

SENATE COMMITTEE ON WATER POLICY

March 4, 1993 Hearing Room 137 3:00 p.m. Tapes 14 - 15

MEMBERS PRESENT: Sen. Bill Dwyer, Chair Sen. Bob Kintigh,
Vice-Chair Sen. Wes Cooley

Sen. Frank Roberts Sen. Tricia Smith

MEMBERS EXCUSED: None

STAFF PRESENT: Lisa Zavala, Administrator Pamella Andersen,
Committee Clerk

MEASURES CONSIDERED: SJM5

[--- Unable To Translate Graphic ---] 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 14, SIDE A

004 CHAIR DWYER: Calls the meeting to order at 3:11 p.m. - Opens public hearing on SJM5.

PUBLIC HEARING ON SJM5 - EXHIBITS A through F

WITNESSES: Frank Gearhart, Bull Run Coalition Michael Edrington, Forest Supervisor, Mt. Hood National Forest, USDA Forest Service Dick Hardman, District Ranger, Columbia Gorge District, USDA Forest Service Bruce Ness, City of Portland Water Bureau Brian Falotico, Representative Lisa Naito's Office Joseph L. Miller, MD Todd Parker, Hydrologist, USDA Forest Service Robert Hall, Portland General Electric

020 FRANK GEARHART: (introduces EXHIBIT A) Offers testimony on SJM5. - Reviews history of Bull Run Reserve. - Notes impact of Bull Run Resolution. 072 - References back page of Exhibit A which mentions some salvage logging has occurred since 1977. - In 1983, HJM1183 was introduced which had the same intention as SJM

5. - The intention of SJM5 is to preclude devastation to the watershed by commercial activity. Logging should be prohibited. - References Portland City Council Resolution. 100 - Since Congressman Wyden has come out in favor of this resolution, the least the Legislature could do is encourage protection of the

watershed.

MIKE EDRINGTON: (introduces EXHIBIT B) Offers testimony on SJM5. - Provides overview of past and current Forest Service management

practices. - Lists the differences between Public Law 95-200 and the Bull Run

Trespass Act. 147 - The Wyden Task Force concurred that the water produced in the Bull Run drainage has exceptionally high water quality and there is no

apparent loss of quality due to timber management activities. - Public Law 95-200 also calls for cooperation and consultation with

the City of Portland. - The 1979 management plan established a buffer around the drainage. 163 - Water from the buffer does not enter the City's water supply.

SEN. ROBERTS: This buffer zone was taken from the land previously set aside for Bull Run. It just reduced the amount of area set aside for Bull Run.

170 EDRINGTON: The buffer is those lands that drain away from the physical drainage, away from the water supply. - It is true that they were in the original legislation. - Notes changes in management if Bull Run were managed according to the original Trespass Act. - Only custodial duties would be allowed to be conducted. Water

quality monitoring would not be required. 182 - Public logging permitted by PL 95-200 would jeopardize the water supply. - The only timber harvests allowed in the physical drainage of the Bull Run since the passage of PL 95-200 have been salvage harvests. - There is no salvage harvesting currently taking place due to concerns related to the Northern Spotted Owl. 202 - The final Northern Spotted Owl Environmental Impact Statement will probably include development of a detailed management plan for the

Bull Run habitat area. This would update the 1979 management plan.

SEN. ROBERTS: How do you protect or increase water quality by going into this area? How can management of this forest area increase water quality or protect it?

EDRINGTON: It is a long term protection question. - Offers example of blown down timber and the risk assessments made.

SEN. ROBERTS: The removal of down timber does not enhance water quality. In fact, it reduces the ability of the forest to retain water and release it through its natural filtration system.

245 EDRINGTON: A portion of the down material is beneficial, with the remainder in excess to the system.

SEN. ROBERTS: If the drainage system has developed over many years on its own, how will human intervention improve it? It didn't help to cut timber off 1/4 of the area.

EDRINGTON: The issue we are dealing with into the future is if we

continue to suppress fire in the Bull Run, what will that do to the ...
(does not complete statement)

265 CHAIR DWYER: PL 95-200 reduced the size of the area and permitted logging and multiple use activities. Is that correct?

EDRINGTON: There were some public use activities taking place prior to the enactment of PL 95-200 in 1977.

281 CHAIR DWYER: Bull Run Coalition testimony states PL 95-200 permitted logging and multiple use activities.

EDRINGTON: Timber management activities, yes. Public entry is prohibited. - Lists what is and is not allowed.

291 EDRINGTON: Part of the difference is between the main watershed and the buffer.

DICK HARDMAN: Lists activities excluded from the watershed.

308 SEN. COOLEY: Notes comparison sheet prepared by City of Portland. - Is this true that there is no mention of water quality or quantity in the 1904 Trespass Act?

EDRINGTON: We would have to review the original law.

338 BRUCE NESS: Reads Section 1862 from the federal code which encapsulates the Trespass Act.

SEN. COOLEY: We are interpreting the 1904 Trespass Act if we start talking about water. There is no mention of water in the Act. SJM5 talks about the watershed when the Act does not state that it protects the watershed.

366 JOSEPH MILLER: The reference to water is in the title of the Act.

SEN. ROBERTS: The area takes care of itself if you protect it from trespass. - To assume that somehow human intervention is going to improve the

quality of the water is absurd.

CHAIR DWYER: (To Mr. Edrington) What do you think Congress is going to do? - We don't have the power to do this ourselves.

403 EDRINGTON: Summarizes the impact of PL 95-200. - We need to be able to provide a healthy ecosystem over the long term. - The philosophy of non-intervention by human beings with the ecosystem continuing to produce what it has over time has not been fully implemented, as we respond to fires, etc.

432 CHAIR DWYER: In view of the spotted owl, it is unlikely there will be much activity there. EDRINGTON: There isn't vegetative removal in the habitat conservation

area.

TAPE 15, SIDE A

BRIAN FALOTICO: (introduces EXHIBIT C) Offers testimony on behalf of Representative Naito. - Addresses deforestation in the Bull Run area and the resulting

impacts. - Claims the Forest Service may be maintaining separate sets of records on timber harvests in the area. - Notes impacts on citizens of Portland if Bull Run is incapable of

supporting their water needs. - Urges passage of SJM5.

032 CHAIR DWYER: What evidence do you have that the Forest Service is maintaining various sets of records?

FALOTICO: Michael Campbell of Representative Wyden's office is reviewing the deforestation practices. He has this information.

CHAIR DWYER: I would like to see that information. - (To Mr. Edrington) Does the Forest Service keep various sets of records?

046 EDRINGTON: We have many kinds of records; however, we do not keep different sets of records based upon who would access them. The same

set of records is shown to all who request them.

SEN. KINTIGH: This states there are tons of debris and erosion. Is this the situation?

054 EDRINGTON: The monitoring that has been done hasn't affected the quality of the water.

SEN. SMITH: Where would Congressman Wyden get the impression you are keeping confusing records? Have you ever heard of this before today?

EDRINGTON: No, I don't know how he would get this impression and I haven't heard of this before. I or Dick Hardman, the District Ranger would be dealing with his office on this issue.

076 MILLER: (introduces EXHIBIT D) Offers testimony on SJM5. - Circulates a space photo map of the Bull Run area.

GEARHART: Explains how to interpret the space photo, taken July 7,

1991, noting it shows about 35% devastation. - States the lighter the color on the map, the less vegetation exists. - Notes indications on the map that land has not been reforested in

Washington after a burn in 1904.

SEN. KINTIGH: Argues that the Washington burn of 1904 was replanted or exchanged. The vegetation planted does not show up on the map in the same way as other vegetation. It only appears to have no vegetation.

138 MILLER: Notes documents listed in his written testimony are available in the Portland Public Library. - The Forest Service has a tendency to talk about policy and purpose

rather than action. - In Bull Run we have a source of water for 30 percent of Oregon. The

area from which this water comes is only one percent of the National Forest land in Oregon.

CHAIR DWYER: Leaves the meeting.

MILLER: The timber industry should be willing to protect one percent of the land for 30 percent of the water drinkers. - The financial gains from logging are fairly great. 172 - Quotes a 1977 statement by Mayor Goldshmidt made before the Trespass Act was repealed. - In 95-200 water quality standards are outlined. This is an illusion.

When the water was protected it didn't need standards. - PL 95-200 specifies the standards shall be derived from a time when

heavy logging was taking place. - The Wyden Task Force quotes come from the executive summary of their

report. The body of the report states scientific analysis of the

monitoring is lacking. 210 - Discussion of the buffer is of concern as the buffer is part of the watershed. - Portland has passed a resolution asking that a stand be made for

their rights for the Little Sandy River. - The statement was made the Trespass Act would only allow custodial

activities and would not allow them to prevent fire. This is not

true. - The Forest Service must affirmatively show they are protecting the

forest. This is what they couldn't prove to a judge. This was the

whole crux of the lawsuit. - Water management would help the water by dealing with blow downs and

fire prevention. 245 - The lawsuit showed that logging naturally increases the fire danger. Logging also increases blow down. - Public use prior to the enactment of PL 95-200 not only existed but

was illegal. - In 1959, the Forest Service changed the map boundaries, making the

division smaller, and renamed it.

CHAIR DWYER: Rejoins the meeting.

267 MILLER: The spotted owl law has a provision that allows for it to be changed.

CHAIR DWYER: SB 92 and 48 are going to be deferred to the next meeting due to a Republican caucus.

MILLER: The speaker from Representative Naito's office mentioned debris and erosion from logging. - There was a drought several years ago. When the reservoir was

extremely low there was a bank of sediment where the river enters the reservoir. - The Forest Service did not have funding to conduct research to

determine the origin of the sediment. It could have come from

logging. 305 - In the Ashland watershed this is known to have happened. The sediment had to be dredged.

CHAIR DWYER: Requests Forest Service hydrologist come forward to

discuss sediment. TODD PARKER: You can still see the original stumps. - Offered testimony on the absence of degradation of water quality in

the Bull Run. - We do not attribute these sediments to logging. - Soon a study will be available by the USGS that will probably offer

the same conclusion.

SEN. SMITH: Is that because the level of logging is not sufficient to create a problem, or because logging doesn't create those kinds of problems?

PARKER: The level of logging is lower than most municipal watersheds.

SEN. SMITH: You still allow clear-cutting?

345 PARKER: Not right now in the buffer. There is a moratorium on logging until May 1. Since the passage of PL 95-200 there has only been salvage logging in the drainage area.

SEN. SMITH: So you are just picking up the down lumber?

PARKER: There are some green trees cut as part of these units. - Elaborates on the practices used in logging this area.

366 SEN. SMITH: The moratorium on the buffer is temporary until May 1?

SEN. COOLEY: Does that also include building roads?

PARKER: Yes, all activities are stopped right now.

CHAIR DWYER: How do you salvage logs without building a road?
Helicopter salvage?

PARKER: Roads are already in place, but we are not doing timber
harvest, right now.

SEN. SMITH: My question deals with harvesting policy.

SEN. KINTIGH: (To Dr. Miller) Portland is the only area of the State
with a closed watershed. Is there any evidence those people are any
healthier than the rest of us?

MILLER: I don't have evidence either for or against that statement. -
Reads a 1977 statement by a professor of public health with the
University of Oregon. - Human contamination of water is much more
hazardous than that of
animals and birds.

411 SEN. KINTIGH: People in Eugene are drinking water from the
McKenzie. The Eugene Water and Electric Board stated water from the
McKenzie meets all the Clean Air Act requirements except during periods
of high water.

MILLER: Public health experts go by risk. When human beings impact
water there is more risk.

TAPE 14, SIDE B

SEN. KINTIGH: Gives example of northern California municipal water
supply used for recreational purposes and another in Silverton.

006 CHAIR DWYER: Portland is to be commended for having water that
meets the Clean Water Act standard without help. Eugene has to spend
lots of

money to purify their water. - Requests clarification of Exhibits E and
F.

018 GEARHART: (introduces EXHIBITS E and F) - Exhibit E is the
resolution from the Portland City Council. - We are not having to spend
millions of dollars to filter our system.

We would have been filtering long ago if logging had continued. - The
USGS has done a study on the sedimentation and Portland State

University has just begun another study on the delta with the City of
Portland assisting with funding.

043 SEN. SMITH: We were given a comparison between the Trespass Act

and the Bull Run Water Management Act. If Congress repeals the Management Act

and reverts to the Trespass Act, how will water quality be protected?

GEARHART: In 1892, the original intention was the reserve was to be a water reserve for the metropolitan Portland area. We feel the reason they did not make that clearer was they were not concerned about the problems we have today.

SEN. KINTIGH: Leaves the meeting.

066 GEARHART: They weren't trying to cover every issue that might arise.

SEN. SMITH: In the resolution, we are seeking to return to the Trespass Act even though it fails to include specific water language. Would it not be better to include such language?

080 GEARHART: I agree it did not address water quality. This is only a memorial. I assume Congress would include any necessary aspects.

SEN. SMITH: Should we include language in the memorial to assure that is our intent?

GEARHART: I would approve of that.

CHAIR DWYER: We should give specific instructions and allow expansion as necessary.

SEN. COOLEY: Leaves the meeting.

GEARHART: Suggests the committee consult with Congressman Wyden's office.

MILLER: The name of the Trespass Act indicates it was an act to protect the water sources. There was an assumption in those days that if you protect the source you will get naturally pure water.

CHAIR DWYER: A few words can be included in the memorial stating we are concerned about water quality. 104 ROBERT HALL: I would like to raise the issue that PGE has facilities on the Bull Run in conjunction with the City of Portland that restrict

access into that area. - Presently, we do have access to maintain those facilities. - We would not wish those to be infringed upon.

CHAIR DWYER: I don't think our intention is to prohibit permitted uses within the present constraints.

MILLER: When the Trespass Act was still in effect, the judge was asked

if hydro-electric facilities would be permitted under the Trespass Act. He said "no." - There was some discussion as to what extent the water levels would be raised to allow power generation to take place. - When hydro-electric power is used there are more fluctuations in the

water level and this might introduce hazards to water quality. 142 - I don't think that hydro-electric generation is necessarily compatible with the purest water. - There should be strict regulations on water level adjustments.

CHAIR DWYER: I am certain they are regulated. - Closes the hearing on SJM5. 155 - Adjourns the meeting at 4:22 p.m.

Submitted by,

Reviewed by,

Pamella Andersen

Lisa Zavala Clerk
Administrator

EXHIBIT LOG:

A Testimony on SJM5, Frank Gearhart, 3 pages B Testimony on SJM5, Mike Edrington, 3 pages C Statement from Representative Naito on SJM5, Brian Falotico, 3 pages D Testimony on SJM5, Joseph Miller, MD, 5 pages E Portland City Council Resolution No. 35024, Frank Gearhart, 3 pages F Eastside Democratic Club of Portland Resolution, Frank Gearhart, 1 page