

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 13, 1991 Hearing Room E 6:30 P.M. State Capitol Tapes
98 - 101

MEMBERS PRESENT: REP. WALT SCHROEDER, Chair REP. LIZ VANLEEUWEN,
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 3410 - PUBLIC HEARING and WORK SESSION HB 2244 -
WORK SESSION

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 98, SIDE A

003 CHAIR SCHROEDER: Calls the meeting to order at 6:35 P.M.

PUBLIC HEARING -- HOUSE BILL 3410 -- EXHIBITS A to

Witnesses: Ann Hanus, Assistant State Forester, Department of Forestry
Joe Misek, Timber Tax Specialist, Department of Forestry Gary Carlson,
Oregon Small Woodland Owners Association

007 BETH PATRINO: Describes the bill and presents HB 3410-1, Proposed
Amendments to House Bill 3410, dated 5/9/91 (EXHIBIT A).

025 ANN HANUS, Assistant State Forester, Department of Forestry: The -1
amendments would streamline the administration of the WOSTOT program and
provide funding through the Western Oregon Timber Tax Account.

-This will result in a savings of 25 percent in administration costs.

044 JOE MISEK, Department of Forestry: Presents testimony in support of
the HB 3410-1 amendments (EXHIBIT B).

-He describes sections 1, 2, 4, and 8.

072 REP. DWYER: Does this go to Revenue?

CHAIR SCHROEDER: Yes.

MISEK: Continues with section 3, reinspections.

-He continues with section 6, funding.

-Section 7, the expenditure limitation is not necessary.

-He refers to section 5.

-We are doing away with the application fees, because it costs the Department of Revenue and the Department of Forestry more to administer than the collection of the fees generate.

119 GARY CARLSON, Oregon Small Woodland Owners Association: Testifies in support of the amendments.

-He doesn't think we can get around the larger fees for forestland owners.

139 REP. VANLEEUEWEN: The amendments eliminate the five year requirement for review.

CARLSON: There is no need to review once the stand is free-to-grow.

CHAIR SCHROEDER: What will we save?

MISEK: We've reduced the cost about 25 percent.

CHAIR SCHROEDER: \$100,000 per biennium?

MISEK: Yes.

CHAIR SCHROEDER: Closes the Public Hearing.

WORK SESSION -- HOUSE BILL 3410

CHAIR SCHROEDER: Opens the Work Session.

156 MOTION: REP. DWYER: Moves to delete section 7 of HB 3410-1, Proposed Amendments to House Bill 3410.

CHAIR SCHROEDER: Hearing no objection the motion passes.

MOTION: REP. DWYER: Moves to adopt HB 3410-1, Proposed Amendments to House Bill 3410, dated 5/9/91 as amended.

CHAIR SCHROEDER: Hearing no objection the motion passes.

MOTION: REP. DWYER: Moves to delete section 7 and renumber section 8 as section 7.

MOTION: REP. DWYER: Moves House Bill 3410 as amended to the House Committee on Revenue and School Finance with a do pass recommendation.

VOTE: The motion passes unanimously.

WORK SESSION -- HOUSE BILL 2244 -- EXHIBITS C to P

Witnesses: Martha Pagel, Governor's Policy Advisor for Natural Resources
Don Hull, State Geologist Gary Lynch, Supervisor, Reclamation of Surface

Mined Land, Department of Geology and Mineral Industries Jean Cameron,
Oregon Environmental Council Ivan Urnovitz, Oregon Mining Council
Jeannette Holman, Legislative Counsel

CHAIR SCHROEDER: Opens the Work Session.

218 BETH PATRINO: Presents HB 2244-3 (EXHIBIT C), HB 2244-4 (EXHIBIT D), HB 224 4-5 (EXHIBIT E), HB 2244-6 (EXHIBIT F), HB 2244-7 (EXHIBIT G), HB 2244-8 (EXHIBIT H), HB 224 4-9 (EXHIBIT I), HB 2244-10 (EXHIBIT J), HB 2244-11 (EXHIBIT K), HB 2244-12 (EXHIBIT L), HB 224 4-13 (EXHIBIT M), HB 2244-14 (EXHIBIT N), HB 2244-15 (EXHIBIT O).

249 MOTION: REP. DOMINY: Moves to adopt HB 2244-3, Proposed Amendments to House Bill 2244 dated 5/13/91.

256 REP. DWYER: What about the blanks?

PATRINO: The other amendments fit into the blanks.

REP. DWYER: Can we get an overview of the -3 amendments?

263 MARTHA PAGEL, Governor's Policy Advisor for Natural Resources: Describes HB 2244-3, Proposed Amendments.

290 CHAIR SCHROEDER: Is the environment protected under present regulations?

PAGEL: Yes.

REP. DWYER: Does this talk about on-site processing?

-We have to address that.

-We should have a different standard for people who process off-site.

313 PAGEL: We didn't specifically address that issue.

319 DON HULL, State Geologist: Quotes the existing regulation.

-These amendments would cover processing at a site removed from the mine site.

-It is not the intent of the existing law to relate to processing operations that use imported ore.

-Current law applies to mills at a distance from a mine or mines.

REP. DWYER: Is the intent of this to require smaller mines of more than one acre that process somewhere else to go through all of these processes?

PAGEL: A new chemical processing facility would be required to go through this process.

375 GARY LYNCH, Supervisor, Reclamation of Surface Mined Land, Department of Geology and Mineral Industries: A custom mill that took in more than 5,000 yards of material and used a cyanide vat leach process should be covered.

-If that mill was next to a mine it would also be covered by this.

REP. DWYER: What about a mine that sends the ore to a mill in another state?

LYNCH: If it exceed 5,000 yards and did not use chemicals in the extraction process it would not fit into this category.

-A large mine can't afford to haul material a long distance.

403 REP. NORRIS: No mine uses chemicals to extract ore do they?

LYNCH: Correct.

REP. NORRIS: Only processing operations use chemicals?

LYNCH: Correct.

REP. NORRIS: Why don't we delete "mining and"?

LYNCH: Large scale operations have a serious impact on the environment.

REP. NORRIS: Does that result from the use of chemicals?

LYNCH: No.

-Divorcing those concepts could seriously affect the intent of this bill.

438 CHAIR SCHROEDER: Have you ever seen the Alameda Mine on the Rogue River?

LYNCH: Is aware of it.

CHAIR SCHROEDER: Quail Creek was supposed to have a lot of arsenic in it. Was that from on-site processing with chemicals?

HULL: There was an on-site smelter within a few hundred yards from the mine.

CHAIR SCHROEDER: There is nothing growing in that area. Is that because of the chemicals they used?

HULL: That is due to the natural oxidation of the sulfite bearing ore.

TAPE 99, SIDE A

012 PAGEL: We've clarified that meetings of the Project Coordinating Committee are open to the public.

-She refers to the definition of the "cooperating agency" page 2, line 2.

-She lists other changes in the -3 amendments.

051 CHAIR SCHROEDER: What are the other population centers after Portland (page 6, line 20)?

HULL: The county seat or a larger city in a county.

REP. DWYER: It says closest to the site of the proposed mine.

CHAIR SCHROEDER: There are two public meetings. Would you have the second meeting in the major population center in the area or in Portland, Salem or Eugene?

HULL: Supposes we'd want a precise definition in the rule-making.

PAGEL: We talked about a public hearing in the area and a hearing on the westside in Portland, Eugene or Salem.

REP. JOSI: What about Bend?

PAGEL: Bend or Medford could be likely locations.

-Much of this would be determined in rule-making and determined on a case-by-case basis.

REP. VANLEEUEWEN: Why would you have a meeting in a major population center that is not necessarily geographically close to the mine?

PAGEL: There are two hearings. One is always in a city or town closest to the project.

093 REP. DOMINY: What's your definition of major?

LYNCH: We had trouble trying to define that.

-It was understood that there would be a hearing in the area of impact and then we talked about Portland, Salem, and Bend as possible areas for state-wide coverage.

PAGEL: Continues with page 10, section 2.

154 REP. NORRIS: Is there a set list of permitting agencies? How many are there?

PAGEL: It's not a set list. On any given project different agencies may be involved.

REP. NORRIS: Would each agency issue a separate permit?

PAGEL: There is a consolidated review process and each agency retains its authority to issue individual permits.

REP. NORRIS: Are they on a parallel path? Is there a specific date the applicant can expect to hear from the permitting agencies?

PAGEL: They are all on a 225 day time line.

REP. DOMINY: Refers to page 3, section 4. One of the amendments will fill in those blanks?

PAGEL: Yes.

REP. DWYER: Has no objection to that.

CHAIR SCHROEDER: Any objection to adopting HB 2244-3?

203 REP. NORRIS: Is there any criteria for standing?

PAGEL: A person has standing if they have participated in the prior proceedings.

REP. NORRIS: Someone from anywhere could participate?

PAGEL: It doesn't exclude that option.

CHAIR SCHROEDER: Do they have to be present at the initial hearing or could they send a post card?

PAGEL: They could appear in person or could send a letter.

REP. NORRIS: A person in Ohio would have the same standing as someone who lives near the mine?

PAGEL: Yes.

REP. NORRIS: Hopes everyone is comfortable with that, he isn't

PAGEL: We faced the same dilemma.

CHAIR SCHROEDER: Hearing no objections HB 2244-3 is adopted.

-He refers to HB 2244-8 (EXHIBIT H), HB 2244-9 (EXHIBIT I), and HB 2244-11 (EXHIBIT K).

273 JEAN CAMERON, Oregon Environmental Council: The environmental organizations are signing off on a combination of HB 2244-11 (EXHIBIT K) and HB 2244-13 (EXHIBIT M) with some changes.

PAGEL: HB 2244-11 and HB 2244-13 set the standards that the Department of Fish and Wildlife use and sets the process by which they participate.

-She describes the amendments.

CHAIR SCHROEDER: The -13 is an amalgamation?

PAGEL: Its HB 2244-11 and HB 2244-13 together.

316 REP. VANLEEUEWEN: Only the agency and environmental groups have agreed to these?

PAGEL: Correct.

-We have two proposals; the agency/environmental proposal and the industry proposal.

-We propose some changes.

-On line 12, HB 2244-11, insert "(d) Fish and wildlife mortality shall be reported in accordance with a monitoring and reporting plan approved the Department of Fish and Wildlife."

-On page 1, line 20, HB 2244-13, after "shall" insert "cooperate with the State Department of Fish and Wildlife to".

375 REP. NORRIS: Where do the -11 amendments fit into the -3 amendments?

PAGEL: The blanks on page 3, section 4.

392 REP. DOMINY: Which is the industry proposal?

421 PATRINO: HB 2244-8 (EXHIBIT H), which compares to HB 2244-11.

TAPE 98, SIDE B

003 IVAN URNOVITZ, Oregon Mining Council: Presents testimony on the Oregon Mining Council's current position (EXHIBIT P).

054 REP. DWYER: What is acceptable mortality (page 2, "Wildlife Protection", EXHIBIT P)?

URNOVITZ: It depends on the species.

-Several scores of field mice could be lost.

-The loss of a handful of waterfowl would require looking to see if the protective measures were adequate.

-All of us agree we need to set up criteria and trust the discretion of the Department of Fish and Wildlife.

CHAIR SCHROEDER: How do the -8 amendments fit in?

URNOVITZ: They are superseded by my testimony.

080 REP. DOMINY: How far apart are you from the -11 amendments?

-Do we have to adopt one or the other?

URNOVITZ: None of these is complete.

-He discusses lines 6 to 8, HB 2244-11.

-We'd like some language to make sure there were some limits on the discretionary agencies.

107 REP. DWYER: What's acceptable, who's making those decisions?

-You can't have it both ways.

REP. MEEK: Would you like a motion?

CHAIR SCHROEDER: Would like some clarification.

-Mines in Nevada had ponds covered with wire netting.

-The waste pond had birds on it. Is it toxic?

-Is one of our concerns requiring waste ponds to be covered?

URNOVITZ: That is part of our concern.

-The practices in Nevada are accepted by the industry of what needs to be done.

-The State of Nevada has set standards on what the levels of cyanide should be.

-Below a certain level of cyanide there are no apparent effects to wildlife.

-We are concerned that the language in HB 2244-11 could allow extreme measures, like a requirement of constructing a building over a tailing pond.

160 REP. DOMINY: Would like MARTHA PAGEL to explain what is covered.

PAGEL: The Department of Fish and Wildlife is attempting to address some certainty that any fish or wildlife will not have access to harmful chemicals and ponds.

-We are confident that with the permitting process appropriate methods for assuring wildlife protection would be developed, including economic factors.

-The department was not willing to draw a line between common species and threatened and endangered species.

REP. DOMINY: There are two definitions covered; a building or netting. Is netting acceptable?

PAGEL: The intention was to use the industry's standard methods.

REP. DOMINY: Would it be satisfactory to both sides if we added language that indicated the standard covering used in the industry?

PAGEL: There is a way to capture the notion of industry standards.

-We felt the process would get us there.

-The bottom line is that it be safe to fish and wildlife.

208 CAMERON: Originally our proposal included more specific standards.

-We compromised on this language by setting a performance standard and left it up to the industry and the agencies to negotiate on the available technology that will work.

-We don't think the agencies will be unreasonable.

242 CHAIR SCHROEDER: Wouldn't the rules say the protective measures have to be maintained at an appropriate level?

CAMERON: Specific protections can be written into the permit. We don't want that much detail in the statute.

PAGEL: We did not think we'd be asking the industry to do something that wasn't available or currently being done.

271 REP. NORRIS: Are we comparing the -8 and -11 amendments?

CHAIR SCHROEDER: The -8 amendments are superseded by the Oregon Mining Council's presentation.

REP. NORRIS: What else can we throw away?

CHAIR SCHROEDER: HB 2244-9 can be eliminated.

-Our choices are the May 13 letter by MR. URNOVITZ and the combination of HB 2244-11 and 2244-13.

295 MOTION: REP. DOMINY: Moves to adopt HB 2244-11, Proposed Amendments to

House Bill 2244, dated 5/13/91 with a further amendment on line 7, that conceptually says the best technology known in the industry.

318 MOTION: REP. MEEK: Moves to further amend HB 244-11 by adding subsections (d) and (e) from page 2 of the Oregon Mine Council proposal under "Wildlife Protection".

CHAIR SCHROEDER: Subsection (e) is on page 1, lines 12 to 21, HB 2244-13.

REP. MEEK: On line 9 delete "Mitigation" and insert "On-site and off-site mitigation".

359 REP. DOMINY: It was his intent in his motion to include: On line 12 insert "(d) Fish and wildlife mortality shall be reported in accordance with a monitoring and reporting plan approved the Department of Fish and Wildlife."

370 CHAIR SCHROEDER: Hearing no objection REP. MEEK's amendment is adopted.

REP. DOMINY: For clarity: HB 2244-11, line 7, after "contained" insert "with the best known industry standards" or words to that effect.

411 JEANNETTE HOLMAN, Legislative Counsel: On line 7 after "contained" insert "in a manner consistent with known industry standards".

REP. DOMINY: Has no objection.

439 REP. VANLEEUVEN: Offers a friendly amendment on line 5 delete "zero" and insert "no net loss".

REP. DOMINY: Would like to hear the difference between "zero" and "no net loss".

462 CHAIR SCHROEDER: Let's act on the motion.

-Hearing no objections REP. DOMINY's amendment is adopted.

REP. VANLEEUVEN: Restates her amendment.

REP. DOMINY: Would like the agency to define that as being different.

482 REP. JOSI: We are talking about an objective.

TAPE 99, SIDE B

028 PAGEL: We considered "no net loss", but it was not acceptable to the Oregon Department of Fish and Wildlife.

-It is implicit in subsection (d) that it is not attainable.

-We all agreed that was a reasonable objective. We're trying to set up protection so there will be no fish and wildlife loss; recognizing some

will occur.

- "No net loss" would mean there could be loss and you would try to mitigate or replace the loss.

REP. VANLEEUEWEN: That's the reason she wants that language.

044 REP. DWYER: Likes the language the way it is.

- Subsection (d) recognizes that a zero objective cannot be met.

REP. DOMINY: The industry said they had no problem with that.

060 REP. NORRIS: Zero mortality is admirable.

- Someone could file suit if one duck is poisoned. It is dangerous language.

REP. JOSI: MARTHA said it well. No net loss is very ambiguous.

PAGEL: That language would open the door that some losses are allowed and they could make it up somewhere else.

- We're talking about containing a dangerous situation.

CHAIR SCHROEDER: Could the project be closed down if one bird is killed?

PAGEL: No.

081 REP. VANLEEUEWEN: What's the penalty? What happens to the company if 10 birds are killed?

PAGEL: The application includes a fish and wildlife protection plan that lays out what is allowed and what is not allowed.

- The mine won't close down if they are operating according to the plan.

REP. DWYER: Would like the industry to respond.

URNOVITZ: Our language talks about taking "every reasonable and practicable measure" to keep mortality at the very lowest level--to get as close to zero as possible.

- "No net loss" means we will make some effort to make sure there is some habitat or improved habitat that will allow the species to thrive a little bit more than it would have.

REP. DWYER: Is "zero" acceptable with subsection (d) added?

URNOVITZ: It's clear what the intention is from the testimony and changes.

125 CAMERON: There is a critical difference between no net loss for wildlife and no net loss for habitat.

- Wildlife can't be replaced, but habitat can be replaced.

- She is not comfortable with "no net loss".

-None of the wildlife people expected there would be zero mortality.
The point was to set our goals high in developing the plan.

CHAIR SCHROEDER: Your organizations won't try to close down an operation if one death occurs?

CAMERON: We would expect the permittee to be accountable to the permit. We don't think the permit will be unreasonable because of language you have accepted.

REP. VANLEEuwEN: Won't vote for the bill unless it is changed.

-This is an impossible standard to reach.

-Any dead animal would be attributed to the operation.

-She is tired of setting impossible standards.

168 PAGEL: Another alternative would be on line 5 after "(a)" insert "Recognizing that some unavoidable loss can occur,".

182 REP. MEEK: Offers a friendly amendment on line 6 before the period insert "recognizing that a goal of zero mortality is unachievable as a practical matter".

REP. VANLEEuwEN: That's acceptable.

HOLMAN: There's no problem with that.

CHAIR SCHROEDER: Hearing no objections the motion passes.

208 MOTION: REP. DOMINY: Moves to adopt HB 2244-11, Proposed Amendments to

House Bill 2244, dated 5/13/91 as amended.

CHAIR SCHROEDER: Hearing no objection the motion passes.

217 MOTION: REP. DWYER: Moves to adopt HB 2244-13 with an amendment on page 1, line 20 after "shall" insert "cooperate with the State Department of Fish and Wildlife to".

228 REP. VANLEEuwEN: Can we hear the industry's preference?

URNOVITZ: HB 2244-13 is consistent with our intent.

-There was going to be a mechanism where we could appeal what was placed in the permit.

254 PAGEL: The conditions on any permit can be appealed. That is in the section on permits and appeals.

REP. MEEK: Refers to page 1, lines 2 to 5, HB 2244-13. Is the Oregon Department of Fish and Wildlife the last agency to issue a permit?

PAGEL: This refers to Department of Geology and Mineral Industries. They are the last agency.

REP. VANLEEuwEN: Each agency can change the permit to suit their own agencies.

PAGEL: The appeal provision is on page 14, section 21, HB 2244-3.

-She describes the draft permit process on pages 12 and 13, HB 2244-3.

301 HOLMAN: There is a problem including subparagraph (e) from the Oregon Mining Council proposals. It is a duplication of page 1, lines 7 to 21, HB 2244-13.

311 MOTION: REP. DOMINY: Moves on page 1, HB 2244-13, to delete lines 12 through 21.

REP. VANLEEUEWEN: Refers to page 14, line 14, HB 2244-3.

-How much longer does the suspension of the permit hold things up?

332 PAGEL: It suspends all the permits until the consolidated contested case hearing is held.

-The time period is described on page 14, line 8.

-There is no time frame for the agency, board or commission to issue their final decision.

-The language is a little different. They cover some different aspects, but the intent is the same.

-We struggled achieving a consensus on this language and urge the committee to keep it.

CHAIR SCHROEDER: IVAN, would it be acceptable to eliminate your language and keep this language?

URNOVITZ: Yes.

REP. DOMINY: Removes his motion.

CHAIR SCHROEDER: Hearing no objection HB 2244-15 is adopted.

397 MOTION: REP. MEEK: Moves to delete subparagraph (e) from HB 2244-11.

CHAIR SCHROEDER: Hearing no objection the motion passes.

CHAIR SCHROEDER: Recesses at 8:25 P.M.

-He reconvenes at 8:32 P.M.

-We will discuss HB 2244-5 (EXHIBIT E) and HB 2244-10 (EXHIBIT J).

434 URNOVITZ: This is covered on the bottom of page 1 of my testimony (EXHIBIT P).

REP. VANLEEUEWEN: Is his proposal separate?

CHAIR SCHROEDER: Yes. Let's call IVAN's proposal -16.

TAPE 100, SIDE A

021 PAGEL: Gives background information on Best Available Control

Technology (BACT).

REP. DWYER: The environmental proposal (HB 2244-10) talks about management practices.

-He doesn't see any significant difference in these three proposals.

042 CAMERON: The word "practicable" in the industry proposal gives us concern about whether or not it's proven. We want the standard based on environmental protection.

REP. DWYER: Is HB 2244-5 a compromise between the positions?

CAMERON: Yes.

053 MOTION: REP. DWYER: Moves HB 2244-5, Proposed Amendments to House Bill

224 4, dated 5/13/91.

CHAIR SCHROEDER: Hearing no objection the motion passes.

-We'll consider HB 2244-12 (EXHIBIT L) and HB 2244-15 (EXHIBIT O).

URNOVITZ: Our proposal is on pages 2 and 3, "Performance Surety".

CHAIR SCHROEDER: We'll call that -17.

070 PAGEL: The agencies and environmental groups agree on HB 2244-12, with some changes.

URNOVITZ: We're close to agreeing on HB 2244-12.

-The agencies and environmental groups were insistent with raising the bond caps. We're very uncomfortable raising them.

-There is a significant technical difference between surety and a bond.

-A bond is a very specific instrument. Surety is broader, but still says the state needs to be protected.

097 PAGEL: We could work off of HB 2244-12 and work out compromise language.

101 MOTION: REP. DWYER: Moves to adopt HB 2244-12, Proposed Amendments to House Bill 2244, dated 5/13/91.

REP. MEEK: Refers to page 1, lines 9 to 11. It seems like a lot of work for all the permitting agencies to concur with the bond proposal.

-He would like the Department of Geology and Mineral Industries to make the determination and the other agencies to submit possible concurrence.

REP. DWYER: The other agencies would make recommendations.

REP. MEEK: Yes, but one department has to make the decision.

118 REP. JOSI: Lines 10 and 11 says if all the agencies concur.

CHAIR SCHROEDER: Do you have wording?

MOTION: REP. MEEK: Moves that on page 1, line 9, HB 2244-12, after "shall" delete the rest of the line and insert "determine the bond and all the permitting agencies submit their proposal.". On line 10 delete "ting and cooperating agencies."

REP. DOMINY: Wants to make it clear that it is the Department of Geology and Mineral Industries.

REP. MEEK: Line 10 should come before line 9 and read, "All permitting agencies shall submit their proposal for the bond and the amount and the department shall determine the appropriate amount."

CHAIR SCHROEDER: Is the department defined?

PAGEL: Yes.

-We have no objection with that concept.

140 REP. MEEK: Proposes a friendly amendment. On line 9 after the period delete line 9 and insert "All permitting and cooperating agencies shall submit their proposal to the department of the proposed bond amount and the department shall determine the appropriate amount and shall be adopted."

-That could be cleaned up.

152 REP. DWYER: JEANNETTE, we don't want to be so inclusive to just require bonds.

-How do we structure this so we can be inclusive in protecting the public's interest?

HOLMAN: You can list the acceptable forms.

-You can require some form of financial assurance.

REP. NORRIS: Line 17 mentions "an irrevocable letter of credit".

-Can we add a certificate of deposit?

PAGEL: Our group recommended some changes, because we wanted to include alternative forms.

-On line 15 after "bond" insert "or alternative security acceptable to the department". On line 17 after the period delete the rest of the line. On line 18 delete "from a federally insured bank."

-She believes the industry agreed to these changes.

191 REP. VANLEEUEWEN: How does subsection 1 on page 1, differ from subsection 8 on page 3?

PAGEL: We proposed some changes in that section.

-The security in section 8 is long-term site maintenance to provide income for the department to keep an eye on the site.

REP. VANLEEUEWEN: Another bond is renegotiated?

URNOVITZ: There would be sufficient bonds to take care of the closure period.

-Subsection 8 was proposed as an option. If the company and agencies agree the site doesn't look to be a problem, but the agencies aren't comfortable in releasing the final bond, the company could negotiate an annuity to cover the long-term care and bonding so the company could be released from the final bonding obligation.

226 MOTION: REP. DWYER: Moves on page 1, line 15 after "bond" insert "or alternative security acceptable to the department". On line 17 after the period delete the rest of the line. On line 18 delete "from a federally insured bank."

CHAIR SCHROEDER: Hearing no objection the motion passes.

243 PAGEL: On line 6 delete "worse case scenario" and insert "credible accident". We have agreed to use those words in place of "worse case scenario" throughout the bill.

-On line 10 delete the sentence beginning "If all permitting...." Also delete the next sentence, "The department shall require...."

-The industry believes there should be a limit, but the agency/environmental group believes it should be the actual cost of reclamation without a limit.

CHAIR SCHROEDER: What is ORS 197.947 and 197.950 in the industry proposal?

URNOVITZ: Those are the existing bonding statutes.

-There are two types of caps on reclamation and one on process facilities.

281 REP. DWYER: The bonding ought to be commensurate with the risks determined by the permitting agencies.

MOTION: REP. DWYER: Moves on line 6 "delete worse case scenario" and insert "credible accident". On line 10 delete the sentence beginning "If all permitting...." Also delete the next sentence, "The department shall require...."

305 REP. VANLEEUEWEN: Are you suggesting we delete the \$500,000 bond?

PAGEL: We delete the minimum and say there is not a limit.

REP. VANLEEUEWEN: Please restate the deletion on lines 11 to 13.

PAGEL: Restates the deletion.

REP. DWYER: This takes it on a case-by-case basis determined in cooperation with the industry and the agencies.

CHAIR SCHROEDER: What does the industry think?

354 URNOVITZ: We have no problem deleting the minimum.

-We need caps to protect us from overzealous agency personnel.

-Under the current caps the Atlas operation could be bonded for \$80 million.

-We would like the current caps to remain.

375 REP. MEEK: Refers to page 2, lines 7 to 17, the provision about an inadequate bond amount.

-IVAN, should we have a limit on the bond and leave this section or get rid of this section and have an unlimited amount on the bond?

URNOVITZ: This section is similar to current statutes.

-You have to see if the bond is adequate as you continue with the mine operation. If the company needed to post a higher limit and could not meet that obligation a lien would be placed against their property.

-A company is liable for the costs and would be obligated to reimburse the state one way or another.

REP. MEEK: The company's assets are still obligated to cover the reclamation irrespective of the bond limit.

URNOVITZ: That's right.

REP. MEEK: What's the current limit?

URNOVITZ: Believes it is \$10,000.

455 LYNCH: There are two bonds in present statute.

-1. A chemical processing bond in case of an accident. It's a minimum of \$25,000 and a maximum of \$500,000.

TAPE 101, SIDE A

020 LYNCH: 2. The reclamation bond is capped at \$10,000 per acre unless it can be shown there is a threat of toxic metals being introduced into the environment. The ceiling would then be \$100,000 per acre or the cost of reclamation, whichever amount is lower.

033 REP. NORRIS: Does this subsection say anything if a company declares Chapter 11 bankruptcy?

URNOVITZ: The lien would be against any "personal property" at the site.

CAMERON: Subsection 6 makes it more difficult for the state if they were left having to reclaim the mine site.

-That's why we want to remove the cap and let the agencies determine what's appropriate.

-It is unlikely the costs would go past the current caps.

052 REP. MEEK: Are there some qualifications or criteria the department must come up with to set the amount of the bond?

PAGEL: We intended to cover that on page 1, lines 4 and 5.

-The actual cost of reclamation is the limit.

REP. MEEK: You're referring to the estimate of the total cost of reclamation?

PAGEL: We should insert, "A bond shall be required to cover the actual reclamation costs."

REP. MEEK: The department determines the actual cost.

PAGEL: Yes. The department sets a bond amount to cover the actual cost of reclamation and that is based on estimates submitted by the applicant and reviewed by agencies and the public in the permitting process.

BETH: Suggests on line 14 after "require" insert "to cover the actual costs of reclamation."

088 URNOVITZ: Our concern is not with the cost of reclamation, it's with using the incredible accident scenario analysis as a guide.

-We may have to post a relatively large bond for a low probability event.

CHAIR SCHROEDER: Do you have proposed wording?

103 REP. VANLEEuwEN: What's the difference between "credible accident" and "worse case scenario"?

URNOVITZ: Semantics.

CAMERON: There is a significant difference.

REP. DWYER: Worse case could be anything you could imagine.

REP. VANLEEuwEN: Refers to page subsection 6. Has there been any agreement on the standards for reclamation?

-Is that spelled out in the permit?

CHAIR SCHROEDER: That's in another amendment.

CAMERON: That is spelled out in the permit.

123 REP. DWYER: Restates his motion: On line 6 "delete worse case scenario" and insert "credible accident". On line 10 delete the sentence beginning "If all permitting...." Also delete the next sentence, "The department shall require....". On line 14 after "require" insert "to cover the actual costs of reclamation."

CHAIR SCHROEDER: hearing no objection the motion passes.

140 PAGEL: On line 20 "permittee" should be "department".

MOTION: REP. DWYER: Moves on page 2, line 20 to delete "permittee" and insert "department".

REP. VANLEEuwEN: Why do they review annually?

PAGEL: That's consistent with Department of Geology and Mineral Industries's practices.

URNOVITZ: We discussed the allowance of an incremental increase in the posted bond or surety.

-It needs to be done periodically.

-He refers to page 2, subsection b, "Performance Surety" (EXHIBIT P). We would delete reference to the limits on the bonds.

174 MOTION: REP. MEEK: Moves in the OMC Proposal, page 2, (so-called -17 amendments, EXHIBIT P) to amend subsection (b): Delete ", up to the limits established by ORS 197.947 and 197.950,".

On page 2, line 2, HB 2244-12 after the period insert the above amended subsection (b).

CHAIR SCHROEDER: Hearing no objection the motion passes.

199 PAGEL: We recommend deleting page 2, lines 7 through 17.

-We could rely on the existing provisions for default.

212 MOTION: REP. DWYER: Moves on page 2, HB 2244-12, delete lines 7 through 11 and renumber the rest of the subsections to reflect the deletion.

CHAIR SCHROEDER: Hearing no objection the motion passes.

235 PAGEL: On page 2, line 25, "restoration" should be "reclamation".

237 MOTION: REP. DWYER: Moves on page 2, line 25, HB 2244-12, delete "restoration" and insert "reclamation".

CHAIR SCHROEDER: Hearing no objection the motion passes.

242 PAGEL: On page 3, line 9 delete "perpetual" and insert "post reclamation".

MOTION: REP. DWYER: Moves on page 3, line 9, HB 2244-12 delete "perpetual" and insert "post reclamation".

CHAIR SCHROEDER: Hearing no objection the motion passes.

249 PAGEL: On page 3, line 11, delete "all" and insert "long-term".

252 MOTION: REP. DWYER: Moves on page 3, line 11, delete "all" and insert "long-term".

257 PAGEL: On page 3, line 12 delete "in perpetuity".

MOTION: REP. DWYER: Moves on page 3, line 12 delete "in perpetuity".

265 URNOVITZ: This makes it look like the annuity is mandatory.

-We thought it was something that was an option with mutual agreement of the companies and agencies.

REP. DOMINY: On page 3, line 9 what if we changed "shall" to "may"?

278 MOTION: REP. DOMINY: Moves on page 3, line 9 delete "shall" and

insert "may".

REP. DWYER: Will not support that change.

-He wants to know there is security there.

REP. NORRIS: The security required in subsection (8) is a significant amount of money.

REP. DWYER: You're talking about an annuity.

REP. NORRIS: We're specifying they generate enough interest to cover long-term care.

URNOVITZ: That is an option that would be available. This implies that security in some form is already available.

-The intention is to have the state always covered and this is an option.

CHAIR SCHROEDER: Do you object to that wording?

URNOVITZ: Not with "may".

331 PAGEL: On page 3, line 9, delete "shall" and insert "may". On line 10 after "security" insert "or annuity" and delete line 11 and insert "sufficient to cover long-term site care." and on line 12 delete "monitoring needs in perpetuity."

MOTION: REP. DWYER: Moves on page 3, line 9, delete "shall" and insert "may". On line 10 after "security" insert "or annuity" and delete line 11 and insert "sufficient to cover long-term site care." and on line 12 delete "monitoring needs in perpetuity."

REP. DOMINY: Withdraws his motion.

CHAIR SCHROEDER: Hearing no objection the motion passes.

-What about "shall" and "may"?

356 PAGEL: Added "may", because this is not required in all situations.

REP. VANLEEUEWEN: Does that security have to generate enough interest?

PAGEL: That was deleted.

CHAIR SCHROEDER: Read that section.

PAGEL: Reads the amended language.

382 URNOVITZ: On line 10 we should delete "the start of mining operations." and insert "before final bond release."

390 MOTION: REP. DWYER: Moves on line 10 delete "the start of mining operations." and insert "before final bond release."

CHAIR SCHROEDER: Hearing no objection the motion passes.

400 MOTION: REP. MEEK: Moves on page 3, line 4 delete "all permitting and" and on line 5 delete "cooperating agencies" and on lines 6 through

8 delete the sentence that begins "All permitting and".

URNOVITZ: Concurs.

-Similar language may be needed on page 2, line 1.

CHAIR SCHROEDER: Hearing no objection the motion passes.

452 MOTION: REP. MEEK: Moves on page 2, line 1 delete "all permitting and cooperating" and insert "the department" and delete line 2.

CHAIR SCHROEDER: Hearing no objection the motion passes.

TAPE 100, SIDE B

021 PAGEL: On page 3, lines 14 and 15 we should delete the sentence that begins "If the permitting...."

MOTION: REP. DWYER: Moves on page 3, line 14 after the period delete the rest of the line and delete line 15.

REP. VANLEEUEWEN: Is line 13 okay?

CHAIR SCHROEDER: Hearing no objection the motion passes.

031 MOTION: REP. MEEK: Moves HB 2244-12, Proposed Amendments to House Bill 224 4 as amended be adopted.

CHAIR SCHROEDER: Hearing no objection the motion passes.

039 REP. NORRIS: How long does liability last?

URNOVITZ: The EPA suggests we may need to monitor up to 30 years. The state and federal agencies could come back at any time if there is a problem.

REP. NORRIS: People still want to mine?

URNOVITZ: Yes.

CHAIR SCHROEDER: Please read HB 2244-14, HB 2244-4, HB 2244-6 and HB 224 4-7 and MR. UNRNOVITZ's letter on the moratorium and backfilling before the next meeting.

-He adjourns at 9:32 P.M.

Testimony submitted by DEBRA TODD, Florence Oregon, is filed as EXHIBIT Q.

Submitted by: Reviewed by:

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

EXHIBIT LOG:

A - Amendments to HB 3410 - Joe Misek - 9 pages
B - Testimony on HB 3410 - Joe Misek - 3 pages
C - Amendments to HB 2244 - Martha Pagel - 30 pages D-Amendments
to HB 2244 - Martha Pagel - 2 pages E-Amendments to HB 2244 - Martha
Pagel - 1 page F-Amendments to HB 2244 - Martha Pagel - 1 page
G-Amendments to HB 2244 - Martha Pagel - 1 page H-Amendments to HB 2244
- Martha Pagel - 1 page I-Amendments to HB 2244 - Martha Pagel - 3 pages
J-Amendments to HB 2244 - Martha Pagel - 1 page K-Amendments to HB 2244
- Martha Pagel - 1 page L-Amendments to HB 2244 - Martha Pagel - 3 pages
M-Amendments to HB 2244 - Martha Pagel - 2 pages N -Amendments to HB
2244 - Martha Pagel - 2 pages O -Amendments to HB 2244 - Martha Pagel
- 3 pages P -Testimony on HB 2244 - Ivan Urnovitz - 5 pages
Q -Testimony on HB 2244 - Debra Todd - 2 pages