

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.

Measures Heard Informational meeting No measures heard

HOUSE COMMITTEE ON ENVIRONMENT AND ENERGY

January 16, 1991Hearing Room E 1:30 p.m.Tapes 1 - 3

MEMBERS PRESENT:Rep. Parkinson, Chair Rep. Whitty, Vice-Chair Rep. Burton Rep. Courtney Rep. Naito Rep. Norris Rep. Repine Rep. Van Leeuwen Rep. Watt

STAFF PRESENT: Kathryn VanNatta, Committee Administrator Andy Sloop, Committee Assistant Arnie Braafladt, Legislative Counsel

WITNESSES: Fred Hansen, Director, Department of Environmental Quality Lydia Taylor, Administrator, DEQ Water Quality Division Stephanie Hallock, Administrator, DEQ Hazardous and Solid Waste Division Mike Downs, Administrator, DEQ Environmental Cleanup Division Steve Greenwood, Administrator, DEQ Air Quality Division

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TAPE 1, SIDE A

000 CHAIR PARKINSON: Calls meeting to order at 1:36 p.m

COMMITTEE ORGANIZATION

032 Committee reviews model organizational and procedural rules handed down by House leadership.

037 REP. NAITO: Asks about rule 11 regarding minority report requirements.

39CHAIR PARKINSON: Under proposed rules, minority reports require participation by two or more dissenting members of the committee. This was established by the majority party during the 1989 session. Personally, I don't like it. In fact, I have spoken to the leadership.

They say that at this stage in the game, they have no intention of changing this rule. I don't know if this is a question of philosophy, but we probably should have moved more quickly if we wanted to change this rule.

47REP. NAITO: In Business and Consumer affairs, we made the rules more specific as far as the time requirement. In particular, we made it so that the person who announces an intent to file a minority report would have until 5 p.m. two session days after the vote to file the report.

53CHAIR PARKINSON: The two days is mentioned in here. We used to have to give notice of a minority report before the end of the meeting during which the vote occurred. The new rule is much more lenient.

56REP. BURTON: Is the intent to have the notice of a minority report in writing or is verbal notice sufficient?

67CHAIR PARKINSON: Verbal notice during the meeting should be fine, but I would recommend reducing any post-meeting requests to writing.

65REP. WHITTY: Is it true that a committee member who is absent and does not vote on a bill can participate in a minority report?

70CHAIR PARKINSON: I think that is permissible. However, if someone feels deeply about a minority opinion, he should make sure before the vote that another member is going to join them in voting no.

83Committee unanimously approves model committee rules, with no amendments, as recommended by House leadership.

92CHAIR PARKINSON: One other thing. I have asked the Committee Administrator to do roll call votes in rotating alphabetical order, with the Chair voting last and the Vice-Chair voting second to last. I think there is precedent for this. Also, the Speaker has told me that I am to start the meeting on time, even if there isn't a quorum.

INFORMATIONAL MEETING - DEPARTMENT OF ENVIRONMENTAL QUALITY AGENCY OVERVIEW

115 FRED HANSEN, DIRECTOR, DEPARTMENT OF ENVIRONMENTAL QUALITY: Gives overview of DEQ programs and agency organization.

>Seven divisions within department and four major program activities.

>Governed by numerous federal mandates.

>Most DEQ programs are delegated by federal government.

>Regulations at state level are established in three ways: 1.) Technology that needs to be put in place to control pollution; 2.) National environmental health standards on air, water, land, etc.; 3.) Anti-degradation regulations that prohibit degradation of "pristine areas."

331 LYDIA TAYLOR, ADMINISTRATOR, DEQ WATER QUALITY DIVISION: Gives overview of Water Quality programs and the Division's administrative organization. (EXHIBITS A AND B)

>Water quality programs are designed to protect "beneficial uses" set by the state Water Resources Commission.

>Water Quality develops and implements standards, many of which are sparked by federal regulations.

> Water quality is assessed by DEQ labs throughout the state.

TAPE 2, SIDE A

000 LYDIA TAYLOR: Continues overview.

56REP. WHITTY: Is there a state agency that is responsible for water impoundment?

60HANSEN: Several federal agencies handle this, and the state generally plays an advisory role.

85REP. NORRIS: Is it assumed that if water is "swimmable and fishable" it's going to be drinkable and human usable?

90TAYLOR: Swimmable and fishable are kind of shorthand for people in the water business. Drinking standards often are tighter than standards for swimming and fishing, but beneficial uses are listed water body - by - water body.

100 HANSEN: I should mention that there are very few water bodies in populated areas that can be maintained for drinking without any treatment at all. Generally speaking, bodies that are fishable and swimmable are drinkable with treatment.

102 REP. NORRIS: I guess my implication was drinkable with treatment.

105 REP. COURTNEY: What additional water quality programs were you going to ask for this session prior to Measure 5?

110 TAYLOR: We were going to ask for major increases in both our permit and compliance and enforcement. We wanted to double permitting/compliance personnel from 39 FTE prior to Measure 5.

115 REP. COURTNEY: It's my understanding that there were compliance and enforcement problems last year because of budget and lack of enforcement personnel. Is that correct?

121 TAYLOR: There's no lack of enforcement when we identify a problem. Once a problem is identified, we follow through with enforcement. Our staff will discuss later in this presentation whether we have enough regional staff to have a good enforcement presence.

131 HANSEN: Before Measure 5, we were asked if we had enough resources to do what the law and we as professionals feel needs to be done. That's what our original requests reflect. Obviously Ballot Measure 5 looks us right in the eye and says you can't be doing that kind of thing. Our new budget reflects that reality.

150 REP. BURTON: Will DEQ be increasing fees to compensate for Measure 5?

153 HANSEN: Yes.

160 TAYLOR: Lists water quality problems that DEQ hopes will be addressed during this session. (EXHIBIT A)

170 REP. VAN LEEUWEN: How many FTE at DEQ?

180 TAYLOR: About 500.

189 REP. VAN LEEUWEN: "Wow"

190 TAYLOR: In 1979, we had 103 staff FTE in Water Quality and today we have 108, so we've had increases as an agency, but they've been in response to new federal mandates. Our base programs have not increased in that fashion.

264 REP. COURTNEY: How many staff FTE were you asking for in Water Quality prior to passage of Measure 5?

276 TAYLOR: 179.

280 CHAIR PARKINSON: You have water quality bills in this session? Are they coming in on the Senate or the House side?

295 TAYLOR: We have one bill related to oil-spill planning and financial planning for those people who transport oil on the waters of the state. We also have a bill in to modify the applicability of our permit fees so that we could use them more broadly. Included in this piece of legislation is a new fee for certifying projects that need federal or Division of State Lands approval. We get about 600 such applications a biennium for which we charge nothing. We've asked for authority to substitute a certification fee in place of general fund dollars. These fees would not be very large. (EXHIBIT C)

327 CHAIR PARKINSON: I think you mentioned broadening the use of some fees. Can you explain that a little bit.

335 TAYLOR: Permitting fees currently can be used for permitting, compliance and enforcement. They can't be used for water quality assessment or to develop water quality standards. They are very specific. We have regulations that require use to perform activities that we cannot finance using those permit fees.

357 REP. REPINE: You had commented about staff reporting functions that we currently don't charge for and you mentioned that these functions currently are paid for using a blend of federal and state general fund moneys. I'm assuming that the federal moneys are still there and that the fee structure is what it takes to perform these functions minus the federal moneys.

370 TAYLOR: The budget we are operating under today has one-half of an FTE to do 600 technical applications in a two-year period. We feel it would take two FTE to do the job, and would like very much not to have the time delays that occur presently that hold up permitting activities. The money would pay for 1.5 FTE with no increase from the federal government.

388 REP. REPINE: Is DEQ undertaking that same fee structure in all of your fee application projects?

398 HANSEN: Yes. Most fee expansions do not have to be done statutorily. Water is one exception. We are proposing increases that probably will be considered by Ways and Means.

430 REP. REPINE: Are you making any proposals to remove your caps?

436 HANSEN: No. We are proposing increases and that certainly would be a part of the debate in Ways and Means.

TAPE 1, SIDE B

40STEPHANIE HALLOCK, ADMINISTRATOR, DEQ HAZARDOUS AND SOLID WASTE DIVISION: Reviews Division purpose, programs and administrative organization. (EXHIBIT D)

>Seeking authorization from the Environmental Protection Agency to run the Resource Conservation and Recovery Act (RCRA), which is the federal hazardous waste program in Oregon. DEQ already has authorization for much of this. EPA will continue to administer portions of RCRA for which DEQ has not been given authorization.

>Want to give more technical assistance to hazardous waste generators, especially "conditionally-exempt" generators, which are the leading source of hazardous waste yet are not rigorously regulated.

93REP. BURTON: From whom are you seeking authority to take over RCRA and how would this added responsibility fit into your agency's organization and ability to provide services?

102 HALLOCK: DEQ is asking EPA for authority to administer the program in lieu of the federal government. This would have an impact on the state general fund to the extent that our hazardous waste programs are 25 percent funded from the general fund.

108 HANSEN: We will be looking at if we should continue to seek delegation of these programs and if we should continue to fund them from the general fund at the same level. fund.

120 CHAIR PARKINSON: When the federal folks regulate a generator, do they charge a fee?

122 HANSEN: No, generally not.

123 CHAIR PARKINSON: And when we take over a federal program, I'm wondering where the advantage is to the citizens.

127 HANSEN: From an environmental protection standpoint, we do not feel the federal government will do an adequate job for this state. The level of federal funding remains the same whether the EPA administers this program or not, so the question is who is more efficient? The regulated community and Associated Oregon Industries have reaffirmed again and again that they do not want redundant regulation and that they would rather have the state operate this program because the state is closer to the regulated community.

154 CHAIR PARKINSON: Do small-quantity generators currently pay a fee?

156 HANSEN: Yes, but only those that produce more than 220 pounds per month.

160 REP. VAN LEEUWEN: Is there a list of waste designations, such as hazardous, toxic, etc.?

165 HALLOCK: Yes, but keep in mind that DEQ primarily regulates

hazardous wastes, not stored hazardous materials.

185 HANSEN: The Fire Marshall levies fees when hazardous materials are purchased and used.

197 CHAIR PARKINSON: We have had other inquiries about fire marshall fees, so I think we'll have someone from that agency in for a short overview to explain their part in the program.

224 HALLOCK: Reviews key hazardous and solid-waste issues that will be considered on the House side.

>Support for conditionally-exempt generators.

>Oversight of Arlington landfill.

>Recycling.

300 REP. NORRIS: You have mentioned ground-water contamination at landfills several times. Do you tie in with ground-water authorities on these kinds of problems?

304 HALLOCK: Yes, most definitely. We also work with other agencies in the state.

310 REP. BURTON: Who regulates methane emissions?

312 HALLOCK: If they occur at a solid-waste site, my division would do that. Tire disposal also will be handled by my division. In the past, hazardous materials was glamorous and had little trouble attracting money, but solid waste is gaining greater attention now.

338 HANSEN: Notes that EPA has drafted new solid-waste guidelines, but DEQ won't know what these will look like until they are handed down.

349 REP. REPINE: Based on how landfills in Oregon are being administered, are we ahead of federal standards or behind?

360 HANSEN: EPA standards will incorporate expectations created by new technology. Some old fills will not come close to meeting new standards, while new fills will meet or exceed standards.

379 HALLOCK: Just to close on solid-waste, the Legislature can expect to hear more about developing recycling markets and interstate transfer of solid and hazardous wastes. As I'm sure you know, the Legislative Emergency Board has approved a \$2.25 surcharge on solid waste transported in and through the state. Oregon has one of the most defensible charges of this sort of any state. This has not been challenged yet. We have also analyzed the costs to the state of handling wastes from out of state.

TAPE 2, SIDE B

15HANSEN: We have not really felt the full impact of interstate solid-waste issues. Debates over these issues have been very intense in other states. Oregon is fortunate to have good dialogue among all of the players involved in these issues.

28HALLOCK: As with the hazardous-waste program, we are applying to the EPA for delegation to administer the federal underground tank storage

program. This has gone quite well largely because EPA does not have the resources to administer these programs themselves.

37REP. WHITTY: How far back do you go on ownership when determining liability for clean-up?

47HANSEN: The liability is there for the release period. There is no statute of limitations. A knowledgeable owner also would be liable. A lot of this also gets litigated.

67CHAIR PARKINSON: Are you introducing legislation to deal with underground tanks?

70HANSEN: Nothing comprehensive. We will be providing additional information about underground tanks in March. You may want to consider extending the amount of time that applications can be received. Without federal insurance requirements coming on board as expected, people are not upgrading and fee money is not moving as fast as all of us thought it would.

92REP. NORRIS: Please define small tank.

94HANSEN: The key is not so much how many tanks you own, but when that requirement goes into affect. The insurance requirements have gone into place for all those who have more than 100 tanks.

107 REP. NAITO: Does your agency get involved with transportation of radioactive and other hazardous wastes through Oregon?

111 HALLOCK: The Public Utilities Commission regulates the transportation of hazardous wastes.

114 HANSEN: The PUC would regulate transportation of radioactive wastes, but the so-called cradle-to-grave approach on this would require that we be notified when radioactive wastes are generated.

123 REP. WHITTY: Calls for 10 minute break.

124 MIKE DOWNS, ADMINISTRATOR, DEQ ENVIRONMENTAL CLEANUP DIVISION: Reviews Draft Legislative Report on Oregon's Environmental Cleanup Program (EXHIBIT E). This report includes Cleanup Division accomplishments; discussion of issues; outline of the program's four-year plan; preliminary assessments; graphs showing remedial investigations, feasibility studies, remedial actions, UST cleanups; funding and staffing figures; service statistics; maps showing locations of suspected or confirmed hazardous substance releases, sites contaminated by UST releases, drug-lab cleanups, and sites currently in remedial investigation, feasibility study or remedial action phases; and environmental cleanup case studies.

174 REP. WHITTY: How do you handle drug-lab cleanups?

180 DOWNS: We use a state contractor to assist local, county and even some federal agencies.

186 CHAIR PARKINSON: Have we solved the problem of stigmas placed on decontaminated residential properties?

192 HANSEN: The Health Department has been dealing mostly with this.

194 REP. PARKINSON: What are they doing? Certifying houses as safe for human habitation or something?

195 DOWNS: I think it would be best to ask the Health Division about that. Our responsibility ends with cleaning up the chemicals and glassware that are left.

202 CHAIR PARKINSON: Hmmm. It seems a little bit illogical.

208 REP. VAN LEEUWEN: I'm under the understanding that you went to the Emergency Board and that you are somehow trying to pass clean-up fees on to local government.

210 HANSEN: In the past, the clean-up fund has paid most expenses and local governments paid very little. When we went to the E-Board during the '89 interim for additional dollars, we were instructed to develop rules for cost sharing with local governments at 50/50.

229 CHAIR PARKINSON: Do local governments share federal RICO proceeds?

231 HANSEN: Yes.

232 REP. VAN LEEUWEN: But a further question, as Mr. Downs said, you only clean up the glassware. Who's responsible for follow-up action and costs. Does the local government share then, or is it the Health Department or the land owner?

237 HANSEN: My understanding is that the responsibility lies with the landowner and that the Health Division then certifies sites that have been cleaned up. We do have a hardship provision for local law-enforcement organizations that can prove that paying drug-lab clean-up expenses would adversely affect their ability to provide adequate service to their community.

260 REP. VAN LEEUWEN: There was a very small amount put into that hardship fund. Has that fund been exhausted?

262 HANSEN: Our rules provide for the way they certify that, and I don't think we've had anybody not certified if it would cut into current budgets.

265 DOWNS: DEQ does drug-lab cleanup at the request of local law enforcement agencies, who then tell DEQ if they can pay or not. Most local agency say they can't, which means DEQ has to seek funds elsewhere, including state and federal government.

275 REP. NORRIS: Is it public policy that every drug lab must be cleaned up, or only those that pose a threat to public safety?

284 HANSEN: Drug labs generally do not pose an environmental risk, but rather a health risk to the individuals who occupy them. Clearly, from a societal standpoint, you want to clean these sites up and not allow chemicals on these premises to go back into drug manufacturing.

296 REP. NORRIS: Drug-lab clean up is pretty heavily dramatized on the 5 o'clock news. You see people in moon suits going into houses in Northeast Portland. Is this really a big deal or are these incidents exceptions?

300 DOWNS: No, they're not exceptions. The people who do that kind of

work do that constantly. That's the kind of personal protective equipment they are required to wear. We will do about 225 such clean-ups this biennium. It's a little slower than it used to be. We were doing one every 56 hours. Before the state got involved in these kind of clean-up operations, local law enforcement agencies were collecting hazardous materials from drug labs and storing these materials in inadequate facilities. We collect these materials now and dispose of them directly so they are not stored in an intermediate and maybe inappropriate way.

340 DOWNS: Continues reviewing clean-up program. (EXHIBIT E)

TAPE 3, SIDE A

048 CHAIR PARKINSON: Are the vast majority of these cleanups petroleum related - old gas stations?

52DOWNS: Mr. Chairman, I forgot to mention the Petroleum Cleanup program. What I have been talking about up to this point has been cleanups other than petroleum cleanups. The Petroleum Cleanup program deals mostly with underground storage tanks.

54REP. NAITO: Do you have any idea when those soil-cleanup standards will be forthcoming, or do you have some staff working on that right now?

55DOWNS: Our plan is to have those standards prepared and proposed for rule-making by this coming summer.

112 REP. REPINE: Where does money come from for hazardous materials cleanup?

123 DOWNS: It comes from a number of different sources depending on what the situation is. If it has major contamination, it could be put on the federal Superfund list. This list includes all facilities that have releases of hazardous substances, so it also includes facilities that would be covered under the Resource Conservation Recovery Act (RCRA) Corrective Action Program. The state also has a superfund program to cover cases where the federal Superfund, RCRA, or liable individuals cannot pay for needed cleanup.

183 REP. VAN LEEUWEN: What grants or other funding are available for people who develop secondary products out of used tires?

190 HANSEN: Basically, the dollar per tire charged on new tires goes both to cleanup of used tires and also for providing reimbursements - at roughly a penny per pound - for people who develop beneficial uses for used tires. Used tires currently are used primarily as a fuel supplement in industrial boilers.

200 CHAIR PARKINSON: Liz, we will be having a hearing on this bill next week. Rep. Whitty has an announcement to make.

202 REP. WHITTY: They just started shooting. Aircraft fire is flashing over Baghdad right now. I don't know if our aircraft are over Baghdad, but there are firing aircraft, and there have been for the last 10 minutes.

211 REP. NORRIS: How good is your science or technology to determine when an underground storage tank leak might have first occurred?

227 HANSEN: Certainly the issues are difficult. So, again, it is not an exact science, but there are abilities. Those kinds of questions often get worked out by the involved parties without us having to come in and make a judgement.

233 STEVE GREENWOOD, ADMINISTRATOR, DEQ AIR QUALITY DIVISION: Reviews Air Quality Program (EXHIBIT F)

380 CHAIR PARKINSON: Can I interrupt for a minute. Mike just came in and said the Air Force just announced that the war officially started at 4 o'clock. We're going to leave directly. We'll try and give you a shot later on. Adjourns meeting at 4:03 p.m.

Submitted by: Reviewed by:

Andy Sloop Kathryn VanNatta Assistant Administrator

EXHIBIT LOG:

A -Testimony of Lydia Taylor, Administrator, Water Quality Division, Department of Environmental Quality - 3 pages B -Department of Environmental Quality 1991 Water Quality Program - 27 pages
C - Department of Environmental Quality Bills Introduced in the 66th Legislative Assembly - 2 pages D -Purpose of the Hazardous and Solid Waste Program, Department of Environmental Quality - 2 pages E -Legislative Report on the Oregon Department of Environmental Quality's Draft 1991 Environmental Cleanup Program - 29 pages F -Department of Environmental Quality, Air Quality Division, Agency Overview - 12 pages