

SENATE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

DATE: March 22, 1993 TAPES: 82 - 85 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 Shirley Gold

STAFF PRESENT: Peter Green, Administrator Chris Warner, Research  
Associate Kus Soumie, Clerk MEASURES HEARD: SB 96 PUB SB 1016 PUB

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 82 SIDE A 005 CHAIR CEASE CALLS MEETING TO ORDER 8:00 AM PUBLIC  
HEARING ON SB 96 WITNESSES: Jonathan Doherty, Columbia River Gorge  
Commission Sharron Kelly, Multnomah County Sharon Timco, Columbia Gorge  
Coordinator

010 JONATHAN DOHERTY, Columbia River Gorge Commission, offers testimony  
in favor of SB 96, objections to proposed amendments and overview of  
EXHIBIT B. - section by section overview of SB 96 - explains differences  
in this bill from original bill - National Scenic Area Act and compact  
between Oregon and Washington establishes regional approach for land use  
and economic development in the Columbia River Gorge - CRG commission  
works with both states, gorge counties, tribal governments to establish  
scenic area management plan - plan will be implemented through county  
land use ordinances Senate Agriculture and Natural Resources March 22,  
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109 SEN KINTIGH: Is an urban growth boundary set forever or can it be  
changed?

114 DOHERTY: The act creates a process for amending the urban area  
boundaries.

- continues testimony on SB 96, overview of EXHIBIT B, and section by  
section comparative of the present SB 96 and the original bill. -  
Section 4 is a mechanism for state lands moved from general management  
lands 372 CHAIR CEASE: Presents all witnesses and committee members  
with a memo from Rep Waldon. (EXHIBIT B) 390 SHARRON KELLY,  
Representing Multnomah County, offers testimony on SB 96, and presents  
overview of EXHIBIT C. - Multnomah County sees this bill as the best  
thing for the county

TAPE 83 SIDE A

005 KELLY: - continues testimony on SB 96, and overview of EXHIBIT C. -  
Gorge Act is a national model for protection of scenic and natural  
recreational resources in a geographically distinct area crossing 2  
states and 6 counties - the bill does not weaken land use regulation

020 SHARON TIMKO, Columbia Gorge Coordinator, Multnomah County,  
offers testimony on SB 96, and presents overview of EXHIBIT B.

027 SEN SHOEMAKER: Does Multnomah County have any objections to the  
proposed amendments?

028 TIMKO: No, we are in support of the amendments.

046 DOHERTY: - overview of proposed amendments and probable effects

- concern with 5th paragraph of proposed amendment which appears to affect of permitting LCDC to compel counties to adopt ordinances according to Scenic Area Act guidelines. This would leave counties open to liability. - Hood River County's position on proposed ordinance - SB 96 would address when a county ordinance goes into effect

085 TIMKO: Multnomah County has adopted ordinances that are in compliance with the National Scenic Area Act. This bill is needed to alleviate the possibility of 'two masters'

110 DOHERTY: Hood River County has concerns that implementation of land use ordinances, may cause a 'taking' of private property rights. This bill does not affect private property rights in any way.

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117 SEN COHEN: I read this to say that they had no objection to the original bill but with the proposed amendment, which allows LCDC to step in and change those plans. That's why the question about the decertification. If LCDC would decertify and then step in and remandate something different from what the counties originally signed up with, not with 'taking' under the Scenic Management Plan. 136 DOHERTY: There is confusion because the first paragraph of the amendment, which doesn't mention LCDC. Language proposed by Hood River county is not too different the wording is from that we have proposed. 147CHAIR CEASE: There needs to be further clarification on this issue. 153 TIMKO: Multnomah County is supportive of the amendment dealing with decertification. We thought that since the plan can be amended (we don't know where it will go in the future), we wanted a safety measure in the event the area were to be opened up for development, LCDC could step back in and offer protection to our portion of the National Scenic area.

PUBLIC HEARING ON SB 1016

WITNESSES: Robert Hall, PGE Ken Cannon, Industrial Customers of Northwest Utilities Commission Gail Acterman, Attorney Tom O'Connor, Eugene Water and Electric Board, League of Municipal Utilities Christine Ervine, Director, ODOE Mike Grainey, DOGAMI Ron Eachus, Oregon PUC Lloyd Marbet, Don't Waste Oregon

190 BOB HALL, Ad Hock Industry Work Group, and PGE, offers testimony on SB 101 6, and presents overview of EXHIBIT D (in 3 parts). - overviews ad hock work group's, formation, composition, activities of the last 1 1/2 years - BPA worked with the group on the rule development phase only and have not been involved in the development of SB 1016 245 GAIL ACTERMAN, Attorney with Stoel, Rives ET AL, Representing many in the working group, offers testimony on SB 1016, and presents overview of EXHIBIT D ( in 3 parts). - section by section overview of EXHIBIT D (part 2) - provisions in the current statutes for waiting period are not necessary - mandatory requirement for hearings even if no one asks for one are not necessary - Critical revision in Section 2 would change definition of Energy Facility 403 SEN COHEN: There are

different set of safety concerns with LNG plants, why do you want to exempt that?

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005 ACTORMAN: The site certificate for the power plant or the amendment to the site certificate for the power plant, would address the LNG facility.

009 CHAIR CEASE: In reference to the initial exemption figures in the 2 1 megawatt example of the 5 versus 10 miles of pipe, what is your understanding of the reasoning for the initial exemption figures?

025 KEN CANNON, Executive Director, Industrial Customers of Northwest Utilities, offers testimony on SB 1016, and presents overview of EXHIBIT D (part 2 & 3). - I am not familiar with why the 25,000 megawatt figure was arrived at initially. - we thought 100,000 mega-watts a suitable figure realizing that a facility would have to meet all other state requirements 030SEN COHEN: I was a volunteer when 25,000 mega-watts was chosen. I think that figure was chosen because that was a figure thought to have a minimal impact. 042 CHAIR CEASE: Why have you settled on the present figures, as opposed to previous ones.

045 CANNON: We looked at numbers in and around the region.

050 ACTORMAN: We were looking at the size and the environmental impact of the kinds of facilities that would be envisioned. 100 megawatts captured the break point between larger projects needing the go through the one stop permitting process and those with less impact. - changes in underground storage facilities and their treatment in existing statute - language for underground storage facilities included in definitions for underground facilities in proposed amendments - provisions in SB 1016 that storage facilities not be subject to site certificate requirement unless more than 50 million cu ft per day of natural gas - reservoir testing procedures - section 3 revisions - thermally matched cogeneration

163 ACTERMAN: I would like to give additional thought to your question and will get back to you on the answer.

230 CHAIR CEASE: If you don't know how long a plant will last, how can you say that you should get an unlimited permit?

245 ACTERMAN: For DEQ permits, most permits are issued for 5 year terms. There were concerns there might be other changes in laws not requiring the 5 year upgrades, requiring the certificate to be 'reopened' to include additional requirements. . 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. Senate Agriculture and Natural Resources March 22, 1993 Page 5

- industry's practice is to upgrade constantly rather than opening new facilities

262 SEN COHEN: You are talking about updating regulations not new siting processes.

290 SEN SHOEMAKER: Is there, in the rules/statutes, a decertification process if something should arise making the plan unsafe or inappropriate, to decertify the plan?

378 ACTERMAN: Yes, a site certificate can be terminated and can be reopened if there is a risk to public health and safety.

- continues testimony on SB 1016, and overview of EXHIBIT D (part 3). - overview of issuance/permitting processes and problem areas for various state agencies

TAPE 83 SIDE B

005 ACTERMAN: - continues testimony on SB 1016, and overview of EXHIBIT D (part 3). - overview of problems associated with building codes 118 SEN COHEN: Did you discuss any roles for the LCDC in an advisory position? We are looking for agency coordination.

124 ACTERMAN: We did not anticipate any position or role for the LCDC.

160 SEN COHEN: I request that you get together and work this out more closely.

214 TOM O'CONNOR, Eugene Water and Electric Board, League of Municipal Utilities, offers testimony on SB 1016, and answers questions from committee members and presents overview of Industry Group's concerns. - comments on activities of consumer owned utilities

260 SEN SHOEMAKER: Could you point out in to me where failure to maintain safety standards, which is presently called for in the law, is provided for in the act as it would be amended 268 ACTERMAN: Under SB 1016, we would envision the council adopting standards on safety, to be met by the applicant. Compliance would be incorporated in the terms and conditions of the site certificate. Under existing provisions, if you fail to comply with terms or conditions under the certificate, which would incorporate the safety standards, the site certificate could be revoked or suspended.

TAPE 84 SIDE A

005 ACTERMAN: - continues testimony on SB 1016, and answers questions from committee

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members. - super-siting laws and preemption of county land use jurisdiction - this legislation is an attempt to make all these pieces fit in a logical way

056 CANNON: Comments on errors found in proposed amendments (Section 3 subsection 3 page 5) and new language proposed dealing with exemptions for industrial co-generation. 080 CHRISTINE ERVIN, Director, ODOE, offers testimony on SB 1016, and presents overview of EXHIBIT E. -

certain provisions in proposed legislation could prove counterproductive  
- overviews development of siting rules now in place - overview of proposals evaluated and rejected by the council - geothermal energy overview - siting process of Washington is dysfunctional and needs revamping ~ threshold too high and siting process fragmented - questions from committee members - continues testimony on SB 1016, and overview of EXHIBIT E. 287 MIKE GRAINEY, ODOE, offers testimony on SB 1016.

- some provisions could have some unexpected effects - overview of potential problems in the proposed bill - there is a question of the need to change the citing process in Oregon

357 ERVINE: We will look at the wording to ensure that there is not undue flexibility

370 RON EACHUS, Oregon PUC, offers testimony on SB 1016, and presents overview of least cost plans and the PUC's position on the proposed bill.

TAPE 85 SIDE A

005 EACHUS: - continues testimony on SB 1016, and overview of PUC's position on the proposed legislation - Wyoming and New Mexico are only states with no least cost planning process 028 SEN KINTIGH: Do you see the possibility that competition would lower rates which could result in industry locating in Oregon? Or do we wait until there is a crying need and then begin planning and building (which takes a long time), it seems to me there could be a little competition encouraged here. \_ 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. Senate Agriculture and Natural Resources March 22, 1993 Page 7

036 EACHUS: I don't see any bearing on competition. The least cost planning process should encourage competition. The idea is to get ahead of the game, know what power you have and the extent it can be used in the competitive bidding process to meet that, and you can do it with least cost. What needs to be avoided, is having alot of power production facilities built in the state, utilizing Oregon resources without concern with real need for the power produced. The planning process, like that done by PUC, will do three things;

improve decision making get you ahead of the game (so you don't have to do it all at once) ~ avoid panic

- smaller resources cost less, and can be brought on line more quickly. planning process should be a benefit to the utility - planning process can be used as prime facie evidence of need for power (if the resource is part of the planning process)

052 SEN COHEN: When talking about the need for power, how far out does that go, 10 years?

059 EACHUS: PUC's planning process requires a 20 year plan with 2 year updates.

069 CHAIR CEASE: In your judgment have the utilities been supportive of the least cost planning concept? In reference to the question raised by Sen Kintigh, when there is a system in which a state agency has

authority to bypass state and local land use laws, it is clear, this should happen only under the most strict circumstances.

EACHUS: The development of the process has been collaborative process, generally.

080 SEN SMITH: I am very suspicious of all this planning by government. I think the market place even with a WPPSS in our history is the best educator and regulator out there. If people want to invest their capitol here safely and can get a return, that is a tremendous regulator. If they can't, we will have lowered alot of power rates in Oregon.

100 EACHUS: You must consider whether a facility is going to use those resources to meet a particular need. The planning process is designed to keep us ahead of the game and take advantage of competition.

- this bill makes a complete disconnect on the "need" question - we know there are more resources - we need to make sure that resources are not going to meet the need for power

173 LLOYD MARBET, Don't Waste Oregon, offers testimony in opposition to SB 101 6, and presents overview of EXHIBIT F. - section by section analysis of concerns with SB 1016 - proposed changes will affect all energy facilities sited in Oregon

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005 MARBET: - continues testimony on SB 1016, and overview of EXHIBIT F.

- least cost planning process is in the public interest - reference to Amery Lovins' testimony - natural gas is not the way to go for power generation - Section 19 (not in the written testimony) overview

062 CHAIR CEASE ADJOURNS MEETING AT 11:00 AM

EXHIBIT LOG:

A - Testimony on SB 96 - Staff - 13 pages B - Testimony on SB 96 - Doherty - 2 pages C - Testimony on SB 96 - Kelly - 1 pages D - Testimony on SB 1016 - Cannon/Hall/Acte: man - 12 pages E - Testimony on SB 1016 - Irvine/Grainey - 6 pages F - Testimony on SB 1016 - Marbet - 3 pages

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

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