

SENATE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

DATE: May 28, 1993 TAPES: 167 - 168 PLACE: Hearing Room C TIME: 8:00 AM

MEMBERS PRESENT: Senator Ron Cease, Chair Senator Jim Bunn,
Vice-Chair Senator Joyce Cohen Senator Shirley Gold Senator Bob
Shoemaker Senator Gordon Smith MEMBERS ABSENT: Senator Bob Kintigh
STAFF PRESENT: Peter Green, Administrator Chris Warner, Research
Associate Pamella Andersen, Clerk

MEASURES HEARD: HB 3328 SB 1016 SB 1131 HB 2865 SB
1120

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 167, SIDE A

005 CHAIR CEASE: Calls the meeting to order at 8:12 a.m. - Opens the
work session on HB 3328.

WORK SESSION ON HB 3328

GARY GUSTAFSON: (Division of State Lands) Offers testimony in support of
HB 332 8. - Responds to questions on wetlands.

018 KEN BIERLY: (Division of State Lands) Offers testimony in support
of HB 332 8. - Review provisions of the bill. - Relates the position of
the Wetlands Conservancy. Senate Agricultura and Natural Rasourcas May
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SEN. COHEN: What federal manual are you using? BIERLY: We are using the
1987 Corp of Engineers Manual.

038 MOTION: CHAIR CEASE: Moves that HB 3328 be sent to the Floor with
a DO PASS recommendation. VOTE: In a roll call vote, all members present
vote AYE. Sen. Kintigh is EXCUSED. CHAIR CEASE: The motion CARRIES. Sen.
Gold will lead discussion on the Floor. CHAIR CEASE: Closes the work
session on HB 3328. - Opens the public hearing on HB 2865.

PUBLIC HEARING ON HB 2865 - EXHIBIT A

WITNESSES: Ann Hanus, Department of Forestry Mariana Bornholdt, Oregon
Mycological Society Dave Stere, Department of Forestry

060 ANN HANUS: Offers testimony in support of HB 2865. - Notes HB
2865 includes the provisions of SB 179. - I see no problems with this
bill. - The emergency clause on yew bark is in the bill summary and in
section 6. SEN. SHOEMAKER: The bill also adds wild, edible mushrooms.

084 MARIANA BORNHOLDT: (introduces EXHIBIT A) Offers testimony in
support of HB 2865.

SEN. BUNN: Does the bill prohibit people from going out and picking
mushrooms? (Bornholdt responds, no.)

SEN. SHOEMAKER: Does the bill protect the right to harvest and transport
wild, edible mushrooms if the harvest is limited to 1 gallon or less?

BORNHOLDT: That is not quite correct. - It requires a permit from the land owner or custodian. - References section 5(a).

SEN. SHOEMAKER: It says (1) and (2) do not apply to the cutting or transportation of mushrooms occupying the volume of a gallon or less.

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BORNHOLDT: The bill specifies the Bureau of Land Management Forest Service permits will be honored. - On those public lands the permit procedure is extensive. - References page 2, item 4.

SEN. SHOEMAKER: That doesn't do it. - Reads the section. - This implies no permit is required for less than a gallon.

BORNHOLDT: From state and private land.

SEN. COHEN: I need to know the rationale of what you are trying to do.

BORNHOLDT: Jim Trampy has stated the wild mushroom is a business based on theft. - The bill is to prevent the theft of special forest products.

SEN. COHEN: Like oysters?

BORNHOLDT: Right. - The Bureau of Land Management Forest Service has a permit structure which is difficult to comprehend. - Anyone with more than a gallon of mushrooms is going to sell them.

SEN. COHEN: Is something wrong with that?

BORNHOLDT: There isn't anything wrong with that except that it is a cash business. SEN. SHOEMAKER: The same questions relate to the cutting and transportation of coniferous trees. - The bill references ORS 164.825 but does not quote it. - We may need to know what that is about.

175 DAVE STERE: Offers testimony in support of HB 2865. - Regarding permit requirements, this is totally separate from requirements a land owner might make for bill of sale, etc. - This is a vehicle by which peace officers may obtain compliance. - The size of the mushroom industry is estimated by the Department of Agriculture to be a \$35 million per year industry. SEN. SHOEMAKER: What are the coniferous trees that are subject to the referenced statute?

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STERE: That refers to Christmas trees. SEN. SHOEMAKER: As opposed to national forest coniferous trees growing naturally? CHAIR CEASE: Closes the public hearing on HB 2865. - Opens the public hearing on SB 1131.

PUBLIC HEARING ON SB 1131

WITNESSES: Dave Barrows, Chemical Waste Management Jim Kinkaid, Chemical Waste Management 222 DAVE BARROWS: (introduces EXHIBITS B and C) Offers testimony in support of SB 1131. - References Exhibit B, noting the location of their facility. - References Exhibit C, explaining the process for receipt of solid waste from Seattle. - Chemical Waste Management's desire is to utilize the railroad spur owned by Oregon Waste Systems to bring hazardous waste by train rather than truck. - States reasons why this would be economically advantageous and environmentally desirable.

279 JIM KINKAID: Offers testimony in support of SB 1131. - States the reasons for the bill. - This activity is being conducted at another facility, right now, under a conditional permit. - We are precluded because we handle a different type of material. - Mentions exception would be needed to Goal 14 and statewide planning Goal 3. - Both solid waste and hazardous waste facilities have to be located outside urban growth boundaries. - The county would have to change its comprehensive plan, create a new zone and obtain a conditional use permit. - Because this is an existing facility, the delays appear to conflict with Goal 12.

SEN. COHEN: What we are doing is circumventing the local comprehensive planning process? - What are we really doing?

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BARROWS: We are specifically providing that this activity can occur as a conditional use permit exception to the EFU code. - The effort is to avoid the exception process. - The public interest is better served by moving more quickly.

SEN. COHEN: Can people within a mile complain about times of operation and conditions?

BARROWS: We will not be eliminating that. - There will still be a conditional use permit granted by the county with whatever conditions they choose to place upon it. - Notes the county judge supports this legislation because it will be less onerous for them. - This is a very narrowly drawn exception.

CHAIR CEASE: Closes the public hearing on SB 1131.

SEN. SHOEMAKER: Requests the Association of Oregon Counties be asked how they view special legislation. - We could have a precedent on this with their blessing.

- CHAIR CEASE: Opens the public hearing on SB 1120.

PUBLIC HEARING ON SB 1120 - EXHIBITS D through I

WITNESSES: George Richardson, Northwest Natural Gas Dwayne Foley, Northwest Natural Gas Jerry Fish, Northwest Natural Gas Edvard Evenson,

Evenson Timberland Agency Ray Wilkerson, Oregon Forest Industries
Council Douglas Ball, Ball Associates Blake Rowe, Longview Fibre Company
Rock Rasley, Nahama & Weagant Energy Company John Cameron

442 GEORGE RICHARDSON: Offers testimony in support of SB 1120. -
Notes the accusations aimed at Northwest Natural Gas at the last hearing
of the bill.

TAPE 168, SIDE A

026 RICHARDSON: Although the bill is less than perfect, we feel it is
worthy of the committee's consideration.

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031 DWAYNE FOLEY: (introduces EXHIBITS E and F) Offers testimony in
support of SB 1120. - Notes Exhibit E and its contents. - Reviews the
history of NWNG's storage development. 076 - References data on the
overhead transparency on the Calvin Creek process. - Mentions a
particular confidentiality agreement. - Delineates their proposal to
Nahama & Weagant Energy Company. - That project is still in limbo, and
may not be resolved or pursued further.

130 JERRY FISH: Offers testimony in support of SB 1120. - Clarifies
the original storage acquisition agreement of 1991. - Discusses
different perspectives on confidentiality agreements. - Responds to
concerns raised by Columbia County at Wednesday's meeting. 151 - There
is a natural monopoly in Columbia County; they can name their price. -
We have had good negotiations with Columbia County while Bruce Hugo has
represented them. - Along with the county's interest in mineral rights,
there are a number of other owners. - Notes there are 19 other owners of
surface and mineral rights, 3 oil and gas lessees, and 4 royalty owners
with whom to negotiate. 184 - States two reasons why Mr. Hugo's
proposed solution at Wednesday's meeting doesn't address the problem. -
Addresses other land owner's concerns. - There were no land owners who
stated they did not want underground gas storage on their properties. -
The Oregon condemnation law requires the company make a good faith
offer. - Discusses federal condemnation authority, and what group would
have it under certain circumstances. - This is an effort to level the
playing field. 265 - Notes their proposed amendments, the first of
which deletes all reference to the Department of Geology and Mineral
Industries (introduces EXHIBIT G).

SEN. COHEN: I don't see where you actually preclude condemnation on
projects that are under consideration.

FISH: That is correct. - We haven't proposed to put it in legislation.

303 EDVARD EVENSON: (introduces EXHIBIT D) Offers testimony in
opposition to SB 1120.

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- We oppose legislation that would take away our rights to negotiate terms of well sites and pipeline rights-of-way with the gas companies. - Relates past occasion where a natural gas company located a pipeline through their property, the route of which they objected. - Reviews details of this situation. 338 - Relates second and third occasions. - These companies should-be subject to the same requirements as others such as timber companies and loggers. - Property owners should not lose their property rights to condemnation.

390 RAY WILKERSON: (introduces EXHIBIT H) Offers testimony in opposition to SB 1120. - Reads a letter on behalf of Ward Armstrong, Oregon Forest Industries Council. - Notes the various corporations that have contacted them, voicing concern with this bill. - States this bill comes down to negotiation or condemnation and whether a broader condemnation authority is warranted. - They are concerned this bill would apply statewide.

SEN. COHEN: I would like to explore your suggestion that the pipeline companies be subject to the same conditions of the Forest Practices Act.

TAPE 167, SIDE B

041 DOUGLAS BALL: Offers testimony in support of SB 1 120. - I have nursed condemnation proceedings in several states relative to underground gas storage. - One basic thing about this bill that is most important is the gas company cannot perform storage without getting all the landowners "on board." - Agrees with removal of section 2. - Notes that a condemnation hearing is- the proper hearing to determine value. 071 BLAKE ROWE: (introduces EXHIBIT I) Offers testimony in opposition to SB 1120. - Notes his experience with oil and gas lease agreements. - Relates the three provisions of the bill with which they are fundamentally concerned: - the control of surface operations; - the valuation of native gas present in storage structures; - the absence in section 8, of a burial depth requirement for forest land. - This bill will have a chilling effect on forest land owners.

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128 ROCK RASLEY: Offers testimony in opposition to SB 1 120. - Reviews overhead transparencies depicting a gas reservoir map. - Notes the projects currently being developed. - Responds to an earlier statement made by Jerry Fish relative to condemnation proceedings. - I have never seen a private company use the condemnation rule. - References page 4 of testimony presented at the last hearing by the gas company. - There were 360 exploratory wells drilled in Oregon after negotiations had been successfully completed, indicating condemnation proceedings are not necessary for success. - Notes proceedings by Pacific Gas and Electric Company in California.

203 JOHN CAMERON: Offers testimony in opposition to SB 1120. - Responds to earlier testimony by Jerry Fish relative to compensation to royalty owners. - Demand and commodity charges are typically collected universally. - Competitive forces are starting to evolve in this market. - Notes other retail gas companies in Oregon. - There are also a number

of large retail customers who might buy directly under a competitive regime. - The gas business is not remaining a monopoly, and condemnation is inconsistent with that. - The market works and is working better every day.

241 SEN. SHOEMAKER: Your company would be a competitor with Northwest Natural Gas in development of underground reservoirs and one with whom they would deal in acquiring underground storage rights?

RASLEY: That is close; you missed one point. - There is gas storage available, but through fair negotiation. - Northwest Natural Gas can't dictate, they have to negotiate.

267 SEN. SHOEMAKER: The mineral leases are owned in common by your company and Oregon Natural Gas

RASLEY: That is correct.

SEN. SMITH: Are you suggesting we create a legal standard to trigger condemnation proceedings? - How would you envision that?

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RASLEY: I feel imminent domain and condemnation is necessary when the public need is not being met. - I urge this bill be rejected as unnecessary. SEN. SMITH: How is public need defined; as the market forcing increasing prices; the unavailability of gas?

RASLEY: It doesn't have to be an emergency situation. - Natural gas and gas storage is becoming more important.

303 CAMERON: Competitive forces are at work, keeping prices down. - Storage is becoming available as other players come into the market. - In comparison, the electric transmission line is a situation where a monopoly continues to exist. - Overwhelming governmental involvement would be necessary through a vehicle such as condemnation in a situation such as that.

321 SEN. SMITH: I am suggesting a compromise between a monopoly and free market situation.

CHAIR CEASE: Notes a petition in opposition to the bill presented by Shelman Lybel, Bill Hogan and Norm Hansen on behalf of Columbia County landowners.

CHAIR CEASE: Closes the public hearing on SB 1 120. - Opens the public hearing on SB 1016.

PUBLIC HEARING ON SB 1016 - EXHIBITS J through L

WITNESSES: Gail Achterman, industry working group Michael Grainey, Department of Energy

405 SEN. COHEN: Notes the efforts of the working group. - We had 25 unresolved issues, but we are bringing resolution to most of those issues. - We have 5 big issues remaining to bring to the committee. - There will be those who remain very firm on their issues. - Today, those working on drafting will review the present proposal.

TAPE 168, SIDE B

055 CHAIR CEASE: Expresses appreciation to Senator Cohen, the staff and those involved in the work group.

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064 GAIL ACHTERMAN: (introduces EXHIBITS J and K) Offers testimony in support of SB 1016. - I will address SB 1016-3B - Provides a section-by-section overview, beginning on page 5. - The 25 megawatt jurisdictional limit will be retained. - I believe there is complete agreement on definitions. Moves to page 11, section 4 which is a critical section over which disagreement remains. - There is concern over what "high efficiency cogeneration" means. 145 - Discusses site certificates. - Energy developers on federal lands have proposed an additional amendment to allow an exemption for certain renewable energy facilities.

CHAIR CEASE: Are the utilities on one side and the others are on the other side?

173 SEN. COHEN: There are segments of the utility group for whom this is not a critical issue.

ACHTERMAN: The more important issues on this section relate to continuing concerns on the nature and process of obtaining exemptions for modifications to existing facilities and the high efficiency cogeneration facilities. - The industry would be reluctant to change the amendment language.

SEN. SHOEMAKER: You are referring to the last paragraph of page 3 of your testimony?

ACHTERMAN: Yes, and there will be an amendments. - I recommend you highlight "Modification of Existing Facilities" and "High Efficiency Cogeneration Facilities" on pages 2 and 3 for further study.

204 MIKE GRAINEY: Offers testimony in support of SB 1016. - The provisions that are in -33 relative to expansion of existing energy facilities and high efficiency cogeneration are important because current law is unworkable. CHAIR CEASE: I want to explain that everything is not still "up in the air," but that you have examined at least 90 percent of the bill. GRAINEY: The question of development of renewable resources is fundamental and reopens the 100 megawatt threshold issue.

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SEN. COHEN: Could you discuss on the -3B draft, where the esoteric expansion piece and the esoteric cogeneration piece is? CHAIR CEASE: Is there a question if this committee were to approve the 100 megawatts for cogeneration that you open that question up again for everything else?

SEN. COHEN: No. 241 GRAINEY: On page 12, (2) (a) language relates to about 2 facilities. - The other exemption dealing with high efficiency cogeneration at existing industrial sites begins with (2) (c). - Section (3) is the process of clarifying entitlement to an exemption.

265 ACHTERMAN: Continues review of the proposed amendments on page 13, section 5 which corresponds with page 3 of her testimony. GRAINEY: Clarifies this eliminates the current waiting period between filing notice of intent and filing the application. ACHTERMAN: Continues review of the proposed amendments on page 14, section 7. 297 - Suggests section 8 on page 16 be flagged for study prior to the next hearing of the bill. - The most important new provision is on page 17a, and relates to the 100 megawatt limit.

353 CHAIR CEASE: Closes the public hearing on SB 1016. - Adjourns the meeting at 9:55 a.m.

Submitted by: Reviewed by: Pamella Andersen Peter Green
Clerk Administrator

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EXHIBIT LOG:

A Testimony on HB 2865 - Mariana Bornholdt - 1 page ? B Map of Sherman, Gilliam and Morrow Counties - Dave Barrows - 1 page SB 113 1
C Maps of Railroad Spurs - Dave Barrows - 3 pages SB 1131 ~\ >:
D Testimony on SB 1120 - Edvard Evenson - 2 pages' E Letter to Nahama & Weagant Energy Company - Dwayne Foley - 4 pages F Testimony on SB 1120 - Dwayne Foley - 2 pages' G Proposed amendments to SB 1120 - Jerry Fish - 2 pages ? H Letter from Ward Armstrong, Oregon Forest Industries Council/- Ray Wilkerson - 1 page I Testimony on SB 1120 - Blake Rowe - 3 pages? J Testimony on SB 1016 - Gail Achterman - 9 pages7. K Proposed amendments to SB 1016 (-3B) - Gail Achterman - 44 pages L Jestimony on SB 1016 - Senator Dick Springer - 3 pages
M Testimony of Cavenham Forest Industries - ?? - 6 pages ?
- Information Packet- Committee Staff ~ f _

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