

SENATE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

DATE: February 12, 1993 TAPES: 30 - 32 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 Gordon Smith Senator Dick Springer STAFF PRESENT: Peter
Green, Administrator Chris Warner, Research Associate Kus Soumie, Clerk
MEASURES HEARD: SB 6 SB 87 SB 315 INFORMATIONAL HEARING: Northwest
Power Planning Council: Angus Duncan Bonneville Power Administration:
Overview

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 30 SIDE A

005 CHAIR CEASE: Calls the meeting to order at 8:00 a.m. - Opens the
public hearing on SB 315.

PUBLIC HEARING ON SB 315

WITNESSES: Senator Bill Dwyer, District 21 Diana Young Richard
Blakely, Brownsville Mobile Home Park Pat Turnidge, Pacific Remediation
John Alto, Petroleum Retailers of Oregon Nick Staropoli, PEMCO Mary
Wall, Department of Environmental Quality Lon Revall, Department of
Environmental Quality Senats Agriculturo and Natural Rasourcoa February
12,1993 Pago 2 Scott Mills Brian Boe, Oregon Petroleum Marketers
Assocation John Burns, Western States Petroleum Association

010 SENATOR BILL DWYER: (introduces EXHIBITS B and B(1) Offers
testimony on SB 315. - Introduces into the record a letter from
Laurie McClain, President of the Whiteaker Community Council and related
newspaper clippings. - Presents overview of EXHIBITS B and B(1).
- Mentions recent soil dumps in Brownsville, Coquille and Coos Bay.
- The bill allows for local ordinances to prevail over the State law.
- Soil contaminators will oppose this bill. - It doesn't make any
sense to transport these soils from an industrial area to a residential
neighB orhood.

071 SEN. BUNN: Aeration is allowed, but not storage?

SEN. DWYER: The bill doesn't mention aeration. SEN. BUNN: Is the intent
to allow aeration in addition to storage on the originating site?

SEN. DWYER: I have no objection to aeration as long as it is in an
industrial area. - The problem with moving these soils to rural areas
is that the aquifers are highly subject to contamination. - Lists
items DEQ should be considering when these soils are transferred. 1 092
SEN. BUNN: It appeared that within urban growth boundaries, the aeration
was not allowed, forcing them to go to the rural areas.

SEN. DWYER: That wasn't the intent. I want to keep it out of residential
areas and aquifers. - The Committee knows what I need and can fix this
to address all necessary concerns.

SEN. SHOEMAKER: Is there any evidence this is a pervasive problem?

115 SEN. DWYER: Yes, there is such evidence. People are here to testify

to such. DIANA YOUNG: (introduces EXHIBIT C) Offers testimony on SB 315.
- Relates personal experiences with oil-contaminated soils and improper disposal management.

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- Soils were dumped thirty feet from her shallow well. - Soils were eventually required to be moved because of the danger of water contamination in the flood plain. - DEQ was charged with proper treatment of oil-contaminated soil. 200 - Reviews DEQ's treatment plan and lack of proper response to water contamination danger to people. - Reviews Washington's law dealing with fuel-contaminated soils. -References attachments to Exhibit C. - Notes proper permits were not secured prior to soil transfer. - References flood plain map and Brownsville map.

275 RICHARD BLAKELY: Offers testimony on SB 315. - We would like to be assured that this does not happen again. CHAIR CEASE: Mentions receipt by the Committee of a letter from the Whiteaker Community Council (Exhibit B(1)).

294 PAT TURNIDGE: Offers testimony on SB 315. -Notes that aeration, in itself, is not a solution. - Offers specifics on the transfer of contaminants from the soil to the air. -Certain petroleum products do not aerate in soil. -Challenges the Committee to more extensively review the issue of aeration. - He has personally invested several million dollars in a site within the urban growth boundary that processes this soil through thermal destruction. - Desires the bill language to prevent the public from protesting siting of such facilities after permitting. - The facility is in an industrial area on Blossom Drive in Salem. CHAIR CEASE: Would you say, in the case of the groundfill area, the appropriate planning, zoning and permits were simply not followed?

TURNIDGE: That is correct. Someone made a horrendous mistake. 392
- Comments on DEQ's desire to assist in limiting the aeration situation without increasing staff members. - DEQ was hoping for a legislative solution that would allow them to deny an application for transfer. - There are ways to handle situations similar to that in Brownsville that would not expose the public to danger and would require the same economic expenditure.

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TAPE 31 SIDE A

005 JOHN ALTO: (introduces EXHIBIT D) Offers testimony on SB 315, and presents overview of EXHIBIT D. - The concerns of his organization are to utilize the most reasonable, cost effective ways of remediation

of the soil. - I believe the problem may be solving itself to some degree. - There are two types of on-site contamination. - Storage tanks now exist to contain the loads. - DEQ now requires dealers to balance their inventory. If there is missing inventory, it has to be reported. - Believes the Brownsville incident is an isolated case where someone used poor judgment.

035 CHAIR CEASE: I will temporarily close the hearing on SB 315. - Opens a work session on SB 6.

WORK SESSION ON SB 6

WITNESSES: Gary Gustafson, Division of State Lands Senator Joan Dukes, District 1

030 GARY GUSTAFSON: (introduces EXHIBIT E) Offers testimony on SB 6, and presents overview of EXHIBIT E. - Notes ongoing discussions have taken place with the oyster industry. - A tentative agreement has been reached. - Several State agencies govern varying shellfish, necessitating consolidation of regulations. - We are seeking a boost to our department to work with the industry and other interested parties during the interim and return to the next legislative session with a proposal.

070 SENATOR JOAN DUKES: Offers testimony in opposition to SB 6. - Believes this is an unnecessary move. - There is a bigger issue this session relative to the elimination of the shellfish inspection program. - Outside funding is being sought for that. - I would like to see all fishery programs placed under the jurisdiction of the Department of Agriculture. - Requests Division of State Lands and the Department of Agriculture be given equal standing in whatever determinations are made with strict parameters directed at DSL operations.

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110 SEN. SPRINGER: (To Mr. Gustafson) The toxicity of shellfish doesn't appear to be a priority with the agency at this time. Do you envision working with the Department of Fish and Wildlife on this? 123

GUSTAFSON: Yes. One agency should deal with all the tide land programs and leasing. 137 SEN. SMITH: Wasn't the root of the problem that DSL lands are leased for below market value? The service received from the State is being cut, and now the fees will increase and the labs no longer exist.

148 SEN. DUKES: The two are separate issues. - I would like to see all the shellfish programs in one place so the impact from an increase in leasing or the closure of the beds would reflect each other, and all be interrelated. - There is concern on the part of the growers that there will be substantial increases. - I have a concern that whoever sets the fees have some background in the value of oyster production.

169 SEN. BUNN: As this is an efficiency measure, I hope we don't spend

a lot of money working on this.

176 SEN. SPRINGER: This is a larger issue than just the oysters. - How does Washington handle its tidelands?

186 GUSTAFSON: Washington has a much higher lease rate. - California is comparable. - Washinton's Department of Natural Resources is the equivalent of DSL and handles these issues.

195 CHAIR CEASE: Requests DSL staff meet with other agencies to further review the issue and return more specific recommendations. - This could then be referred to Ways and Means. - This Committee could then address the larger related issues.

SEN. DUKES: Notes her concern about the wording and some of the provisions of the bill.

222 CHAIR CEASE: Closes the work session on SB 6. - Reopens the public hearing on SB 315

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PUBLIC HEARING ON SB 315. CONTINUED

222 JOHN BURNS: Defers his testimony to a later date to accommodate the other speakers.

230 NICK STAROPOLI: Offers testimony in opposition to SB 315.
- Remediation work is very costly. - Banks do not lend money for this because of the secondary liability factor. - Due to the cost of environmental clean-up, 87 percent of rural gas stations have closed.
- Notes he contacted the person performing the remediation work in Halsey, who noted he didn't have the funding to do what he wanted to do.
- DEQ rules require that soils only be moved to property owned by the party having the soil removed. -Reviews the procedures used by DEQ.

305 SEN. SPRINGER: I can sympathize with citizens who are forced to deal with soil contamination and subsequent water contamination. - It only takes one accident to create a major problem.

340 STAROPOLI: This contamination was not done with malice and forethought. It took place before regulations were in place. - The cost of resolution is high and hasn't been foreseen and budgeted.

350 MARY WALL: (introduces EXHIBIT F) Offers testimony on SB 315, and presents overview of EXHIBIT F. - DEQ is not taking a position on this issue, as local jurisdictions have already done so. - Offers illustrations of local options developed.

CHAIR CEASE: Could sites be located in areas zoned strictly residential?

360 LON REVALL: Offers testimony on SB 315, and reviews EXHIBIT F. - On-site locations are mostly located at the facility, itself.

SEN. COHEN: There would probably be no prohibition to a gas station in a residential zone aerating their soil on-site.

CHAIR CEASE: Relates personal experience of a friend in Alaska who owned property adjacent to a gas station. The tanks had leaked onto his property, preventing him from doing anything with the property.

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WALL: Estimates there are 1,000 of these sites, now. - That figure is growing by about 55 per month. - Options are to aerate, move the soil to an approved landfill or treat it thermally. - DEQ emphasizes clean-up first and then treatment. - Agency resources have been shifted to allow follow-up of the clean-up. - It is a resource issue.

TAPE 30 SIDE B

REVALL: The costs of hauling soils to landfills in some areas of the state are prohibitive and landfills are not available in all areas. - Options such as thermal treatment are not always available and also necessitate transportation costs. - Notes the procedure they developed in response to these problems; the "permit addendum." 032 - The threat to groundwater is the greatest risk. - In surveying 200 Portland metropolitan sites, it was discovered that over half were only storing the soil. No treatment was occurring.

053 CHAIR CEASE: How are these materials stored, and what happens to runoff water?

059 - REVALL: A lot of the soil is stored on plastic and covered. - Run-on/run-off is supposed to be collected and treated. - We have received some complaints. - If a dumping location were approved, and the party did not adhere to other agency policies, we would cite them for violations of the permit provisions. 079 SEN. SHOEMAKER: Would the Brownsville location have been approved?

085 REVALL: We review the permit addendum cases but don't always get out to the sites due to the volume of cases. - We would not approve a site, knowing it was in a residential area. 090 CHAIR CEASE: Is the permitting process handled by the local jurisdiction or through staff at DEQ?

099 REVALL: The permits are handled by both offices as part of a joint effort. - With a permit addendum, local approval is sought, first. If it is approved by them, we assume they are satisfied with the site.

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108 SCOTT MILLS: Offers testimony in opposition to SB 315. Believes the bill will result in numerous landfills of contaminated soil that will remain contaminated indefinitely. Notes his experience with various contamination projects as an environmental engineer. Feels this bill will not help alleviate the state's soil contamination problems. Economical, simpler, more remedial measures are in use throughout the country. SB 315 would eliminate within the urban growth boundary, use of two of the most effective and safe methods. Lists the two methods. Notes the lack of effectiveness of the in situ and thermal methods. The expense of treating oil-contaminated soils above ground is 2/3 less than other methods. Section 2(3) allows stockpiling of contaminated soils where it has been determined there is no risk to human health and environment. DEQ will probably not be able to accept the liability associated with this. 195 - Explained the processes of bioremediation balance and aeration of contaminated soils. Application of plastic sheeting under and over soil will encourage bacterial growth and contain petroleum vapors. Explains land farming, which is not allowed in Oregon during winter. 245 - Temporary stockpiling of soils is sometimes necessary to take advantage of effective or economical remediation. Advocates DEQ be given the opportunity and resources to address these problems on a site-by-site basis. In January 1993, DEQ issued a new permit process that would require public comment before the work is performed.

286 BRIAN BOE: Offers testimony in opposition to SB 315. A financial assistance program remains undeveloped and any measure that requires further funds would only slow that process. We trust the new permit process will assist in the oversight process. 311 JOHN BURNS: Offers testimony in opposition to SB 315. My company does clean-up work and has a few cases in litigation at this time. Costs are astronomical. Provides overview of cost differences for different methods of reclamation.

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- Recycling needs to be our objective. - Dumping contaminated soil for future generations to address is not the best choice.

400 CHAIR CEASE: Asks staff to look into this issue further. - Closes public hearing on SB 315.

TAPE 31, SIDE B

NORTHWEST POWER PLANNING COUNCIL OVERVIEW

ANGUS DUNCAN: (introduces EXHIBIT G) Provides testimony on NWPPC's work on recovery and restoration of listed species of salmon.

- Highlighted four pieces of the salmon conundrum: harvest, habitat, hatchery and flow. 024 -Provides history beginning with the Salmon Summit. - Downstream migration of fish was an item of contention that will be revisited, as well as uses of the river that will be affected and adjusted. - Lists agencies involved in the plan: Bonneville Power Administration, Army Corp of Engineers, Bureau of Reclamation, federal land management agencies and agencies within the states. - National Marine Fisheries is going through its endangered species process. - They will probably have a recovery program issued sometime in the spring. 064 - Explains the difference between the focus and intentions of NMF and NWPPC. - NWPPC wishes to double the level of certain fish while maintaining the current level of big-diversity. - The only guarantee for numbers of fish is to preserve the genetic material from which those fish derive and upon which their survival depends. - Provides specifics on 1993 water conditions in Oregon, Southern Washington and Southern Idaho. - The snow pack in Canada and the Rockies is below average this year. - Water conditions in Oregon and Idaho are about average. - Runs, themselves, have not improved significantly from last year.

107 SEN. SHOEMAKER: If the next two years are like this year in terms of snow pack and runoff, will the rivers restore themselves?

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DUNCAN: If we had average rain and snowpack for the next two or three years, hydrologists report the parched groundwater could be restored and the reservoirs rebuilt. - Rebuilding the runs is a separate question. - If we follow the 1991-92 Council prescription with average water, the fall chinook runs will continue to decline and the spring/summer runs will hold their ground.

137 SEN. COHEN: Do you anticipate the NMF to respond by pressing beyond the Council's recommendation? DUNCAN: I expect in some areas they will be more aggressive, and in others, less aggressive based upon their differing mission. 168 SEN. SMITH: Does National Marine Fisheries share your sentiments? What limit do they have on their budget to help the irrigator?

DUNCAN: They are more obligated by the law, and can recommend litigation action. - They have a differing constituent obligation. - It is possible that they will come down with a heavy hand.

CHAIR CEASE: Is everyone throwing their hands up in the air? DUNCAN: A breakdown and disruption of the political process has taken place as a result of the owl controversy. -Lawsuits have been filed against the Council by many diverse parties. - If the fraying of interest groups continues, the management authorities that have to deliver on the plan will be impacted. - When these issues end up in the courts, the courts ultimately begin to manage the rivers, which is not an advantage to any involved parties. - If land owners and irrigators in eastern

Oregon have to be bludgeoned to restore water or preserve stream banks through the courts, it won't take place.

274 CHAIR CEASE: Do the agreements have to be at such a low level for everyone to stay in the game, that they have no impact on the fish? 281
DUNCAN: "Least common denominator" agreements are a real concern. - The Salmon Summit could only produce that type of action. - - There is more that will have to be delivered by the Council before endangered fish are on an upward path.

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- I reviewed water management issues, Columbia River and tributary flows
~~ and draw-downs with constituents of Senator Smith after Christmas. - These are less disruptive than the alternatives. -
References Exhibit G.

338 LYNN BAKER: (introduces EXHIBIT H) Offers testimony on BPA and presents overview of EXHIBIT H. - Reviews Bonneville's service territory. - Notes focus of BPA's mission: to sell power from all federal dams in the Northwest, provide power to any Northwest utility that requests it and fund the Council's fish and wildlife program.
- Canada plays a major role in our storing or manipulating of water as about 50 percent of the stored water in the Columbia River System is there. -Renegotiation of the Salmon Treaty is presently taking place with Canada, with Columbia River Basin salmon runs being included as an issue. 395 - Reviews transmission system map in Exhibit H packet.
- Power supplies from the Southwest have been very crucial during the winter. - Reviews transmission grid map. -Reviews map of the service territories of various utilities. - Explains the residential exchange system which results in all persons being affected by the BPA rates. -Their third major class of customer is aluminum industries.
- Service had to be curtailed to the top fourth of those industries due to lack of available power.

TAPE 32, SIDE A

SEN. KINTIGH: How does the rate to an aluminum company compare to the wholesale rate to a power company?

BAKER: Aluminum companies pay a variable rate based on the power they return. - They pay more or less based upon the price of aluminum at the time. - Over time, that would average out to a little over the priority firm rate to publicly owned utilities. - They get credits within their rates for the system reserve they provide.

029 SEN. KINTIGH: How do you determine which company gets cut off? Is it cut on a percentage?

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BAKER: When we restricted last winter, we restricted the entire amount.

036 SEN. KINTIGH: Was the Northwest Power Act an act of Congress? Did that relate to the metal industry's special rates or the formula just described?

BAKER: When the federal act was under discussion, the question of whether BPA should provide power to these industries was reviewed. - Congress determined the economic benefits of the industry and the kinds of system reserves it supplies were valuable. - The largest percentage of metal reduction firms are located in the Northwest because of the lower cost of power.

CHAIR CEASE: Closes informational meeting. - Opens the public hearing on SB 87.

PUBLIC HEARING ON SB 87

WITNESSES: Olivia Clark, Department of Environmental Quality Rich Reiter, Department of Environmental Quality Larry Hill, Oregon Gasoline Dealers Association John Alto, Petroleum Retailers of Oregon 070 OLIVIA CLARK: (introduces EXHIBIT 1) Offers testimony on SB 87 and presents overview of EXHIBIT 1. - The bill provides for a fee increase for the underground storage tank annual fee.

CHAIR CEASE: Why is a compliance fee increase needed?

CLARK: The underground storage program has three different pieces. - Compliance is one of those pieces. - There is a financial assistance program and a leaking underground storage program as well.

SEN. COHEN: Which of these pieces are mandated by the federal government?

CLARK: A chart attached to Exhibit I outlines that.

094 RICH REITER: Offers testimony on SB 87 and presents overview of EXHIBIT 1. - The \$25 annual per tank fee pays for staff to administer the federal underground storage tank rules and provide technical assistance to tank owners and operators, property owners, consultants and other interested and affected persons.

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- To meet federal requirements, staff must be able to register tanks and maintain information on them, inspect insulation and decommissioning, determine whether leak detection has been installed and is operative, determine whether facilities are doing inventory control and tank tightness testing, oversee clean-up of petroleum contaminated

soils and groundwater, investigate citizen complaints and take appropriate enforcement action when necessary. 116 - Lists other services current DEQ staff also provides. - We perform services beyond the federal program using the compliance fee. - DEQ is requesting an increase of \$10 per fee to maintain existing staff and service levels. 138 - References Table 2 of Exhibit I in response to Senator Cohen's previous question. - Notes funding sources for the program which are fees and federal funds. 168 CHAIR CEASE: How does Oregon's program compare with those of other states? What kind of groups are interested in this type of assistance?

REITER: We are average to slightly above average because of our ability to provide technical assistance. - Smaller, independently-owned businesses need the most assistance. - In rural areas, 75 percent of the businesses need the technical assistance.

CHAIR CEASE: How much does the existing fee produce per year?

194 REITER: References Table 5 of Exhibit I. - A lot of revenue was received in 1990 due to the removal of tanks that had never been decommissioned.

212 CHAIR CEASE: That is one of the problems of a fee-based system; when the clients decrease, you have to charge everyone else more.

217 REITER: Continues review of Table 5. - Returns to page 15 to conclude review of the major elements of the program. - The clean-up program is funded by a separate federal grant. - The contractor licensing program has always been self-supporting. - The financial assistance program is funded by the petroleum loading fee.

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245 LARRY HILL: Offers testimony in opposition to SB 87. - This bill places gasoline dealers in a difficult position. - The dealers want to comply with the federal requirement to clean-up the old spills and to improve their tanks to meet federal requirements. - DEQ has done a helpful job in assisting dealers with compliance. - In reviewing the figures just presented, I question why the fee increase is needed. - The reduction in the number of tanks has risen to 50 percent. Shouldn't a decreased workload accompany this? -Presents overview of pressures and deadlines faced by dealers in Oregon. - We want a program that is adequately funded to meet federal mandates. - Additional activities provided by the department are helpful, but dealers can't afford to fund those.

CHAIR CEASE: Have we reached a plateau on the number of tanks invoiced?

HILL: I think there will be further reduction. - If the funding program in HB 1215 fails, we will lose about half of the existing stations. -

Even with a fully-funded assistance program, we will lose about 12 to 14 percent of the stations.

SEN. SHOEMAKER: How many tanks would a typical retailer have?

317 JOHN ALTO: Typically, a station would have three tanks. - Waste oil and heating oil tanks are exempt from this program.

SEN. SHOEMAKER: So an average retailer would see an increase of \$30 per year.

328 HILL: The agency is providing non-mandated services. - We could survive without those if it would hold down the cost. - Technical services should be funded by other means.

350 SEN. SMITH: Does your association already provide such information? Do you need this service?

HILL: The technical assistance is useful, but we are very cautious about signing on to increased fees because of tremendous financial pressure.

365 SEN. COHEN: Proposes amended language to SB 87, stating the gasoline dealer's association should affirmatively undertake technical assistance.

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HILL: That is a constructive suggestion; however, our association does not have membership of all dealers in the state.

390 CHAIR CEASE: What would the situation be if the fee were not increased, or if it were only increased by \$5?

398 ALTO: The administrative, technical help is available from our suppliers, now. - The information may be filtered better using that avenue. - I am not sure we can get along completely without the DEQ. - Business is very competitive at this time. - I am not suggesting that the program be eliminated.

422 CHAIR CEASE: Closes the hearing on SB 87. Adjourns the meeting at 10:20 a.m.

Transcribed By:
Assistant

Reviewed by: Pamella Anderson
Administrator

Peter Green

EXHIBIT LOG:

A - Information Packet- Committee Staff - 6 pages B - Testimony on SB 315 - Senator Bill Dwyer - 1 page B(1) - Letter from Whiteaker Community Council - Senator Bill Dwyer - 3 pages C - Testimony on

SB 315 - John Alto - 1 page D - Testimony on SB 315 - Diana Young
- 18 pages E - Testimony on SB 6- Gary Gustafson - 2 pages
F - Testimony on SB 315 - Mary Wall - 5 pages G - Article:
"We Must Avoid Polarizing Debate Over Saving Salmon" - Angus Duncan- 1
page H - Bonneville PowerAdministration Packet- Lynn Baker - 108
pages I - Testimony on SB 87 - Olivia Clark - 17 pages

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