way to clean up contaminated from leached

148 SEN BUNN: Asks for documentation for each allegation

157 CHAIR CEASE: - question for Fred Hansen, DEQ; - what can DEQ do to fix this situation? Senate Agriculture and Natural Resources February 8, 1993 Page 10

185 CHAIR CEASE: There is a potential for problems when you have a landfill in a wet area.

193 SEN BUNN: I am not convinced that we are following current regulations.

201 HANSEN: Chuck Donaldson will address this issue for DEQ. - debate on citation of land fill in Gilliam county - 1989 landfills not all have water monitoring and we want to know if this is failure of the system - Federal requirements mandate that these sites are monitoring - corrective measures may have to be taken

235 SEN COHEN:

237 HANSEN: an order from the Department may need to be issued

- answers questions from members re self monitoring and other issues of authority the DEQ has on groundwater contamination

280 DEPUY: many tons of hazardous waste have been dumped and many know who did it

PUBLIC HEARING ON SB 42

300 FRED HANSEN, DEQ Director, offers testimony and overview of purpose of SB 42.

349 JEANETTE HOLEMAN, Legislative Counsel, offers testimony on SB 42.

370 CHAIR CEASE ADJOURNS MEETING AT 10:55 AM

EXHIBIT LOG:

A - DEQ, Solid Waste Division Agency Overview - Bob Danko - 12 pages B - SMS, Fiscal Information on SB 's 27 42 and 189 - Committee Staff - 3 pages C - Testimony on SB 27 - Hansen - 18 pages D - Testimony on SB

27 - Mitchell - 1 page E - Testimony on SB 27 - Starr - 1 page F -
Testimony on SB 27 - Aunnan - 2 pages G - Testimony on SB 27 - Godwin -
2 pages Senate Agriculture and Natural Resources February 8,1993 Page 11
H - Testimony on SB 27 - Godwin - 24 pages I - Testimony on SB 189 -
Westphal - 15 pages J - Testimony on SB 189 - Knott - 15 pages K -
Testimony on SB 189 - Cayle - 7 pages L - Testimony on SB 189 - Frease -
27 pages

Submitted by: Reviewed by: Kus Soumie Peter Green Assistant
 Administrator