

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.

HOUSE COMMITTEE ON AGRICULTURE, FORESTRY & NATURAL RESOURCES

May 1, 1991 Hearing Room F 5:30 P.M. State Capitol Tapes
82 - 85

MEMBERS PRESENT: REP. WALT SCHROEDER, Chair REP. LIZ VANLEEUWEN,
Vice-Chair REP. SAM DOMINY REP. BILL DWYER REP. TIM JOSI REP. JOHN MEEK

MEMBERS ABSENT: REP. CHUCK NORRIS

STAFF PRESENT: BETH PATRINO, Administrator EDWARD C. KLEIN,
Assistant

MEASURES CONSIDERED: HB 2244 - PUBLIC HEARING

These minutes contain material which paraphrases and/or summarizes 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

Witnesses: Martha Pagel, Governor's Policy Advisor for Natural Resources
John Bishop, Malheur County Commissioner and Landowner Arleta Turner,
Mayor of Nyssa, Oregon Bill Wynn, Small Businessman, Nyssa, Oregon Larry
Tuttle, Oregon Director, The Wilderness Society Jean Cameron, Policy
Director, Oregon Environmental Council ZaDean Auyer, Economic
Development Coordinator, Malheur County Liz Frenkel, Oregon Chapter,
Sierra Club Terry Dreaver, Eastern Oregon Mining Association Esther
McEvoy, Legislative Chair, Native Plant Society of Oregon Jennifer
Dimling, President, Evergreen Chapter, Native Plant Society of Oregon
Ivan Urnovitz, Northwest Mining Council Stan Jacobs, School Teacher,
Monmouth Oregon Kathryn Boula, Oregon Chapter, The Wildlife Society
Margaret G. Forsythe, Conservation Committee Co-Director, Chemeketans
Jay C. Quast, Retired Marine Biologist

003 CHAIR SCHROEDER: Calls the meeting to order at 5:34 P.M.

-He expresses his appreciation to MARTHA PAGEL and the work group.

030 MARTHA PAGEL, Governor's Policy Advisor for Natural Resources: Is
representing a consensus group.

-She describes the objectives of the work group.

-She submits an overview of the consensus (EXHIBIT A).

-She submits HB 2244-2, Proposed Amendments to House Bill 2244, dated 4/29/91 (EXHIBIT B).

070 REP. DOMINY: Would like an overview of the unresolved issues.

CHAIR SCHROEDER: Would like to get to the people who came from Malheur County.

083 PAGEL: Presents an overview of the consensus (EXHIBIT A).

-She refers to the unresolved issues, page 3 (EXHIBIT A).

143 CHAIR SCHROEDER: How many hearings are held from the initial application until the ground can be worked?

PAGEL: Four.

CHAIR SCHROEDER: What is the time line?

PAGEL: From the notice of intent to the final permit decision is about 1 year and 3 months.

-There is a one year time line when the application is deemed to be complete (a notice to proceed).

-It will take about 90 days to get through the determination of completeness.

154 REP. DWYER: Thanks the group for their effort.

PAGEL: Asks the members of the consensus group to stand.

189 JOHN BISHOP, County Commissioner Malheur County and Landowner: Is the closet landowner to the Atlas Mine.

-He reads a letter from Maxwell Lieurance, Malheur County Judge (EXHIBIT C).

-He has tested his wells for cyanide levels.

-Atlas has been responsible and up front.

238 CHAIR SCHROEDER: Do you graze livestock?

BISHOP: Yes; about two miles west of the site.

-The drainage the mine is in goes through my range.

CHAIR SCHROEDER: You're not concerned?

BISHOP: No.

REP. VANLEEUEWEN: Are you referring to the amendments?

BISHOP: The judge was referring to the amendments.

254 ARLETA TURNER, Mayor of Nyssa, Oregon: Presents testimony (EXHIBIT D).

364 REP. JOSI: One issue you did not address was the boom and bust

cycle. Have you discussed that?

TURNER: We have. The mine company has promised they will help us.

-There is a boom and bust in agriculture. It is a bust now.

-The mining would last at least 20 years. It is not likely there will be a boom and bust.

405 REP. DWYER: It is not our intention to inhibit what happens. We're trying to protect this state, the environment and your community.

TURNER: Understands.

BISHOP: Has had discussions with the mining company, SEN. TIMMS and REP. DENNY JONES about a sinking fund that comes to the county from the mining.

-If the permitting process gets too expensive the mine can't contribute to that fund.

441 BILL WYNN, Small Businessman, Nyssa, Oregon: Describes the hard times Nyssa has gone through.

-He submits a petition signed by people who want to see mining in Malheur County (EXHIBIT E).

-The Atlas Boosters were formed to help the Atlas mine.

-He describes the site Atlas has chosen.

TAPE 83, SIDE A

033 WYNN: Describes how the mine can never affect their water.

-Atlas has been very responsible.

-He explains that several businesses have recently decided not to locate in Nyssa.

-We need Atlas Mines.

057 REP. MEEK: Reads the cover letter signed by the mayors of cities and towns in Malheur County (EXHIBIT E).

CHAIR SCHROEDER: How many signatures are on the petition?

WYNN: 2,000; by next week we will have an additional 1,000.

074 REP. VANLEEUEWEN: If Atlas sells to another company, what assurance do you have they will keep their promises?

-She has seen it happen where companies have not kept their promises.

089 BISHOP: We've measured the volume of wells. If Atlas drains them they will have to replace them.

REP. VANLEEUEWEN: What do you have from Atlas that tells you that?

BISHOP: Livestock and domestic use are a priority over mining.

-He has had his well water analyzed and will know if there is any cyanide from the mine.

-He has not received any written assurance.

104 REP. DOMINY: We are not making laws for a particular mine.

-If we don't put the right parameters on mining, someone else may put a mine at the start of your river.

-He is sure they would not want a mine to be at the head of your main water supply.

122 WYNN: There should be controls. They have to make profit or they won't do it.

-We need more jobs in Malheur County. We are serious about getting a business to help us with our taxes and payroll.

149 CHAIR SCHROEDER: We have to draft this bill for all kinds of mines in all parts of the state.

BISHOP: There are places where he couldn't support a mine.

CHAIR SCHROEDER: Do you feel this bill can stop a mine where you don't want it?

BISHOP: Thinks there are adequate things in place to keep that from happening on BLM land.

CHAIR SCHROEDER: How would you feel about having an open pit?

BISHOP: People that run cattle are for it.

-The hole may fill with water and could be used for recreation.

-They could replace the area with grass for livestock.

REP. DWYER: This bill assures that those things you talk about take place.

-Do you know how much gold is there?

BISHOP: They say 1 million ounces in one and 100,000 ounces in the other.

REP. DWYER: The total costs of permitting are minimal when you take those amounts into consideration.

197 TURNER: Is on the Vale District BLM Advisory Board and there are rules in place that take care to the kinds of things you were talking about.

209 LARRY TUTTLE, Oregon Director, The Wilderness Society: Presents testimony on HB 2244 (EXHIBIT F).

237 CHAIR SCHROEDER: You are proposing a change?

TUTTLE: HB 2244-2 is the consensus.

-My handout is background material on the unresolved issues.

241 JEAN CAMERON, Oregon Environmental Council: Presents testimony on HB 224 4 (EXHIBIT G).

364 REP. DWYER: Could you also supply the questions that were asked in the survey (Results of survey page 5, EXHIBIT G)?

CAMERON: Will look for the questions.

REP. DWYER: Won't put stock in the results unless he can see the questions.

CAMERON: She will try to do it.

-Requiring backfilling and reclamation extends the time a job lasts.

-She has called for severance taxes to support the state to do reclamation and to help the communities survive the bust cycle.

-We are not trying to say no to mining, but are trying to protect the environment.

-We have seen drastic wildlife and water quality impacts in other states.

-The land is worth more than the gold.

-We want to make sure the available technology is used to protect the environment.

418 REP. DOMINY: Backfilling is one of most controversial issues.

-Are you suggesting that we put the top of a mountain back?

-If you had total control, what would you expect the state to do in regards to backfilling?

441 CAMERON: My concern is with open pits that fill up with acidic water.

-She describes two mining operations that have caused acidic water problems.

-We want to see that the waste piles and heaps are adequately dealt with.

-Closure is a tough question because of residual cyanide and the potential of acid mine drainage.

-Each situation has to be dealt with separately.

-Open pits are scars on the landscape and can lead to environmental concerns.

TAPE 82, SIDE B

033 REP. DOMINY: Isn't it true that when cyanide is exposed to air it is short-lived?

CAMERON: That's true depending on the pH conditions.

REP. DOMINY: Hiding cyanide in a backfill may make the cyanide last longer.

054 CAMERON: On an average there are 20 tons of waste for each ton of ore. A lot of rock can be backfilled.

CHAIR SCHROEDER: Do you know what the normal pH of water is?

CAMERON: Does not know.

CHAIR SCHROEDER: Do you know the pH of the soils around the mining area?

CAMERON: Does not know.

CHAIR SCHROEDER: The soils in eastern Oregon may be fairly alkaline.

-In my area of the state the soil is acidic.

-Is this really a major problem?

CAMERON: It needs to be handled case by case.

071 REP. VANLEEuwEN: It was suggested the pits may make water storage areas.

-Do you agree we need water storage and that these pits would be ideal for storage and some recreational use if there were no adverse chemical problems with the water?

CAMERON: That decision needs to be made based on the sulfides at the particular location.

-She doesn't know if a pit that deep would support fish.

REP. VANLEEuwEN: People use water for things other than fishing.

CAMERON: Would always support conservation.

REP. VANLEEuwEN: There are safety levels for the chemicals.

-You would die if you ate a cup of apple seeds, but nothing would happen if you ate the seeds from one apple.

CAMERON: Acid mine drainage is a natural process that is being sped up because the ore is being exposed to the surface.

-We would like to see the aquifers returned to original conditions and protected for future generations.

REP. VANLEEuwEN: She is missing my point.

-We have been negligent in storing water.

121 REP. JOSI: Cyanide is the poison in apple seeds and is something our bodies dispose of naturally.

146 ZADEAN AUYSER, Economic Development Coordinator, Malheur County:
Presents testimony in support of HB 2244 (EXHIBIT H).

-Most industries have boom and bust cycles.

-She talks about dairies in her area going out of business because of
new Federal regulations.

-The state of Oregon hasn't kept their promise on the new prison.

REP. DWYER: Government never keeps its promise.

AUYER: Continues with how restrictive Oregon is becoming.

249 REP. DWYER: Compare the differences between Oregon and Idaho and
what it takes to do business.

AUYER: Will get him that information.

-Idaho's standards on disposing of the cull of onions is not as rigid as
Oregon's.

REP. DWYER: Do you want them?

AUYER: We have something in mind for them.

REP. DWYER: Would like to see those comparisons.

-We are doing things for business, but not for people.

CHAIR SCHROEDER: We were cajoled into voting for that prison.

AUYER: Understands.

303 LIZ FRENKEL, Oregon Chapter, Sierra Club: Testifies on HB 2244.

-She grew up in an area with copper pits.

-Many pits are in excess of what can be filled with water.

-We already have some safety requirements.

352 REP. VANLEEUEWEN: Are you opposed to water storage in any of the
pits that might be there.

FRENKEL: It depends if the water is useful.

CHAIR SCHROEDER: We have different technology now than they had when
they opened the copper mines you referred to.

REP. DOMINY: Do you support the -2 amendments?

FRENKEL: With the change brought up by JEAN CAMERON.

REP. MEEK: What's your definition of the public? Are you talking about
the residents or yourself and others?

FRENKEL: There's an attempt to insure the local people have a role to
play.

REP. MEEK: What about yourself?

FRENKEL: Yes. She has been to the mine area.

REP. MEEK: You assume it's open to anyone in the state?

FRENKEL: Yes.

CHAIR SCHROEDER: Recesses at 6:53 P.M.

-He reconvenes at 7:00 P.M.

421 TERRY DREAVAR, Eastern Oregon Mining Association: Presents testimony and background information (EXHIBIT I).

TAPE 83, SIDE B

031 TERRY DREAVAR: Continues with her testimony, describing the information included in her handout.

045 REP. DWYER: Does the United States's consumption of 70 percent of the resources include gold?

DREAVAR: Imagines so.

-She continues with mining statistics.

-She refers to page 1, "Policy Statement".

076 REP. DOMINY: Is it your intent that those who extract less than 5,000 cubic feet have to meet no regulations or would not have to meet the regulations of this act?

DREAVAR: Just this act.

REP. DOMINY: They would still have to meet all of the other regulations?

DREAVAR: Yes.

REP. DWYER: We have traditionally exempted small miners from the more restrictive regulations.

-We can't discourage small miners.

DREAVAR: This gives the small miners the incentive to stay under the one acre limit.

-We are saying that if they use the flotation method they should use non-toxic chemicals or they will fall under these other rules.

097 REP. DWYER: Sees problems in what can be applicable to small miners.

-This doesn't mention on-site processing. Most small miners don't process their ore on site.

-We need to define chemicals in statute, if possible. We need to add if the processing is done on-site.

DREAVER: Small miners won't be able to afford this procedure.

-She continues with page 1, "Discussion".

-She continues with "Summary", pages 1 and 2.

141 REP. DOMINY: What is a "frivolous delay"?

-It makes sense in concept, but when it comes down to the end it is challenged in court and used to delay the process.

DREAVER: Has heard the U.S. Congress just passed legislation on frivolous lawsuits.

REP. DWYER: Appreciates the information and your involvement.

DREAVER: We need to be careful for the good of everyone.

168 ESTHER MCEVOY, Legislative Chair, Native Plant Society of Oregon: Presents testimony on HB 2244 (EXHIBIT J).

259 REP. MEEK: Refers to page 2 of her testimony. You talk about backfilling to the original contours.

-We might be talking about an area the size of Amity. That hole probably won't get filled to the original contour. Are you suggesting that mine shouldn't be opened?

MCEVOY: Each situation has to be considered separately.

-We would prefer pits to be backfilled.

296 REP. MEEK: That one comment struck me.

REP. DWYER: Have you had an opportunity to read the draft?

MCEVOY: Not entirely.

REP. DWYER: Many of your concerns have been addressed.

MCEVOY: Has not looked over the reclamation section.

REP. DWYER: The working group has resolved many of the issues you are concerned with.

-With the permitting process and the agencies involved, how could you envision how mines could be placed in "Areas of Critical Environmental Concerns" and "Outstanding Natural Areas?"

MCEVOY: They wouldn't now that it's been incorporated into the draft.

331 JENNIFER DIMLING, President, Evergreen Chapter, Native Plant Society of Oregon: Presents testimony on HB 2244 (EXHIBIT K).

422 CHAIR SCHROEDER: It's my understanding they replant areas with native plants.

TAPE 84, SIDE A

013 IVAN URNOVITZ, Oregon Mining Council: Presents testimony on HB 2244

(EXHIBIT L).

-In regards to backfilling: We can't agree to things we can't do.

-He discusses the moratorium.

084 REP. DOMINY: You said public testimony and input are a very important part of the legislation, but you are opposed to a moratorium.

-We don't have the public input-hearings process in the current system.

-Which do you mean?

URNOVITZ: Both.

-On federal projects there is opportunity for public input. There doesn't seem to be public involvement defined in statute.

-There are opportunities for public comment in DEQ and other regulations.

REP. DOMINY: Does Montana have public hearings and is this more restrictive?

URNOVITZ: Hearings are not restrictive per se.

-In many states, like Wyoming, the process is simplified because either the state or Federal Government takes the lead--you only have to talk to one set of agencies.

-In Oregon there is a dual process.

131 REP. DOMINY: Up to this point have you had public hearings and input close to what the bill requires?

URNOVITZ: Atlas is the furthest along, they can address some of the details.

CHAIR SCHROEDER: Let them cover that.

URNOVITZ: There has been some public input.

-He discusses the federal process.

-He refers to the handout (EXHIBIT L).

193 STAN JACOBS, School Teacher, Monmouth Oregon: Has lived in Alaska where the mines did not accomplish what they said they would do.

-We need to make sure mining companies go through the legal channels.

-The more steps they have to go through the better.

CHAIR SCHROEDER: We want to keep Oregon environmentally sound.

222 KATHRYN BOULA, Oregon Chapter, The Wildlife Society: Presents testimony on HB 2244 (EXHIBIT M).

339 REP. MEEK: What is your definition of "zero tolerance"?

BOULA: No losses of wildlife.

REP. MEEK: Expand on that.

BOULA: There should be no way any animal can get at toxic substances. There is the technology to accomplish that.

REP. MEEK: What type of species?

BOULA: Migratory birds, big game animals.

366 REP. MEEK: How would you define it in regards to 40 to 50 acres that has been fenced?

BOULA: If the fencing is high enough elk and deer can't get at the ponds.

-It's more difficult to net or cover the open ponds to keep the migratory birds out.

REP. MEEK: Is there a time period after a snow to repair the nets?

BOULA: The problem is in the spring and fall. There are fewer resident species.

REP. MEEK: All possible considerations need to take place?

BOULA: It would also require regular monitoring.

413 REP. DOMINY: Discussions he has had indicate liquid cyanide is probably more safe than powdered.

BOULA: Her concern is with accidents.

REP. DOMINY: What if powdered cyanide spills?

BOULA: That's a good point.

-We're trying to prevent problems.

-A lot of mines in Idaho and Nevada are using cyanide pellets.

-She continues with #10 and #11, page 5 of her testimony.

TAPE 85, SIDE A

033 MARGARET G. FORSYTHE, Conservation Committee Co-Director, Chemeketans: Presents testimony on HB 2244 (EXHIBIT N).

-She has not had a chance to study the amended version of the bill.

119 REP. DOMINY: Where did you get some of your information?

FORSYTHE: Will be happy to get that information to him.

REP. JOSI: There is a process that removes cyanide from water.

FORSYTHE: She has a study from a Willamette University chemist. The decontamination of cyanide is complicated and not always effective.

REP. JOSI: You left us with the impression great amounts of water are used, but it is recycled.

168 JAY C. QUAST, Retired Marine Biologist: There probably would be evaporation.

REP. JOSI: With a drip system the amount of evaporation is reduced.

QUAST: Correct.

QUAST: Presents testimony (EXHIBIT M), which is based on the summary of the bill as printed.

294 CHAIR SCHROEDER: We realized the bill had some discrepancies.

-Some of your concerns have been addressed.

-You are all welcome to come back tomorrow.

309 REP. DOMINY: Appreciates the testimony from people who aren't normally here.

CHAIR SCHROEDER: Adjourns at 8:20 P.M.

Submitted by: Reviewed by:

Edward C. Klein, Beth Patrino, Committee Assistant Committee
Administrator

EXHIBIT LOG:

A - Testimony on HB 2244 - Martha Pagel - 10 pages
B - Amendments to HB 2244 - Martha Pagel - 30 pages
C - Letter on HB 2244 from Maxwell Lieurance - John Bishop - 1
page D-Testimony on HB 2244 - Arleta Turner - 2 pages E-Petition in
support of mining - Bill Wynn - 84 pages F-Testimony on HB 2244 - Larry
Tuttle - 14 pages G-Testimony on HB 2244 - Jean Cameron - 5 pages
H-Testimony on HB 2244 - ZaDean Auyer - 2 pages I-Testimony on HB 2244 -
Terry Dreaver - 33 pages J-Testimony on HB 2244 - Esther McEvoy - 3
pages K-Testimony on HB 2244 - Jennifer Dimling - 2 pages L-Testimony on
HB 2244 - Ivan Urnovitz - 3 pages M-Testimony on HB 2244 - Kathryn Boula
- 5 pages N - Testimony on HB 2244 - Margaret Forsythe - 1 page
O - Testimony on HB 2244 - Jay Quast - 2 pages