

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

May 01, 1991Hearing Room E 1:00 p.m.Tapes 145 - 148

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

VISITING MEMBER:Rep. Schoon

PRESENT: Kathryn VanNatta, Committee Administrator Andy Sloop, Committee Assistant

MEASURES CONSIDERED: HB 3570 (WRK) HB 2175 (WRK) HB 2759 (PUB)

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TAPE 145, SIDE A

06CHAIR PARKINSON: Calls the meeting to order at 1:08 p.m. Representatives Naito, Repine, Burton and Norris not present and excused.

WORK SESSION - HB 3570 Witnesses:Dale Riddle, Eugene Land-Use Attorney Bill Moshofsky, Oregonians In Action

10CHAIR PARKINSON: Introduces dash 1 (EXHIBIT A) and dash 2 amendments (EXHIBIT B)

14KATHRYN VANNATTA, COMMITTEE ADMINISTRATOR: Explains amendments and goes through hand-engrossed versions section by section (EXHIBIT C).

(Rep. Naito arrives 1:11)

>Sections 1 and 2: technical conforming amendments.

>Section 3: broadens local technical advisory panel to 11 members, including representatives of commercial farming and forestry.

>Page 4: language pertaining to LCDC Goal 1 citizen involvement has been

changed so that designation deliberations are open to the public.

>Page 4, line 27: Rep. Norris suggested that a new lot or parcel on secondary lands be at least 19 acres to deal with issue of dividing 40 acre parcels.

>Section 4: replaced with new language to parallel review and appeals process in HB 3560.

>Page 4c, lines 22-28: new subsection stating preference for identification of secondary lands on a county-wide basis, but allowing designation of portions of counties if county-wide designation is not economically feasible.

>Date for completion of designation map deleted.

>Section 5: revisions to parallel HB 3560.

>Section 6: window for appeal of arbitration decision to the Court of Appeals expanded from 20 days to 21 days, which is in line with HB 3560.

>Section 6 (e): revised to conform with arbitration provisions of HB 3560 and SB 91.

>Section 8 and 9 repealed and replaced with Sections 8, 8a, and 9 to clarify uses on agricultural land. Contains language permitting public or private schools, as well as cemeteries in conjunction with churches on agricultural land. Standard for permitting dwellings on farmland changed from "necessary and accessory" to "customarily provided in conjunction with farm use."

132 >Page 7b: language added pertaining to allowable uses on secondary land owned by an individual.

>Page 7e: language from HB 2745 relating to living history museums on farmland added.

>Page 7e, subsection 3: subsections pertaining to Eastern Oregon that were in Section 9 of the original bill are now in this subsection.

>Page 7f, subsection d: new language.

>Section 8a: consolidates forestry uses in one section.

154 >Section 9: lot of record provision moved and language changed.

180 >Section 20: More public services added to criteria for defining rural communities.

>Sections 54 and 55 revised.

(Rep. Burton arrives 1:26)

210 REP. VANLEEUEWEN: What happened to the air strip use provision on exclusive farm use land?

220 VANNATTA: That's in Section 8 of the hand-engrossed bill.

234 DALE RIDDLE, EUGENE LAND-USE ATTORNEY: Testifies in support of concepts

embodied in HB 3570 and suggests modifications to improve feasibility of implementation. (EXHIBIT D)

(Rep. Repine arrives 1:32)

414 CHAIR PARKINSON: Suspect you would be proposing specific criteria that would work in Lane County but not other counties.

425 RIDDLE: Proposed specifics based on LCDC pilot program test data.

TAPE 146, SIDE A

14REP. SCHOON: Was under impression that USDA land classifications based more on use than soil type.

17RIDDLE: Prime definition goes more to soil characteristics. You're question speaks more to the "unique" standard. Concern is that without fact-specific criteria, little secondary land that should be opened for development would be designated for non-farm uses.

33REP. SCHOON: You've used less productive soils twice in your testimony. What are less productive soils?

36RIDDLE: That definition would be determined by local technical advisory committees.

50BILL MOSHOFSKY, OREGONIANS IN ACTION:

> Supports setting specific guidelines while leaving some discretion to counties as a "safety valve".

>Not sure if HB 3570 would precipitate change in tax status of parcels designated as secondary before there is a change in use.

>Important to continue to provide farm and forest deferral so as not to put additional pressure to convert farm and forestland for other uses.

84CHAIR PARKINSON: The Revenue and School Finance Committee is about to pass a bill that would allow special assessment to continue when farmers retire. It may be that issue should be addressed in here.

105 CHAIR PARKINSON: Closes work session on HB 3570 and opens work session on HB 2175.

(Tape 146, Side A) WORK SESSION - HB 2175 Witnesses:Tim Nissen, Wood Energy Institute Cris Nelson, Salem Energy Consultant Ray Gribbling, Oregon Automobile Dealers Association Steve Greenwood, DEQ: Wendy Simms, DEQ: Paul Cosgrove, Ethanol Fuel Association Liz Frankel, Oregon Sierra Club Jim Whitty, Jr., Associated Oregon Industries Doug Morrison, Northwest Pulp and Paper Association

135 TIM NISSEN, WOOD ENERGY INSTITUTE OF OREGON: Testifies in favor of HB 217 5 restrictions on used woodstoves and incentives for sale and use of certified woodstoves; and proposes amendments. (EXHIBIT G)

359 CHAIR PARKINSON: Did you work on the dash 3 amendments to HB 2175?

364 NISSEN: Yes.

366 REP. WHITTY: Is the energy output different for 50 gram stoves versus 5 gram stoves?

368 NISSEN: There is a certain amount of energy in a pound of wood, no matter how it is burned. Newer stoves tend to be a little bit smaller and to burn a little bit hotter.

371 REP. WHITTY: So you probably could heat more square feet with the same amount of wood?

385 NISSEN: Could heat the same number of square feet with less wood with a more efficient stove.

380 REP. WHITTY: How important is chimney size?

384 NISSEN: Very. The size of the flu is directly related to burning efficiency.

TAPE 145, SIDE B

13CHRIS NELSON, SALEM ENERGY CONSULTANT: Comments on original bill and proposes additions to dash 3 amendments. (EXHIBIT L)

80REP. COURTNEY: You're saying that the \$3 per ton auto emission fee proposed by the DEQ should be retained?

86NELSON: Should be maintained if not increased.

93REP. COURTNEY: Are you recommending that the bill be amended, or are you recommending that the committee hold the line on certain aspects of the \$25 per ton fee provisions if the bill must be amended?

96NELSON: Suggesting that the vehicle portion of the original bill be maintained at \$25 per ton, and, if necessary, to lower the \$25 per ton fee for other sources already regulated.

100 REP. COURTNEY: So you don't want to distinguish among different kinds of emissions?

103 NELSON: No. Only suggesting that, at a minimum, the vehicle emission fee be maintained.

112 RAY GRIBBLING, OREGON AUTOMOBILE DEALERS ASSOCIATION: Comments on dash 3 amendments.

>Requests representatives of auto industry be included on task force established under Section 13.

126 REP. NAITO: New cars are better than old ones, so might be good for business to increase standards and get old cars off roads.

130 CHAIR PARKINSON: Have heard testimony about fairness of any flat fee for cars. Do you have any comments on that?

134 GRIBBLING: New cars aren't doing the polluting, it's the "old smokers".

159 CHAIR PARKINSON: Assume you'll want to work with consensus groups.

166 STEVE GREENWOOD, DEQ: Gives update since last work session 4/29/91.

>Have moved closer to consensus with industry, but still difference on interim industrial fee and permanent industrial fee.

>Have proposed specific staffing plan during ramp-up period. (EXHIBIT E)

>Looking at possibility of reducing ramp-up staffing levels to \$1.9 million during interim period. Also considered minimum service and staffing, as well as no service and staffing levels, as requested by industry work group.

238 REP. WHITTY: Will the staffing level the department is proposing enable it to comply with federal requirements, and will the department tell the EPA that staffing level is "sufficient"?

250 GREENWOOD: Yes.

259 WENDY SIMMS, DEQ: Explains Title V data (EXHIBIT E).

334 CHAIR PARKINSON: Definition of small business used on this sheet (EXHIBIT E) could include almost any kind of business and might not be consistent with definition in the dash 3 amendments.

340 SIMMS: There is a specific definition in the bill. The department is required to develop a small business program to assist sources that come under the toxics section of this federal operating permit program. Small businesses such as dry cleaners and auto body paint shops could fall under this section. There have been concerns about the ability of the sources to understand the new requirements that will affect them, and to respond appropriately.

370 SIMMS: The Title V program is required to issue permits for hazardous air pollutant sources regulated under Title III of the Act. The department has never inventoried the sources that emit the specific chemicals listed under the new Act, so the department can't produce a list yet of which polluters will be regulated under Title III.

380 REP. VANLEEuwEN: Confused on this handout (EXHIBIT E) because it shows Title V and Title III of the federal Clean Air Act. How does Title V differ from Title III?

390 SIMMS: Title V gives direction for implementation of the Act, but doesn't set specific standards. Hazardous air pollution standards are listed in Title III.

TAPE 146, SIDE B

04GREENWOOD: In effect, Title V requires that there be a permitting program, and that the permits for hazardous pollutant sources include requirements under Title III of the Act.

10SIMMS: CFR Part 70 is where federal regulations on how states must respond to Title V of the Act will be contained. It's essentially the same as saying Title V. This sheet (EXHIBIT E) list steps DEQ will have to go through to comply with federal requirements and timelines imposed. Extensive data management. Part 70 includes sources that DEQ targeted to receive services before Title V takes full effect.

42REP. VANLEEuwEN: On Part 70, what does the reference to backlog mean?

47SIMMS: That line is not asking for additional staffing or resources.

57REP. VANLEEUEWEN: So that's not counted in the six new FTE proposed?

59SIMMS: Right. The program we are running does have a significant backlog.

67REP. VANLEEUEWEN: But now you're saying you do want to use part of the six proposed FTE to help reduce your backlog.

72SIMMS: The department recently started a program to look for new efficiencies, and hope to reduce that backlog without increasing staffing.

75REP. VANLEEUEWEN: So you just threw this in as an extra? You don't expect those new people to help you with your backlog?

78GREENWOOD: No. The reason this item is on this list is because the department wanted to make it clear that it can't use existing staff to accomplish meet these new requirements. Other things listed on this sheet are in addition to existing programs and services.

86CHAIR PARKINSON: What's the significance of the backlog, and what kinds of businesses does it include?

92SIMMS: The backlog cuts across all kinds of regulated businesses. The department tries to put priority on processing permits for new sources or modifications to existing sources. Result of emphasis is that some permit renewal applications are delayed while the department works on higher priorities. Also give priority to sources that are affected by rule modifications. Backlog includes lots of wood product businesses.

118 CHAIR PARKINSON: What's the significance to businesses of this backlog. Would they be barred from expanding or building?

120 SIMMS: If a source wants to expand, and that expansion would increase emissions beyond levels it is allowed under its current permit, it needs to get permit modified before it can expand. In cases where permits have expired, the old permit remains in effect until the renewal is processed and a new permit issued.

130 CHAIR PARKINSON: Name eight or ten types of businesses affected by this.

132 SIMMS: Wood products of all kinds; boilers; incinerators; sources that emit ozone-causing compounds in Portland and Medford, such as surface-coating businesses; asphalt plants; rock crushing operations.

146 REP. BURTON: In your sheet on fiscal impacts (EXHIBIT E) shows about \$1.5 million. Will your costs for this permanent staffing level be covered by the \$25 per ton industrial fee? In other words, at what point does funding shift from the proposed \$5 per ton ramp-up fee to the \$25 per ton fee.

165 GREENWOOD: The dash 3 amendments are structured so that the interim fee would be in place until the EPA approves DEQ plans.

170 REP. BURTON: If implementation goes as the department anticipates, when would EPA approve this state's plan, and would the fee transition

occur?

178 GREENWOOD: The interim positions would be shifted to permanent fee funding in 1994.

180 REP. BURTON: Is the interim fee charged in one or both years of the initial biennium?

182 We're looking at a one-time interim fee during this biennium, plus an additional charge in the following biennium that would carry the program until the permanent funding could begin.

185 SIMMS: In other words, proposing an annual interim fee.

191 REP. BURTON: So how do you arrive at the amount of these fees? Apparently, the department has calculated what the per ton fee should be under this structure. What would that fee be?

195 GREENWOOD: We have concluded that fee is \$17 per ton during the interim period.

201 REP. BURTON: So sometime after the next biennium begins, there would be another \$17 per ton fee pro-rated against the ultimate \$25 fee?

210 GREENWOOD: Yes, depending on when the permanent funding kicks in.

222 REP. WATT: How does this tie in to your existing permit program?

227 SIMMS: Title V positions the department is requesting are needed to do the work required under the new Act.

234 REP. WATT: What are your existing staffing levels?

250 GREENWOOD: The department doesn't divide staffing for state and federal programs, and doesn't know what the parameters of the federal program are going to be yet.

256 REP. WATT: Can't you identify who works in your existing program? Is there a way to streamline staffing to save money?

262 SIMMS: Hope to do that in the long run, but in developing this program and new programs it will spawn new staffing and will require additional resources than what is currently available. Best estimate now is that it is appropriate to create these new positions.

282 GREENWOOD: The remaining issue unresolved by the work group is the structure and wording for the permanent fee. The department has offered wording that it believes offered security insuring compliance with federal mandates while not giving the department a blank check. The work group agreed to the \$25 per ton fee on actual emissions, provided that the department could increase the fee subject to two conditions. The department and industry are continuing to discuss this issue. If the department is forced to wait until 1993 to make decisions versus going with a level that doesn't provide the department or industry with this security, than the department would prefer to wait until 1993.

306 REP. COURTNEY: The number of DEQ employees dealing with water quality in the state today is the same as it was 10 years ago. How many total employees are there for all air quality programs?

325 GREENWOOD: 146 FTE this biennium. Proposing 144 for next biennium.

342 REP. COURTNEY: So your current staffing level is sufficient to get the job done?

347 GREENWOOD: No. We don't have staffing to respond adequately to all laws and demands. We have backlogs in some areas. Governor's budget calls for cuts in wake of Measure 5.

372 REP. COURTNEY: The department's staffing has been at 144 FTE since 198 7?

373 GREENWOOD: Believe staffing was slightly higher in 1987 than it is today.

375 REP. COURTNEY: With respect to this Part 70 Program, it says that in December, the department will call for submittal of the first one-third of applications. What are those applications?

377 GREENWOOD: First third of applications for federal Title V required emissions permit.

382 REP. COURTNEY: Where are the one-third going to come from?

385 GREENWOOD: Industry.

387 REP. COURTNEY: How are you going to choose the one-third? Is that answerable?

395 SIMMS: We're required to do the first round of the permits within first three years of this Act.

408 REP. COURTNEY: If this bill passes and we do nothing, will EPA come in and implement the federal Act on its own, or will they contract with DEQ?

TAPE 147, SIDE A

05SIMMS: EPA would implement on its own.

21REP. WATT: Theoretically, when will this program begin to implemented? Let's say that's 199 4. How much cleaner will Oregon's air be in 1996 and 2000?

30GREENWOOD: Difficult to answer in quantitative terms, but can say that air toxics will be more regulated than now and that industry will be required to install maximum effectiveness toxics control technology.

48REP. WHITTY: This discussion resembles informational hearing this committee had on Tualatin River Cleanup during which experts said spending \$500 million dollars wouldn't really achieve anything.

55PAUL COSGROVE, ETHANOL FUEL ASSOCIATION: Testifies in support of the alternative fuel provisions of the measure (EXHIBIT M) and introduces dash 4 amendments (EXHIBIT N), which are identical to the dash 3 amendments, with the addition of sections 13a and 21.

>Mobile sources contribute 39 percent of air pollution in Oregon.

>Motor vehicles is the major source of carbon monoxide emissions in all



of the non-attainment areas in the state.

>Motor vehicles and industry are two major contributors to ozone non-attainment in Portland and Salem.

90REP. WHITTY: What is the optimal blend for ethanol fuels in unconverted engines?

94COSGROVE: Car manufacturers all approve of using up to a 10 percent mix in conventional cars.

98REP. WHITTY: With a 10 percent blend and an octane rating of 90 prior to the blending process, what would the octane rating of the blend be?

101 COSGROVE: A 10 percent ethanol blend increases the octane rating by 2.5 to 3 points. This is another benefit of ethanol blends, because octane enhancers that generate air toxics can be eliminated. Another benefit of ethanol is that it can be made from anything that can be fermented into alcohol. Ethanol has been derived from wood waste, corn, and low-grade wheat for example.

120 COSGROVE: Problem with ethanol is that it is still more expensive to produce than gasoline. The dash 4 amendments would provide an incentive to produce ethanol in this state. Ethanol production industries have been successfully established in 20 to 25 states.

131 REP. COURTNEY: So these plants would be in Oregon?

132 COSGROVE: Hope so. Washington has plants.

135 REP. COURTNEY: This law wouldn't apply to out-of-state plants, would it?

139 COSGROVE: Unfortunately, the ethanol incentives I originally proposed were modeled after Idaho's law, which only gives an incentive to plants that are producing ethanol in-state or to states with which it has reciprocal incentives. The U.S. Supreme Court just ruled that portion of Idaho law, which is common in other state laws, is unconstitutional. The provisions in this bill that were modeled after Idaho law have been removed because of questions about their constitutionality. However, production probably will still occur in this state.

147 REP. COURTNEY: So a tanker truck could fill up across the country and unload in Oregon and get the benefit of this legislation?

151 COSGROVE: Yes.

153 REP. COURTNEY: Why do you the statement provided for under these amendments to go to the Department of Motor Vehicles instead of DEQ?

155 COSGROVE: DMV enforces and collects the tax. All this does is change a rate, not the collection system.

159 CHAIR PARKINSON: Is this amendment germane to the relating-to clause of this bill?

162 COSGROVE: Yes. Because thrust of alternative fuels is clean air.

168 REP. WHITTY: Denver requires certain level use of ethanol because

of that city's poor air. Where do they get their fuel given apparent lack of production facilities?

175 COSGROVE: Producers tend to be small and locally based. There are a number of states where ethanol fuel is required, and if they aren't developed voluntarily, they likely will be mandated in the future.

195 REP. BURTON: The dash 4 amendments were drafted at my request. These amendments do address the relationship between automobile use and air quality. Second, there is abundant availability of feed stock from which to produce ethanol in this state.

213 REP. VANLEEUEWEN: Not sure how much ethanol can be gotten out of straw. Believe seeds are needed to produce ethanol.

220 COSGROVE: Straw has been used as an ingredient to produce ethanol. In can't be the only ingredient, however. There have also been studies that have explored the possibility of using waste paper to produce ethanol.

229 CHAIR PARKINSON: If your proposals were adopted, chances are a blending plant would be set up in Oregon that uses ethanol from out of state. Whether ethanol ever is produced in Oregon would depend on if it could be produced here cheaper than elsewhere.

237 COSGROVE: Quite likely that plants would be built in Oregon, but there is not currently excess capacity in this region and the cost of transporting ethanol is not small. Plants are currently proposed in Port of Morrow and Hood River. Need financing, which may come from out of state.

256 CHAIR PARKINSON: Are cities in California, or the State of California, requiring the use of ethanol blends and are subsidies being provided for the manufacture or use of ethanol fuels?

260 COSGROVE: California is looking at oxygenated fuels including ethanol and methanol. The federal Clean Air Act mandates the use of oxygenated fuels in some non-attainment areas, and Los Angeles is one of the biggest non-attainment areas. There have been a number of alternative fuel incentives offered in California. Don't know if this specific proposal is being considered in California. However, it has been adopted in Washington, Idaho, Montana, and the northern tier of states as far east as Connecticut.

270 CHAIR PARKINSON: Could you get that information?

272 COSGROVE: Yes.

277 LIZ FRENKEL, OREGON SIERRA CLUB: Have reviewed dash 3 amendments, but have not seen dash 4. Hope to send written comments on dash 3 by Friday afternoon.

305 JIM WHITTY, ASSOCIATED OREGON INDUSTRIES: DEQ officials gave accurate status report. Will either reach agreement on remaining issues soon or will be at impasse. To reiterate, issues are ramp-up fee, permanent fee and criminal penalties.

315 CHAIR PARKINSON: Wasn't automatic permits to go the federal government also an issue? Has that been a part of your discussions?

322 DOUGLAS MORRISON, NORTHWEST PULP AND PAPER ASSOCIATION: May have agreement on that issue.

326 CHAIR PARKINSON: Understand you have broadened participation in the work group to include energy generating companies and the electronics industry.

330 REP. BURTON: Introduces the dash 5 amendments (EXHIBIT O) on auto emissions, and advises committee that discussions on how to deal with auto emissions in the Portland-metro area will take place under the auspices of the Joint Policy Advisory Committee on Transportation (JPACT).

368 REP. WHITTY: Rep. Burton, do you have information about what other states and other countries are doing or have done regarding emissions, fuels and age of vehicles?

379 REP. BURTON: No, but can get.

382 CHAIR PARKINSON: Closes work session on HB 2175. Not prepared for HB 275 9, so will postpone public hearing. Adjourns at 3:30.

Submitted by:      Reviewed by:

Andy Sloop              Kathryn VanNatta Committee Assistant      Committee  
Administrator

EXHIBIT LOG:

A            -Dash 1 Amendments to HB 3570 - Chair Parkinson - 14 pages  
B            -Dash 2 Amendments to HB 3570 - Chair Parkinson - 1 page C            -HB  
3570-1 Amendments Hand-Engrossed - Committee Staff - 28 pages  
D            -Testimony on HB 3570 - Dale Riddle, Gleaves, Swearingen, Larsen  
and Potter Attorneys - 2 pages E-DEQ Title V Implementation Staffing  
Levels - Steve Greenwood, DEQ - 5 pages F            -Summary of EPA Proposed  
Operating Permit Rule Under the Clean Air Act - Steve Greenwood, DEQ -  
20 pages G            -Testimony on HB 2175 - Tim Nissen, Wood Energy Institute  
- 8 pages H            -Estimated Cordwood Fee Schedule Using An Unweighted  
Emission Fee of \$25 Per Ton - Tim Nissen, Wood Energy Institute - 1 page  
I            -"Wood: A Responsible Fuel Choice" - Tim Nissen, Wood Energy  
Institute - 2 pages J            -"Environment Friendly: A Clean Burn Is An  
Efficient Burn" - Tim Nissen, Wood Energy Institute - 2 pages  
K            -"Straight Answers To Burning Questions" - Tim Nissen, Wood Energy  
Institute - 2 pages L            -Testimony On and Proposed Amendments To HB  
2175 - Kris Nelson, Energy Consultant - 2 pages M            -Ethanol Fact Sheet  
- Paul Cosgrove, Ethanol Fuels Association - 2 pages N            -Dash 4  
Amendments to HB 2175 - Paul Cosgrove, Ethanol Fuels Association - 20  
pages O -Dash 5 Amendments to HN 2175 - Rep. Burton - 3 pages