

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 2, 1991 Hearing Room F 8:00 A.M. State Capitol Tapes
86 - 87

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

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

MEASURES CONSIDERED: HB 2244 - PUBLIC HEARING

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TAPE 86, SIDE A

003 CHAIR SCHROEDER: Calls the meeting to order at 8:08 A.M.

PUBLIC HEARING ON HOUSE BILL 2244 -- EXHIBITS

Witnesses: Richard Blubaugh, Vice President of Environmental and Governmental Affairs, Atlas Corporation Michael Richings, Vice President of Operations, Atlas Corporation John Parks, Senior Environmental Coordinator, Atlas Corporation Gordon Tracy, Small Mine Owner Tom Barrows, Northwest Mining Association Jim Alto, Plexus Resources, Salt Lake City Don Hull, State Geologist Gary Lynch, Supervisor, Reclamation of Surface Mined Land, Department of Geology and Mineral Industries Martha Pagel, Governor's Policy Advisor for Natural Resources Jean Cameron, Policy Director, Oregon Environmental Council Terry Dreaver, Eastern Oregon Mining Association Ivan Urnovitz, Oregon Mining Council

CHAIR SCHROEDER: Opens the Public Hearing.

022 RICHARD BLUBAUGH, Vice President of Environmental and Governmental Affairs, Atlas Corporation: Presents testimony on HB 2244 (EXHIBIT A).

107 CHAIR SCHROEDER: Could you give us an overview now. We can deal with the moratorium when we get to it.

BLUBAUGH: He continues with sections 15 and 16, page 5 of his testimony.

143REP. NORRIS: Where was the reference to standing?

CHAIR SCHROEDER: Page 13, line 30 and page 14, lines 1 and 2.

REP. VANLEEUEWEN: Page 13, lines 27 and 28.

BLUBAUGH: Yes.

REP. NORRIS: "Any person who appeared...." Does that address standing?

157 REP. DWYER: Who should have standing?

BLUBAUGH: Those who can clearly show damage or harm to them.

REP. NORRIS: Can anyone from anywhere who is philosophically opposed come in and do it?

REP. DWYER: Philosophical opposition shouldn't mean they have legal standing.

REP. NORRIS: That's what he's trying to get to.

BLUBAUGH: Continues with his testimony on section 21, page 5 of his testimony.

193 MIKE RICHINGS, Vice President of Operations, Atlas Corporation: We will address the moratorium later.

-He discusses why backfilling is not feasible.

222 REP. DWYER: You can foresee a process that will enable you to extract more metals than cyanide heap leaching?

RICHINGS: Cannot foresee it.

REP. DWYER: Isn't cyanide heap leaching a pretty complete process?

RICHINGS: Average recovery is 60 to 70 percent.

-In a milling process the average is 95 percent.

-There are always opportunities for improvement.

REP. DWYER: That would make it economically feasible to go over an old pile?

RICHINGS: Yes. That's happened in many instances.

REP. DWYER: What pile do you know that has been reprocessed through heap leaching?

RICHINGS: Doubts there is one.

-In regards to backfilling: Economic and technological conditions may improve so an old pile could be reprocessed.

-He refers to coal mining.

-We don't pass our costs on to consumers.

-In hard rock mining as you increase costs, like backfilling, less gold is removed.

283 REP. DWYER: Does not follow.

RICHINGS: He presents statistics on the average long-term costs of mining gold.

REP. DWYER: What about other minerals that cyanide breaks down?

RICHINGS: The only by-product produced in the majority of gold mines is silver, which is not profitable.

309 REP. JOSI: What about mercury?

RICHINGS: One mine in Nevada has a significant mercury by-product, it's probably more of a hassle to dispose of.

REP. JOSI: You hit the key environmental and economic issues.

-Can you supply us with the baseline data?

-You mentioned other overhead costs.

RICHINGS: There is a head office and companies continue to have exploration expenses far in advance of any revenue.

REP. JOSI: It would be beneficial to have copies of that document.

RICHINGS: Can give you this copy and will get you more copies.

-We produced 80,000 ounces of gold from Nevada last year.

-We haven't made any money this year.

REP. DWYER: Net profit is relative.

RICHINGS: It is, but in the long-term its the measure of how well the company is doing.

-He discusses the share holders.

374 REP. DWYER: You can increase your net worth by making investments that don't result in a net gain, but increases the value of the stock in the long-term.

RICHINGS: The bottom line is profit.

-Last year our mine in Nevada used 500 tons of cyanide.

REP. JOSI: Actual cyanide?

RICHINGS: Yes.

-Your proposed meeting requirements are more restrictive than Montana's.

-He discusses the average waste removed.

420 REP. DWYER: 20 tons to an ounce wouldn't be profitable.

RICHINGS: 20 tons of rock contains an ounce of gold.

-He was talking about waste rock.

-He discusses the production and consumption of gold.

REP. DWYER: Thinks India is the biggest consumer.

RICHINGS: Japan was a major consumer the last few years.

-He discusses the total world's supply.

-He discusses employment.

REP. JOSI: Does the 250 include direct and indirect jobs at Grassy Mountain?

RICHINGS: That's our peak direct employment.

-There is also some construction employment.

TAPE 87, SIDE A

025 REP. DWYER: Will you mill the rock?

RICHINGS: Grassy Mountain includes milling and heap leaching.

REP. DWYER: How fine do you crush the rock?

RICHINGS: It's pretty fine.

CHAIR SCHROEDER: Like talcum powder?

RICHINGS: Not that fine.

REP. DWYER: You can't consume gold.

RICHINGS: True.

REP. NORRIS: What's the nearest incorporated city to you site?

037 JOHN PARKS, Senior Environmental Coordinator, Atlas Corporation: Nyssa.

REP. NORRIS: How far?

PARKS: About 25 miles.

PARKS: There is no major gold rush in Malheur County.

-According to the BLM, other than Grassy Mountain, only two other projects are reasonably foreseeable. One of those is no longer feasible.

058 REP. DWYER: The rush to find gold is on. The amount of claims filed would support that assumption.

075 GORDON TRACY, Small Mine Owner: Presents testimony on areas of concern as a small miner (EXHIBIT B).

-The testimony refers to the original bill.

-His mine is less than 5,000 yards.

REP. DWYER: That's not covered.

TRACY: May use flotation.

REP. DWYER: That's not covered either.

TRACY: It's in the amendments and he doesn't know the impacts of the amendments.

097 CHAIR SCHROEDER: There will be some amendments to deal with small mines.

TRACY: There is concern regarding the fees as it affects small mines.

-He refers to economic information, pages 1 and 2 of his testimony.

CHAIR SCHROEDER: The amendments came out a couple of days ago, but weren't circulated.

REP. DWYER: Some of us look out for the little guys.

TRACY: Is looking for an alternative lifestyle.

-There are a lot of redundancies between the federal and state permitting processes.

157 TOM BARROWS, Northwest Mining Association: Expresses concerns about small miners.

-Flotation is listed in the definitions in section 3.

REP. DWYER: Why was flotation put in? Does it use cyanide?

BARROWS: It can. Other chemicals can be used as well.

REP. DWYER: Most small miners don't use cyanide.

BARROWS: Some do, but most use nontoxic chemicals.

REP. DWYER: There is no reference whether or not the processing is on-site.

-The bill also doesn't define chemicals.

-There are lots of mild chemicals used by small miners. We ought to define what we are talking about.

202 BARROWS: Agrees; that's one of our main concerns.

-It's possible some of the things directed to large mines might have an effect on small mines.

CHAIR SCHROEDER: Do you have amendments?

BARROWS: We don't have specific language, we would like to work with

the working group.

CHAIR SCHROEDER: You will eventually have to have them drafted by Legislative Counsel.

REP. JOSI: What are some of the other chemical processes?

-Explain flotation.

230 BARROWS: He describes some of the chemicals and the flotation method.

REP. JOSI: Would like to know more.

BARROWS: Can supply more information.

253 REP. NORRIS: Suggests we try not to be too specific.

-A degree of ambiguity might be beneficial.

-A list of chemicals denies future discoveries.

BARROWS: Supports an option for the agencies to make exceptions.

-A specific list may cause problems.

279 REP. DWYER: We should make it clear that this bill is not intended to regulate mines of a certain size.

BARROWS: Agrees, but some mines that go over one acre may not be the large scale mines we're talking about.

REP. DWYER: We need a review process so there is some kind of exception.

CHAIR SCHROEDER: There are rules in place.

REP. DWYER: Would like them in the bill.

-We don't want to bring those smaller mines into the process and run them out of business.

308 JIM ALTO, Plexus Resources, Salt Lake City, Utah: We recognize the need for a comprehensive permitting process receiving public input.

-There is public input incorporated in the process for mines on federal land.

-We have specific concerns:

-1. The potential for a moratorium.

-2. The potential for major costly delays for not receiving adequate credit for work already completed for compliance of existing regulations.

-3. A weak linkage between the state and federal process.

-4. Rules and legislation applicable to large heap leach mining operations may be broadly applied to other mining situations.

-5. Assurance that the existing laws and permit process are not impeded by delays created by the rule-making process.

-6. Rules directed to the definitions and timing of notices of intent and permit applications should be completed as quickly as possible to allow on-going work.

-7. The proposed permitting process should be tailored to the size of the undertaking.

-We are not looking for relief from the environmental standards.

-8. There should be stronger language on the memorandum of understanding, insuring the data and environmental analysis can be used to satisfy state and federal requirement.

-9. Assurance that there is adequate accountability and cost control to the state's administrative process.

-Place a fixed fee or cap on the fees commensurate to the size and potential impact of the project, especially on federal lands.

392 REP. DWYER: Does it make any difference who's land the project is on?

ALTO: There are safeguards and federal requirements on BLM and U.S. Forest Service land.

REP. DWYER: We have a pattern of exceeding the federal standards.

ALTO: We are hoping for a memorandum of understanding that would coordinate the federal requirements with the state requirements to avoid duplication.

447 CHAIR SCHROEDER: We would like to have the group discuss backfilling and other items.

-He recesses at 9:05 A.M.

-He reconvenes at 9:13 A.M.

TAPE 86, SIDE B

028 REP. NORRIS: Does the state have authority on federal lands?

031 DON HULL, State Geologist: Yes.

REP. NORRIS: Is that well established in law?

HULL: Yes. We have memoranda of understanding with the BLM and U.S. Forest Service.

REP. NORRIS: Is there a difference between the state environmental evaluation and a federal environmental impact?

HULL: The state standards are more rigorous.

REP. NORRIS: Are they essentially the same?

HULL: The same topical areas are covered. There is a question of degree as well as additional state standards.

REP. NORRIS: Is standing and the appeals process addressed in the law?

HULL: The -2 amendments address standing, they are quite broad.

REP. NORRIS: Anyone could have standing?

HULL: That's my understanding.

REP. NORRIS: Should we restrict that?

HULL: Supposes we could.

REP. NORRIS: Suggests the work group look at that.

061 CHAIR SCHROEDER: Our Committee Administrator has notes on that.

REP. NORRIS: This act only applies to the heap leach process?

HULL: The current law and -2 amendments speak to the use of chemicals, not strictly heap leach mining.

REP. NORRIS: Do the -2 amendments address who can recover legal fees?

HULL: There is a provision for DOGAMI to recover administrative costs and legal fees.

REP. NORRIS: Nothing about out of area plaintiffs?

HULL: No.

093 REP. DWYER: Is it the intent of the bill to regulate small and intermediate mines that don't use cyanide?

HULL: It is tied to the existing law, which exempts miners below a specific size.

-Perhaps the drafter could provide a different answer.

-It exempts the small mines, but not the intermediate mines.

REP. DWYER: What public process do you use to site an intermediate mine that doesn't use cyanide as part of the process? How involved is the public?

-He asks about some specific mines.

126 GARY LYNCH, Supervisor, Reclamation of Surface Mined Land, Department of Geology and Mineral Industries: Some of those fall under the current exemptions. We don't consider them mid-sized mines.

-They don't fall under exemptions from the DEQ.

-We have a size threshold, but no one is exempt from performance standards that protect ground and surface water and air.

REP. DWYER: Can we develop a case-by-case process that's less restrictive?

HULL: We have struggled with that question. That threshold has been moved around in the law.

-We don't know of a good way to scale the nature of the process to the potential impact and to the size of the activity, because mines have a way of expanding.

-It's appropriate to have a rigorous process for smaller mines above that threshold of exemption.

162 CHAIR SCHROEDER: For the committee's information he refers to letter from DEAN BIBLES on HJM8 (EXHIBIT C).

164 REP. DOMINY: Has a problem restricting standing.

-These decisions affect the entire state and he wants to make it clear that there is no consensus about restricting anyone.

CHAIR SCHROEDER: We won't finalize this today.

195 REP. MEEK: Can we put parameters on the size of a midsize or small mine?

CHAIR SCHROEDER: We hope to work on that now.

202 MARTHA PAGEL, Governor's Policy Advisor for Natural Resources: It is not size, but the kinds of operation and chemicals used.

-We're trying to get at it with the definition of chemical process.

-We need to go back to the group with this.

224 CHAIR SCHROEDER: Look at both angles to try and take care of the small mines.

REP. DOMINY: The industry has said they had no problem excluding small miners. He would like to hear from the environmental community on this issue.

234 JEAN CAMERON, Policy Director, Oregon Environmental Council: Our concerns have been with large open pit heap leach mining.

-Some of these concerns can apply to small mines.

-We need to clarify the definition a little more.

253 TERRY DREAVER, Eastern Oregon Mining Association: We discussed deleting flotation.

-She felt that small miners using potentially harmful flotation devices should be covered.

-The definitions come from the new DEQ rules.

270 PAGEL: It was not the intention of the consensus group that these measures apply to sand and gravel and aggregate miners.

CHAIR SCHROEDER: We're looking at some kind of definition of small operations. If they go over a threshold and get involved in other types

of activities they will be subject to the same rules.

-Is that acceptable?

MEEK: Yes.

CHAIR SCHROEDER: Refers to "best available technology", page 2, EXHIBIT A from 5/1/91.

288 BETH PATRINO: Reads the three proposals.

304 REP. MEEK: GARY, you've left the agency proposal very broad.

-How often will you set the basis for what is practical, available technology?

324 LYNCH: Language like "highest and best practical use" attempts to deal with the balance between the environment and economics.

-This is more of a DEQ type issue.

-This language establishes the balancing that must occur to determine what is acceptable.

REP. MEEK: Will there be a forum so both parties can answer the practicality of best use and highest technology as you draft the rules prior to adoption?

LYNCH: That will be a public process.

REP. MEEK: The industry says the federal standards address that.

-Would our rules make sure the people of Oregon have a say in the rule drafting?

LYNCH: They would have that opportunity. That also applies to federal land.

408 REP. VANLEEUEWEN: Does the agency proposal eliminate the small miner by saying they need the best available technology?

LYNCH: The most expensive is not always the best.

-The DEQ language is not a mine industry standard. They are set regardless of industry.

-We are all subject to the same protection and performance standards.

-The DEQ understands the plight of small miners.

-We will have further discussions on what this language will mean to the small miner.

463 CHAIR SCHROEDER: A & C have similar language.

-If a company sets up a state of art process, do they have to retool if a better technology comes along?

LYNCH: It's at the time of permitting.

-It's a balancing between the environment and economics and does not mean that they would have to retool if a better technology comes out.

TAPE 87, SIDE B

028 CHAIR SCHROEDER: JEAN, what's your understanding?

CAMERON: It's the time of permitting.

-We don't see this applying just to the DEQ. Other agencies are involved.

-The agency's proposal only talks about extraction and processing. Appropriate and best available technology needs to apply to reclamation.

-"Proven" is dealt with by "available". Agencies would not ask applicants to use something that's not available, but we'd like to encourage the industry to try new things to assure there is environmental protection.

050 CHAIR SCHROEDER: In the agency proposal what if after "processing technology" we insert "and reclamation technology"?

CAMERON: Would like to hear from ODFW if that dealt with their concerns for wildlife protection.

-"Operation and closure technology" would be broader terms.

056 PAGEL: There was no intention to limit the language just to the DEQ standards.

LYNCH: The basic standards for protection of ground and surface water and air needs to be in DEQ.

-Any standards the other agencies are enforcing must also be met.

074 REP. NORRIS: Does this mesh with the land use laws?

PAGEL: They have not been directly involved with our group, but have been following what we are doing. We need to check with them.

-My understanding is that what we've done includes language that coordinates us with the local planning process.

084 IVAN URNOVITZ, Oregon Mining Council: The DEQ has gone through a series of public processes.

-We need to do whatever it takes to meet specific standards.

-The agency proposal with the suggestions that it applies to all aspects of the mine operation would be acceptable.

-We know we have to do a good job.

-It's unwise to require companies to take measures that are unnecessary.

-Some concern was raised by comments raised by the mining industry.

-He urges the committee to allow the consensus group to fine tune the proposals and make changes rather than reopen the consensus section.

-The concerns expressed by the industry show how hard it is to reach a consensus.

-The company concerns are legitimate.

-The consensus amendment should serve the best interests of the industry.

-The language selected for standing is fair and broad.

-It seems fair that anyone interested enough to come to a hearing or write comments should be allowed standing.

142 CHAIR SCHROEDER: MARTHA, can you get together with the group and resolve these issues?

PAGEL: The group is willing to do that.

-She misstated the time lines last night.

-The process begins with a notice of intent (the preapplication process).

-From the notice of intent to the filing of the application there is no specified time line.

-From the time the application is filed until the issuance of the notice to proceed is 90 days.

-Once the completeness determination is made, it is one year.

CHAIR SCHROEDER: Come back with additional proposals on the unresolved items.

-He adjourns at 9:52 A.M.

Submitted by: Reviewed by:

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

EXHIBIT LOG:

A - Testimony on HB 2244 - Richard Blubaugh - 6 pages
B - Testimony on HB 2244 - Gordon Tracy - 2 pages C - Letter
from Dean Bibles - Rep. Schroeder - 1 page