

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 ENVIRONMENT AND ENERGY

March 18, 1991Hearing Room E 1:00 p.m. Tapes 82 - 84

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

MEASURES CONSIDERED:HB 3343 (PUB)

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.

TAPE 82, SIDE A

007 CHAIR PARKINSON calls the meeting to order at 1:07 p.m. and opens the public hearing on HB 3343.

12KATHRYN VAN NATTA, COMMITTEE ADMINISTRATOR: Explains status of the measure and written materials that will be discussed. HB 3343-1 and 3343-2 amendments effectively the same.

(Tape 82, Side A) PUBLIC HEARING - HB 3343 Witnesses:Dave Nelson, Oregon Seed Council John Powell, Oregon Seed Growers Association Sandra Thiele, Oregonians Against Field Burning Liz Frenkel, Sierra Club of Oregon

018 CHAIR PARKINSON: The committee is allowing the seed industry to substitute comprehensive amendments (EXHIBIT A) in place of this bill as a courtesy because the industry wasn't able to submit it's phase-down proposal in time to meet the Legislative Counsel bill-drafting deadline.

30DAVE NELSON, OREGON SEED COUNCIL: Reviews key elements of the amendments. (EXHIBIT B)

127 REP. COURTNEY: Technically, you wouldn't have to do any of the phase-down you have proposed until 1996, isn't that correct? What guarantee is there that you are actually going to phase down open burning before then?

135 NELSON: You will see, when we go to the actual language of the bill, that the maximum limit in 1992 is 140,000 acres.

140 REP. NORRIS: Are we just talking about the Willamette Valley here?

142 NELSON: Yes.

152 CHAIR PARKINSON: With the registration fee, does a farmer pay a flat fee or would that be assessed on a site-by-site basis?

154 NELSON: It's currently done on a site-specific, field-by-field basis. Under HB 3343, farmers would have to declare their intentions by April 1 of each year. Currently, farmers must pay \$2.50 per acre to open burn. There is no charge for propaning or stack burning. Under HB 3343, the burning fee would go up to \$4 per acre, making a total of \$6 per acre. The propane and stack burning fees would be \$1 per acre. It's too complicated to charge a fee per ton of straw burned.

172 REP. NORRIS: Would stack burning be part of the total acreage allowed to be burned under the HB 3343 phase-down schedule.

174 NELSON: No.

180 REP. COURTNEY: How can burning go from 250,000 to 140,000 in one year, as you are proposing, then be reduced only 15,000 acres after holding steady for several years?

192 NELSON: These numbers are based on what we've actually been able to accomplish historically. You have to go back to the early years of the controversy to understand this. We've made significant accomplishments in the last 18 years. We believe future accomplishments will be hard to predict and more difficult.

205 REP. REPINE: You didn't reach the 250,000 limit this last burning season, did you?

210 NELSON: We have never reached that limit since it's been in place. It becomes logistically impossible to reach an arbitrary limit. Our actual burning has averaged about 165,000 acres over the last two or three years.

216 REP. NAITO: If the average was 165,000 acres and you're proposing a 140,000-acre limit, then there's not real reduction.

222 NELSON: The issue is actual achievement within arbitrary limits. There's no way, practically, to get to an arbitrary limit.

267 REP. COURTNEY: Would you be opposed to starting out with a 165,000 or 170,000 limit? The 250,000 really isn't a meaningful limit.

273 NELSON: I think we're pretty close to that now in this bill. We have to talk about the legal limits versus the actual practice. We're really talking about what become the legal limitations. In actuality, we may do better than the legal limits.

301 CHAIR PARKINSON: You're saying the legal limit would be 140,000, but 140,000 never would be burned?

305 NELSON: That's correct.

308 REP. NORRIS: Is the 250,000 limit a statutory limit?

310 NELSON: That's correct.

312 REP. BURTON: Why do we have legal limits that don't reflect actual limits?

336 NELSON: The whole issue of field burning has been one of political limits. What occurs in practice is that farmers sign a list to burn when and if possible. The individual is the last person to make a decision to burn.

381 REP. BURTON: So what you're asking us to do is change the political goal posts? This isn't scientific at all?

383 NELSON: That's correct.

386 JOHN POWELL, OREGON SEED GROWERS ASSOCIATION: Testifies in support of the measure.

>The smoke-management system is very micro-managed.

>Even under the best political and environmental conditions, actual burning will not reach the statutory cap. The industry is proposing changes to the political limit on acreage available for growers who register to burn.

>The industry also is asking for time to research alternatives to open burning and to give growers an opportunity to find alternative uses for there land.

>The fate of this industry is in this HB 3343 schedule. We know we won't be able to reverse it.

>This bill is "the beginning of a major, major reduction in the use of open field burning."

TAPE 83, SIDE A

64REP. WHITTY: These amendments look like they give authority to the Environmental Quality Commission to increase burning in certain instances.

82NELSON: The section you referred to is basically a rewrite of existing statute to allow the industry to compensate in the event of emergencies. We haven't had to use that authority to date and we hope we won't have to use it in the future.

112 REP. REPINE: The industry seems to be doing a good job of keeping acreage down. If you capped at 140,000, what do you think the actual acreage burned would be?

129 NELSON: As you crank the acreage down, the actual acreage burned will approach the statutory limit.

135 REP. VAN LEEUWEN: We have a tremendous insect and disease problem in our field that was not burned, propaned or chemically burned. We are experimenting, but it's very clear to us that fields should be burned by one of these three methods. There are drastic reductions in yield

without some kind of treatment.

193 REP. WATT: Is the industry on the verge of any scientific breakthroughs?

200 NELSON: There are alternative crop sanitation methods that have promise, but developing them for use and getting them approved takes a long time.

216 REP. BURTON: How did you come up with this phase-down schedule? How do you know that the lowest ceiling you have proposed is even politically achievable?

229 POWELL: These numbers came out of meetings with representatives from throughout the state, primarily Willamette Valley growers. "These numbers are low enough to have us both (Powell and Nelson) fired." The political feasibility of this proposal is a leap of faith.

238 REP. BURTON: Paragraph 5, page 9 of the proposed amendments (EXHIBIT A) appears to be a "significant change" from the language in the original bill. The way this reads now, the EQC could, by rule, allow additional burning if an individual, by request or application, demonstrates a need to open burn. What might that need be, and why do you want to change this paragraph when the original language allowed what you want?

254 NELSON: We changed the language because we feel the rule needs to have much greater specificity.

264 REP. BURTON: And you're comfortable that the Department is able to deal with these requests and applications for exceptions on an ongoing basis?

269 NELSON: Yes.

323 REP. COURTNEY: You've given yourself a decade. Do you really think you've got that much time?

341 NELSON: We need that much time to develop, test and implement a program to maintain the industry.

369 REP. COURTNEY: Unless burning goes down to 50,000 acres in the near future, I don't think you've got 10 years. Something dramatic has happened in the Salem-Keizer area recently, and given this state's history with the initiative process, you may not have 10 years. Since we've talked about what's political and legal, that clock is really ticking.

398 POWELL: The question of how much time the industry has is not new. All the industry can do at this time is come to the Legislature and put forward a good-faith effort. The question of timing may well be answered by voters through an initiative. It does seem to us that while the public dislikes many things that they encounter daily, they understand the tradeoffs involved in this issue. However, we cannot, in good faith, say that this industry can make it at 50,000 acres.

TAPE 82, SIDE B

100 REP. NORRIS: I've been reading about the R and D on this for years. Are we showing any real progress on this?

104 NELSON: Yes. There was a lot of basic research in the 1970s, and a lot of the results from that research are being put to use now. We are able to come to you now with what we view as a severe reduction in field burning because we're optimistic about alternatives.

115 REP. NORRIS: Who is funding and conducting research?

118 NELSON: The industry, in cooperation with the Department of Agriculture and others, is conducting much of the research.

126 REP. NORRIS: Can straw residue be substituted for wood chips in the paper industry?

131 NELSON: In the Netherlands and Spain, up to 30 percent straw is used in the pulp paper process.

155 NELSON: Requests support for addition of one FTE position to the Oregon State University seed research team.

162 CHAIR PARKINSON: What budget would that come out of?

164 NELSON: Oregon State's Department of Crop Science.

166 REP. NORRIS: How much is the industry contributing to OSU for research?

169 NELSON: I haven't added up support from commodity commissions to OSU, but it would be about \$150,000 annually. The Seed Council's contributions to various research operations is about \$400,000.

180 REP. COURTNEY: How would the one FTE you just mentioned be paid for?

183 NELSON: A general fund appropriation.

186 REP. COURTNEY: Aren't fee funds going into field burning research?

188 NELSON: Currently, there are no fee funds for research; they are all going to the Smoke Management Program.

200 REP. COURTNEY: Would you support a fee increase for your industry to support research?

204 NELSON: We have proposed doubling grower fees.

206 REP. BURTON: Have you got an agreement among your growers about raising those fees?

211 NELSON: Yes. We have had an enormous legislative body working on this. Of course, there will be those who will say we're "nuts". My calculations show that our proposed fees would generate just short of \$1.2 million annually.

236 REP. WATT: I need some information on alternative thermal field sanitation. How many of these sanitizers are there?

245 NELSON: Zero. There was one experimental unit at Woodburn. It costs about \$50 an acre to operate, but it's virtually undetectable from a half mile away.

251 REP. WATT: Would acreage sanitized using one of those units be charged the \$4 per acre proposed under HB 3343?

255 NELSON: No.

260 REP. WATT: What's the anticipated arrival time of this technology?

270 NELSON: Rep. Watt has hit on the complexity of this issue. There is no assurance that we'll be able to solve this problem or that any of the things we propose will work. Technology that has been tested recently does work under certain circumstances, but it is expensive. To get current technology into the fields will take at least three years.

291 POWELL: "I can guarantee you . . . that at \$50 an acre, that land will be for sale."

305 CHAIR PARKINSON: Calls for break. Reconvenes at 2:47.

325 NELSON: Reviews HB 3343-2 proposed amendments (EXHIBIT B).

387 REP. NAITO: Have the Department of Agriculture or Department of Environmental Quality given a burning priority designation to grass seed burning?

397 NELSON: Perennial grass seed fields are first priority, annual grass seed fields are second priority, cereal grain crops are third priority, and all other burning is fourth priority.

397 REP. NAITO: So HB 3343 would put all kinds of field burning into one category?

399 NELSON: No. It simply deals with fourth priority, and says that all burning other than grass seed field burning shall be managed by the Department of Environmental Quality. It's kind of an administrative technique for putting all seed field burning management into the Department of Agriculture.

TAPE 83, SIDE B

49REP. REPINE: How many acres would a typical grower have that would be subject to the fines in this measure?

50NELSON: Fifty acres would be typical. Field sizes in the north valley would be in the 30 to 50 acre range. In the south valley they would be in the 50 to 75 acre range. The intention of that fine, and it's a "huge fine," is to take the profitability out of skirting regulation.

63REP. NAITO: In Section 9 (EXHIBIT B), when you talk about director, which department are you talking about?

67NELSON: DEQ.

161 REP. NORRIS: Are you proposing to pull the stuff in italics (PAGE 12, EXHIBIT B) out of existing statutes?

165 NELSON: Yes.

195 REP. REPINE: With respect to shifting of responsibilities between

the ODA and DEQ, how would that work?

204 NELSON: That switch was made by Gov. Goldschmidt in 1988.

209 REP. REPINE: If DEQ has passed this on to ODA, is DEQ skimming. How does the money work?

214 NELSON: Under interagency agreement, ODA is conducting the registration function, collecting money, and then paying whatever goes on to the DEQ. The one thing that would be different under these amendments is the joint responsibility for writing rules.

228 CHAIR PARKINSON: Under this bill, would DEQ still issue civil penalties?

232 NELSON: Yes.

242 REP. NORRIS: Does the Environmental Quality Commission effectively turn field burning regulation over to the Department of Environmental Quality so that ODA and DEQ work department to department?

245 NELSON: As a practical matter, the daily operation of the program would be operated by the ODA and DEQ would be responsible for enforcement. There has not been joint rule making to this point. Both departments have rule-making needs. That's why we think it's valuable that everybody agrees on the rules, so that growers aren't faced with two sets of rules.

261 REP. REPINE: If this bill is successful and the clean air bill also passes, what kind of effect would that have on the seed industry?

270 NELSON: That would be a "double whammy" on the seed industry. We've asked to have open burning taken out of HB 2175.

281 REP. REPINE: I want the record to show that fees proposed in this bill need to stand on their own.

290 SANDRA THIELE, OREGONIANS AGAINST FIELD BURNING: Testifies in opposition to the measure, contending that it doesn't go far enough to reduce smoke from field burning. (EXHIBIT C)

378 REP. VAN LEEUWEN: Disagrees that this proposal would be like "putting the fox in charge of the chicken coop." The ODA is like a consumer protection agency.

TAPE 84, SIDE A

16REP. WATT: You've indicated your objections to the bill. Have you introduced an alternative bill?

20THIELE: Yes. SB 1015.

45LIZ FRENKEL, SIERRA CLUB: Testifies in opposition to specific provisions of the measure. (EXHIBIT D)

98REP. WHITTY: Are you proposing any specific amendments?

100 FRENKEL: No.

102 REP. WATT: You suggest fees be upped to equal HB 2175. Are we to

understand that you would like to see two fees equal to those proposed in HB 2175?

108 FRENKEL: No. There should be one fee, and we think the schedule proposed in HB 2175 is more realistic than the one in this bill.

115 REP. VAN LEEUWEN: On page 2, Section 6 (EXHIBIT A), do you contend that lines 8 through 11 are not enforceable?

128 FRENKEL: That's correct.

136 REP. WHITTY: Closes public hearing on HB 3343 and adjourns at 3:30.

Submitted by: Reviewed by:

Andy Sloop Kathryn VanNatta Committee Assistant Committee
Administrator

EXHIBIT LOG

A -HB 3343-2 amendments - Oregon Seed Council - 19 pages
B -Overview of Oregon Seed Council Proposal to Phase Down Open Field
Burning - Dave Nelson, Oregon Seed Council - 6 pages C -Testimony on
HB 3343 - Sandra Thiele, Oregonians Against Field Burning - 2 pages
D -Testimony on HB 3343 - Liz Frenkel, Sierra Club of Oregon - 1 page