

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 WATER POLICY

May 28, 1991Hearing Room D 1:15 p.m.Tapes 77 - 80

MEMBERS PRESENT:Rep. Chuck Norris, Chair Rep. Bill Markham Rep. Walt Schroeder Rep. Larry Sowa

MEMBER EXCUSED: Rep. Bill Dwyer

STAFF PRESENT: Beth Patrino, Committee Administrator Pat Zwick, Committee Assistant

WITNESSES:Sen. Joyce Cohen Debra Sturdevant, Department of Environmental Quality Floyd Collins, Association of Oregon Sewerage Agency Rep. Kelly Clark Maura Roche, Devils Lake Water Improvement District Jean Cameron, Oregon Environmental Council Quincy Sugarman, Oregon State Public Interest Research Group Rich Sedlak, Soap and Detergent Association Jim Gardner, FMC Corporation Mike Smith, FMC Corporation Edwin Matzer, Monsanto Paul Cosgrove, Soap and Detergent Association Brad Higbee, City of Portland MEASURES CONSIDERED:SB 915 A - Prohibits sale of cleaning agent containing phosphate.

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TAPE 77, SIDE A

010 CHAIR NORRIS: Calls the meeting to order at 1:50 p.m.

HB 2985 ia a bill that deals with a phosphate ban.

I decided to hear SB 915-A since it deals with the same subject.

The bill does not ban phosphates, but sets limits.

Surveyed detergents in stores to gain information and did not find that any of the detergents would be removed from shelves because of passage of SB 915-A.

Opens public hearing on SB 915 A.

PUBLIC HEARING SB 915 A

040 SEN. JOYCE COHEN: Testifies in support of SB 915-A paraphrasing written testimony (EXHIBIT A).

Reviews provisions of SB 915-A.

Summarizes detergent information contained in (EXHIBIT A).

Urges committee support for the bill.

205 REP. SOWA: Are the non-phosphorus products listed in your exhibit on the shelves in the Portland area?

215 SEN. COHEN: Some of them are.

225 CHAIR NORRIS: Explains codes in use to designate non-phosphorus products.

229 REP. SCHROEDER: What is Indiana's percentage of allowable phosphate in dishwasher detergent?

230 SEN. COHEN: Indiana has exemptions for phosphorus in dishwasher detergent.

275 DEBRA STURDEVANT, DEPARTMENT OF ENVIRONMENTAL QUALITY: Reads written testimony addressing some of the issues and questions raised during a previous hearing on SB 915 A (EXHIBIT B).

TAPE 78, SIDE A

REP. SCHROEDER: Where did Indiana start from to be able to reduce to 8.7%?

012 STURDEVANT: Not sure. Has seen dishwasher detergents that were 15 to 18 percent.

Indiana was the first state to adopt a ban in 1972.

018 REP. SCHROEDER: Is phosphate level going down across the country?

020 STURDEVANT: Believes so.

026 CHAIR NORRIS: Is what I read in the bill a ban or a limit?

030 STURDEVANT: It is a limit.

035 CHAIR NORRIS: What does "incidental to manufacturing" mean?

040 STURDEVANT: Phosphorus is not intentionally added as part of the manufacturing in that instance. Other ingredients incidental to the manufacturing process contain phosphorus.

050 FLOYD COLLINS, ASSOCIATION OF OREGON SEWERAGE AGENCY: Gives history of the agency.

Testifies in support of SB 915 A.

A large capital investment is required by sewer facilities to remove phosphorus.

Concludes that non-phosphorus detergents are available and compare favorably in cost to detergents containing phosphorus.

090 REP. SCHROEDER: What process is used to remove phosphorus from effluent?

095 COLLINS: Chemical treatment which precipitates the phosphorus.

125 CHAIR NORRIS: How accurately can the percentage of phosphate content by weight in the effluent be measured?

127 COLLINS: Very accurately.

140 REP. SCHROEDER: Have you considered piping effluent water into the fields instead of putting it into streams?

143 COLLINS: Yes. Some facilities do that.

148 CHAIR NORRIS: Would the numbers in the bill make a significant difference in the amount of phosphorus going to wastewater plants?

160 COLLINS: Yes.

170 CHAIR NORRIS: Is the perceived downtrend reflected in your industry?

174 COLLINS: Believes there are reductions in the metropolitan area where there is a limitation in force.

182 REP. KELLY CLARK: SB 915-A is an attempt to examine the way we discharge phosphorus into our water systems.

Stresses the care with which the bill was drafted.

SB 915 A asks for a statewide phosphorus policy in case there is a challenge to the Metropolitan Service District limit.

Speaks of advantages of phosphorus limiting in other states where the limit is in effect.

Oregon has a dozen rivers with high phosphorus levels.

240 CHAIR NORRIS: Is there evidence of the amount of manmade and natural background levels of phosphorus in Oregon rivers?

250 REP. CLARK: Preliminary studies show that natural background levels in the Tualatin are higher than the settlement contemplated by the federal lawsuit.

If a planned study bears that out, the basis of the settlement will need to be reexamined.

265 REP. SCHROEDER: When were phosphate detergents first used?

270 REP. CLARK: Unable to answer.

285 REP. MARKHAM: Would you prohibit the sale of products in Oregon at levels higher than those specified in the bill?

290 REP. CLARK: Yes.

300 REP. MARKHAM: What is the necessity for a penalty clause?

305 REP. CLARK: As an enforcement mechanism that is less than a criminal penalty.

320 SEN. COHEN: Does not believe a civil penalty would be assessed.

Laws which direct people to do things carry civil penalties for enforcement.

345 CHAIR NORRIS: The civil penalty does not apply to the use, but to the sale, offering for sale, and distribution.

365 REP. CLARK: Could amend definition of person to clarify the bill to satisfy Rep. Markham's concern.

TAPE 77, SIDE B

MAURA ROCHE, DEVILS LAKE WATER IMPROVEMENT DISTRICT: Reads written testimony in support of SB 915-A (EXHIBIT C).

030 CHAIR NORRIS: Cautions witnesses about using term "ban".

Have you noticed an improvement in the weeds in Devils Lake?

045 ROCHE: Some of the weeds have been reduced and others are remaining at a constant level. We have noticed improvement in water quality.

We publicize that people should clean their props before taking their boats to other lakes.

065 REP. SCHROEDER: Are you familiar with a natural fungi control for aquatic weeds?

069 ROCHE: The North American Society of Lake Management annual convention supplies that information through seminars.

082 REP. SCHROEDER: How many homes with septic tanks are located around Devils Lake?

086 ROCHE: Unable to answer.

089 REP. SCHROEDER: Human waste causes more than half of the problem.

092 ROCHE: Speaks of sanitation facilities at the Devils Lake Regatta area.

115 JEAN CAMERON, OREGON ENVIRONMENTAL COUNCIL: Paraphrases written testimony in support of SB 915 A (EXHIBIT D).

155 CHAIR NORRIS: Recesses at 2:58 p.m.

Reconvenes as subcommittee at 3:12 p.m.

167 QUINCY SUGARMAN, OREGON STATE PUBLIC INTEREST RESEARCH GROUP: Summarizes written testimony in support of SB 915 A (EXHIBIT E).

185 REP. SCHROEDER: Is a ban the ultimate goal?

187 SUGARMAN: No.

190 REP. SCHROEDER: How do you account for weeds and algae in remote lakes that do not have phosphate introduction?

195 SUGARMAN: Phosphorus is a nutrient to plants and algae and occurs naturally in all lakes.

The concern is overloading of phosphorus from synthetic sources.

210 RICH SEDLAK, SOAP AND DETERGENT ASSOCIATION: Association members make both phosphate and non-phosphate cleaning products.

The controversial aspect of this bill centers around automatic dishwasher detergents. Our companies use phosphate in dishwasher detergents and phosphates are essential ingredients. We are concerned about SB 915-A because it contains future limits that no other state in the nation has.

A dishwashing detergent needs more phosphate because a higher standard of sanitation is required.

Phosphate compounds have been proposed by EPA as an option to control lead in drinking water.

267 REP. MARKHAM: What percentage of phosphorus is used in water?

272 SEDLAK: Unable to answer.

280 CHAIR NORRIS: Is that a widespread accepted usage?

285 SEDLAK: Yes.

Does not think there is adequate data to determine if a phosphate ban will be effective in improving water quality or saving sewer costs.

TAPE 78, SIDE B

SEDLAK: The .5 percent phosphorus by weight limit for household laundry detergents would keep any phosphate laundry detergent off the market in Oregon. Our companies do not sell products with that low level of phosphate in phosphate detergents.

036 REP. SCHROEDER: How long has phosphate been used in automatic dishwasher detergents?

040 SEDLAK: Late 1960's. Phosphate laundry detergents have been used since the 1940's.

050 REP. SCHROEDER: Would like to know what the Tualatin River looked like before that time.

Imagines there were naturally occurring problems.

065 CHAIR NORRIS: Appears that the industry is moving toward the phosphate levels in the bill.

068 SEDLAK: We want the consumer to drive us there.

070 CHAIR NORRIS: Do you think the consumer reads the phosphate level on the label?

074 SEDLAK: If you legislate change for a product and it does not perform as well, our companies will hear it.

080 CHAIR NORRIS: Absent a law, the products on the shelf seem to be complying to the limits of SB 915 A.

Thinks we may be seeking a solution for which there is not a problem.

090 SEDLAK: The Task Force could not find documentation to support the benefit to the phosphate ban.

095 REP. SCHROEDER: Feels people are buying detergents based on advertisements and price.

105 SEDLAK: People use a product that they feel works for them. Some people are brand loyal.

130 CHAIR NORRIS: Are the numbers in the bill something that the industry can live with?

138 SEDLAK: We see no need for the bill. The numbers are consistent with the limits in other states.

145 CHAIR NORRIS: If the bill passes, would you still be able to market your products in Oregon?

150 SEDLAK: Yes.

170 JIM GARDNER, FMC CORPORATION: Introduces Mike Smith who is available for questions.

FMC is a phosphorus producer.

Shares Soap and Detergent Associations concern in opposition to SB 915 A.

Submits exhibits containing information regarding the environmental effect of the discharge of dishwasher detergents containing phosphate into the Portland sewage system and the proposed use of polystyrene disposable ware by the Portland Public Schools (EXHIBIT F).

Suggests that between now and July 1, 1995, the legislature consider the results of the study being conducted by the Tualatin River Task Force and note whether other states move from 8.7 to a lower number.

280 MIKE SMITH, FMC CORPORATION: Appears to answer questions.

This is a jobs issue in Idaho.

Speaks of his corporation's operations.

307 CHAIR NORRIS: What percentage of the national supply do you represent?

310 SMITH: Thirty three to thirty four percent.

316 CHAIR NORRIS: As the result of phosphorus limits has your business

declined?

322 SMITH: Yes. We reduced our work force by 8%. We saw a decline in excess of 5% in the ability to sell our product. The driving force in reduction in demand is legislation such as this.

Hopes that committee recognizes difference between legislation that is nice or necessary. Feels that the legislation is not necessary.

357 REP. MARKHAM: What products would go off the shelf if SB 915 is implemented?

363 SMITH: You will not be able to find phosphate detergents.

388 REP. MARKHAM: What do you recommend we do with lines 9 and 10 of the bill?

390 GARDNER: Delete them.

TAPE 79, SIDE A

005 EDWIN MATZER, MONSANTO: States his credentials.

Realizes SB 915 A is a limitation rather than a ban.

Testifies in opposition to SB 915 A summarizing written testimony (EXHIBIT G).

Distributes copies of February, 1991 Consumer Reports containing information of phosphorus detergents to members.

While phosphorus for the cleaning of laundry may not be essential it is essential for dishwashing.

With 8.7% phosphorus limits it is possible to make good automatic dishwasher detergents.

170 PAUL COSGROVE, SOAP AND DETERGENT ASSOCIATION: Submits and reviews product list and a fact sheet (EXHIBIT H).

Only two sewer plants in Oregon remove phosphates by chemicals and they would be the only plants that would be affected by any potential cost savings from SB 915-A.

Only a limited number of streams in Oregon have algal growth where the contributor to the algal growth is a water treatment plant. Of that limited number of streams with water treatment plant contributors, many of them are not going to do chemical removal, but will do land application.

There is a fiscal impact of \$68,000 for DEQ with SB 915 A.

Contrasts fiscal impact of HB 2985 which would be larger.

HB 2985 also bans use of phosphate, not just sale or distribution.

Would like committee to consider that the evidence in Oregon is that there a lot of people who would support a ban or limitation on phosphorus in products, but there is no hard evidence that benefits will accrue to water quality.

It is not clear where the phosphate in Devils Lake is coming from.

The cause is likely to be natural sources, improperly and overfertilized lawns that discharge into the lake.

Supporters of the bill have never specifically addressed the automatic dishwasher detergent limits.

Thirty one states have rejected laundry detergent bans, and no state has accepted an automatic dishwasher detergent limit such as that proposed in SB 915 A.

TAPE 80, SIDE A

010 BRAD HIGBEE, CITY OF PORTLAND: Testifies in support of SB 915 A.

The City of Portland enthusiastically supports the bill. The letter submitted by Mr. Gordon contains inaccurate or incomplete information.

Speaks of current and future potential problems caused by excess phosphorus.

There are automatic dishwasher detergents currently available which will meet the limits of the bill.

Reiterates support of League of Oregon Cities and United Sewerage Agency for SB 915 A.

Believes that leaving proposed limits in the bill will serve notice to industry of the pending limitations.

076 REP. SCHROEDER: Are you saying that Mr. Harris did not check with the right person at the sewerage agency?

080 HIGBEE: Yes. Believes that only part of the answer was included in the materials reported by the school district.

100 CHAIR NORRIS: Feels it is difficult to reach a decision with the conflicting testimony provided.

Closes public hearing on SB 915 A.

135 REP. SOWA: Asks committee staff to provide copies of meeting tapes.

140 CHAIR NORRIS: Adjourns meeting at 4:34 p.m.

Submitted by: Reviewed by:

Pat Zwick, Beth Patrino, Assistant Administrator

EXHIBIT LOG:

A - SB 915-A - Testimony and Exhibit - Sen. Cohen - 12 pages

B - SB 915-A - Testimony - Debra Sturdevant - 4 pages C - SB
915-A - Testimony - Maura Roche - 1 page D - SB 915-A - Testimony
- Jean Cameron - 2 pages E - SB 915-A - Testimony - Quincy
Sugarman - 2 pages F - SB 915-A - Exhibits - Jim Gardner - 20 -
pages G - SB 915-A - Testimony - Edwin Matzner - 2 pages
H - SB 915-A - Testimony - Paul Cosgrove - 3 pages