

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 30, 1991Hearing Room D 1:15 p.m.Tapes 81 - 83

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

STAFF PRESENT: Beth Patrino, Committee Administrator Karen Edwards, Committee Assistant

MEASURES CONSIDERED:SB 233-A - Allows Division of State Lands to establish exemptions to land lease requirements of state-owned submerged or submersible lands. PUBLIC HEARING/WORK SESSION

SB 1080 - Allows domestic water supply districts to exercise powers of sanitary districts and cities in order to protect water quality of watershed. - PUBLIC HEARING/WORK SESSION

SB 609-B - Requires tag to angle for halibut. - PUBLIC HEARING/WORK SESSION

SB 915-A - Prohibits sale of cleaning agent containing phosphate. - WORK SESSION

SB 201-A - Adds obligation to seller of real property to give purchaser notice of permit, transfer approval order or certificate of water right if available. - WORK SESSION

SB 839-A - Prohibits construction, operation or maintenance of dam or hydroelectric facility on portion of North Umpqua River and main stem of Umpqua River to ocean. - WORK SESSION

WITNESSES:Janet Neuman, Division of State Lands Sen. John Brenneman, District 2 Ellie Dumdl, Lane County Commissioner Dick Nichols, Department of Environmental Quality Genoa Ingram, Oregon Association of Realtors Ray Wilkeson, Oregon Forest Industries Council John Mohr, Port of Newport Jeff Curtis, Department of Fish and Wildlife Kay Brown, Department of Fish and Wildlife Dave Barrows, Monsanto Corporation Jim Morgan, Metropolitan Service District Debra Sturdevant, Department of Environmental Quality Rep. Rod Johnson, District 45

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TAPE 81, SIDE A

008 CHAIR NORRIS: Calls the meeting to order at 1:20 p.m.

Opens public hearing on SB 233-A.

PUBLIC HEARING SB 233-A

019 JANET NEUMAN, DIVISION OF STATE LANDS: Has provided letter to members concerning issues raised at previous hearing.

Reviews information in letter (EXHIBIT A).

052 REP. BILL MARKHAM: Does your Department see the proliferation of small docks as a problem?

057 NEUMAN: Yes. The problem is we can only regulate those docks over 1,000 square feet in size.

If we had this additional authority, we would exempt small structures of about 200 square feet and public boat ramps.

070 MARKHAM: Feels if the Division of State Lands were given this authority, by administrative rule, the Land Board would receive so much pressure from environmental groups that riparian land owners would be harmed.

088 REP. BILL DWYER: SB 233-A does not list any exemptions. Might be comfortable if we defined a smaller dock as 20 feet by 10 feet and it went no more than five feet out along the land. Does not feel that size of a dock would impede navigation.

REP. DWYER: We could define what would be allowable that would address most of the problems.

No guarantee that an administrative rule will not be changed.

120 REP. LARRY SOWA: Concerned that if docks are allowed, would like to determine what a dock is.

137 REP. WALT SCHROEDER: Would it be appropriate to have a small- sized dock without having a permit? With the understanding that there will be a "no wake" provision.

153 REP. NORRIS: Where could an amendment be inserted for a 200 square foot and less exemption?

155 Asks Neuman and Donheffner to meet and work out a proposed amendment.

Closes public hearing on SB 233-A.

Opens public hearing on SB 1080.

PUBLIC HEARING SB 1080

184 BETH PATRINO, COMMITTEE ADMINISTRATOR: Reviews provisions of SB 1080 which has no fiscal impact, revenue impact, or subsequent referral.

198 SEN. JOHN BRENNEMAN, DISTRICT 2: Testifies in support of SB 1080 and reviews 1080- 2 amendments (EXHIBIT B).

243 ELLIE DUMDL, LANE COUNTY COMMISSIONER: Speaks of the need for SB 1080.

259 REP. NORRIS: Would you like to become involved with the monitoring?

DUMDL: Yes. If any problems arise, the water district would have the opportunity to take care of the situation.

265 REP. NORRIS: Would that be in coordination with the Department of Environmental Quality?

DUMDL: Along with the cooperation of the County.

A moratorium is currently in place to avoid possible degradation to the lake.

303 REP. SCHROEDER: What other areas might this affect?

307 SEN. BRENNEMAN: It would affect any water district in the state.

327 DUMDL: Only EPA authorized or designated sole-source watershed would apply in this case.

344 REP. DWYER: How would this affect the Cottage Grove water district?

346 DUMDL: That issue has not been raised before.

354 REP. DWYER: Assumes that SB 1080 will prevent access to certain areas of a watershed.

373 DICK NICHOLS, DEPARTMENT OF ENVIRONMENTAL QUALITY: SB 1080 was drafted with the idea of limiting it to Clear Lake and the bill only applies to watersheds that are designated as a sole-source watershed or aquifer by the United States Environmental Protection Agency under the Safe Drinking Water Act.

Does not think Lane Creek, in Cottage Grove, has the potential to be designated as a sole-source aquifer.

397 REP. DWYER: If the EPA decides to designate Lane Creek as a sole-source watershed, they would, in affect, bring that under this act.

409 NICHOLS: Perhaps the wording should be changed to sole-source aquifer instead of watershed.

TAPE 82, SIDE A

004 REP. DWYER: Does the EPA have a designation other than sole- source watershed? Do they have a designation of aquifer?

007 NICHOLS: Does not believe they do.

019 REP. NORRIS: Reads ORS 448.305 in reference to cities and watersheds.

What is the threat of Cottage Grove executing an agreement with the Forest Service?

035 REP. DWYER: Believes it is real.

044 REP. MARKHAM: Could specify sites in SB 1080.

050 REP. NORRIS: Reluctant to act on SB 1080 as written.

057 SEN. BRENNEMAN: Would like to work on the problem and narrow the scope of the SB 1080 and address other committee concerns.

063 REP. DWYER: If only the Heceta Water District is dealt with, does not think the concerns are exactly the same as they are statewide.

086 GENOA INGRAM, OREGON ASSOCIATION OF REALTORS: Concerned with line 15 where it extends the trespass authority to the Clear Lake area.

Has multiple private owners whose private property may be affected.

121 RAY WILKESON, OREGON FOREST INDUSTRIES COUNCIL: Approached Sen. Brenneman about the possible conflict between powers that SB 1080 might give a special district and the authority of the Department of Forestry under the Forest Practices Act. Sen. Brenneman indicated that was not the intent of the bill so we had the 1080-2 amendments (EXHIBIT B) drafted.

May want to consider a negotiated easement of some sort with the land owners in the watershed under which the landowners would voluntarily limit logging, if that was necessary, to maintain water quality or meet load allocation.

Would not want the land owners to do something against their will that would limit their ability to practice forestry beyond the extent the Forest Practices Act limits that ability.

156 Closes public hearing on SB 1080.

Opens public hearing on SB 609-A.

PUBLIC HEARING SB 609-B

187 SEN. JOHN BRENNEMAN: SB 609-B is introduced at the request of charter boat operators of the City of Newport.

Asks for favorable committee support for SB 609-B.

The SB 609-B also limits the amount of halibut which one person can catch.

255 REP. DWYER: The engrossed bill takes out the blanks in terms of the number of fish and the limit on tags. If that is your goal, why was that done?

260 SEN. BRENNEMAN: Feels it was the result of reasonable compromise.

268 REP. DWYER: Have you talked to the coastal caucus about this halibut tag?

270 SEN. BRENNEMAN: Yes. The coastal caucus members on the Senate floor voted for the bill.

285 REP. SCHROEDER: Reads information received from constituents in opposition to SB 609-B.

Also received three calls in support of SB 609-B.

304 REP. DWYER: The Marine Science Department at Oregon State is not doing any research on halibut?

313 SEN. BRENNEMAN: The Marine Science Center is primarily funded through federal funds.

Prefers to have the Department directed to do studies, in this regard, to fisheries. That has not been the case.

For the health of the fishery, a little bit of money needs to be collected to have it done.

340 REP. DWYER: Has anyone asked for a federal grant for the Marine Science Center to do the project you want?

351 SEN. BRENNEMAN: Helped to establish a marine experiment station, funded through Oregon State University. They have been working on the whiting project.

373 JOHN MOHR, PORT OF NEWPORT: SB 609 is requested by the user group.

Feels the complaints received by Rep. Schroeder from constituents are providing a knee-jerk reaction. They do not see the benefit from the implementation of this fee.

The purpose is to get empirical data that will increase the number of halibut that can be caught.

Feels there are additional populations of halibut and the Department of Fish and Wildlife will not fund any research without having money set aside for it.

Has not received any negative comments from the local newspaper.

TAPE 81, SIDE B

001 JEFF CURTIS, DEPARTMENT OF FISH AND WILDLIFE: The Department supports SB 609 .

The Department feels they are better prepared to deal with this issue than the Halibut Commission.

013 REP. NORRIS: Would this give the Commission the authority to set seasons?

015 CURTIS: We currently do that. This would give us the authority to set the limit of fish that one individual could catch.

020 REP. SOWA: What is the rationale for not having a halibut tag on the commercial fishing side?

025 CURTIS: Commercial halibut fisherman have to purchase licenses to participate in commercial fishery.

032 REP. SCHROEDER: How much does it cost to print a tag?

034 KAY BROWN, DEPARTMENT OF FISH AND WILDLIFE: One cent a tag. The problem would be the money collected from SB 609 would not allow us to use the money generated from this tag for administrative costs.

037 REP. SCHROEDER: Could we have a dollar tag for a few years to give the Department the opportunity to gather information?

045 CURTIS: The purpose is to get the tags, obtain information and interpret the tag data to make a better case to the International Halibut Commission.

The fee is the same as that charged for salmon tags.

051 REP. SCHROEDER: What is your percentage of return on salmon and steelhead tags?

052 BROWN: It ranges to about 20 percent.

055 REP. SCHROEDER: Could people on the docks tell you how many halibut are being caught?

060 BROWN: We presently have personnel working on the docks to collect information from fishermen. The additional money would allow us to do some additional research over and above checking the catch.

064 CURTIS: It also allows us to limit the catch of any one individual.

067 REP. MARKHAM: Thought you had that authority today.

069 BROWN: We do. The difference will be having the tag which will be an enforceable tool. As opposed to having enforcement officers closely checking what individuals catch.

078 REP. SOWA: Understands the poundage fee for halibut is very low. The fee was changed to add more tax but did not raise the fee much.

084 BROWN: Believes the current rate for the halibut poundage fee is four tenths of a cent per pound. The ad valorem fee rate would be 1.09 percent of the value of the catch. Not sure how close those two are.

089 REP. DWYER: Resents the process of speeding bills through the process without adequate time.

What have you done to try and get a handle on things?

Fish and Wildlife only get interested in things when there is a fee attached to it.

120 BROWN: We have measured the catch which is measured against quotas set by the International Pacific Halibut Commission. This fee would allow us to make a case to the Halibut Commission to prove that the stocks of halibut off Oregon are bigger than what they are projecting.

136 CURTIS: We have done a population study on halibut.

Our budget is driven by user fees.

147 Closes public hearing on SB 609-B.

Opens work session on SB 609-B.

WORK SESSION SB 609-B

MOTION: REP. LARRY SOWA moves to amend SB 609-B by changing the commercial

fish statute to have commercial fisherman pay five dollars for each halibut fish caught.

166 REP. SOWA: Speaks to the motion.

The ad valorem fee has not been raised in several decades.

Wants to make sure if a tag is placed on one group of users, a tag be placed on all users.

174 REP. DWYER: Speaks to the motion.

Do salmon fishermen have to buy a salmon tag in addition to their ad valorem fee?

179 REP. SOWA: Does not know.

180 REP. DWYER: Why should the halibut people have to do it?

182 REP. SOWA: Thinks what is fair for one is fair for all.

Vote: In a roll call vote, the motion fails with Rep. Sowa voting AYE. Representatives Norris, Dwyer, Markham, and Schroeder vote NAY.

Motion: REP. LARRY SOWA moves SB 609-B to the floor with a "do pass" recommendation.

209 REP. SOWA: Speaks to his motion.

We have got a resource here that needs additional research to see if we can prove that the number of halibut off the Oregon coast are higher than what the Halibut Commission thinks. Feels it would be advantageous to do that.

233 REP. SCHROEDER: What is the average weight of a halibut?

234 REP. DWYER: Probably 35 pounds.

Thinks five dollars for a halibut tag is not unreasonable.

VOTE: In a roll call vote, the motion carries with Representatives Markham and Schroeder voting NAY.

252 REP. MARKHAM: Will carry the bill.

259 Closes work session on SB 609-B.

Opens public hearing on SB 1080.

PUBLIC HEARING SB 1080

270 DUMDL: Reviews proposed amendments requested by Chair Norris.

Has deleted the reference to ORS 448.305 on lines six and seven.

Replaced the word "watershed" with "aquifer" on line nine.

Deleted line 15 in its entirety.

294 REP. MARKHAM: Does this still apply statewide?

DUMDL: By changing the word watershed to aquifer, it applies to only one water source at this time, the Heceta Water District.

310 NICHOLS: Refers to lines nine and ten. There is only one sole-source aquifer in the state of Oregon. It is located in Clear Lake.

317 REP. MARKHAM: It does not mean EPA could not designate other areas later on, does it?

319 NICHOLS: They, in fact, could.

334 REP. DWYER: Does EPA recognize an aquifer under U.S. Code or do they refer to a watershed? Are we making reference to an aquifer and referencing it to a watershed?

345 NICHOLS: Did not follow the question.

346 REP. DWYER: SB 1080, on line nine, makes reference to a watershed that is designated as a sole-source watershed by the United States EPA under the Safe Drinking Water Act (42 U.S.C. 300 j et seq). Wants to know if the reference in the U.S. Code refers to a watershed or aquifer?

360 NICHOLS: It is referred to as a sole-source aquifer as specified in the Safe Drinking Water Act.

363 REP. DWYER: Where did the word watershed come from?

367 DUMDL: During our work session, we replaced the word watershed with aquifer.

374 WILKESON: As it stands now, aquifer would only apply to one place in the state of Oregon. It take further legislation to make it apply anywhere else.

387 REP. NORRIS: What about our future designation by EPA?

389 WILKESON: That would not automatically take place if you limited the designation of sole- source aquifers as of today.

398 REP. MARKHAM: Does not know why the watershed that is involved is not named to take care of Lane County's problem.

407 WILKESON: Legislative Counsel cautioned against that. There is a constitutional provision about special legislation.

412 REP. NORRIS: Would like to add on line 10, "as the effective date of this 1991 Act".

TAPE 82, SIDE B

007 REP. SCHROEDER: Ray is it necessary to have your amendments in there?

008 WILKESON: No.

013 REP. SOWA: Thinks instead of putting "as the effective date of this 199 1 Act" on lines nine and ten, should put the aquifer is designated as of whatever date we want to use. Then go along with the rest of the sentence rather than putting the date at the end of the sentence. That could refer to the federal act rather than what we are doing here today.

021 PATRINO: Will discuss with Legislative Counsel.

024 Closes public hearing on SB 1080.

Opens work session on SB 1080.

WORK SESSION SB 1080

025 MOTION: REP. MARKHAM moves to amend SB 1080 by striking "and to" on line six. On line seven, striking "cities under ORS 448.305". Line nine, striking the word "watershed" and inserting "aquifer". At the end of line 10, adding "as the effective date of this 1991 Act" and deleting line 15.

VOTE: Hearing no objection, the amendment passes.

MOTION: REP. MARKHAM moves SB 1080 to the floor with a "do pass" recommendation.

047 REP. NORRIS: Will accommodate members.

When B engrossed is received will call another meeting.

Will try to arrange a meeting for next Tuesday.

Motion was not voted on.

060 Closes work session on SB 1080.

Opens work session on SB 233-A.

WORK SESSION SB 233-A

065 NEUMAN: Presents and reviews amendment requested by Chair (EXHIBIT C).

Notes additional changes needed.

086 REP. SCHROEDER: Amendment works fine for floating docks.

089 REP. DWYER: Could say three feet above the water level at high tide.

093 NEUMAN: Recommends "ordinary high water level" in response to member's concerns.

101 REP. MARKHAM: Is SB 233-A prospective?

103 NEUMAN: Not sure. It could be made retroactive.

108 REP. MARKHAM: Does not want SB 233-A to be retroactive.

121 REP. DWYER: The intent of SB 233-A is to prevent a proliferation of these things in the future.

124 NEUMAN: We are talking prospective.

127 REP. NORRIS: Will have that put back in SB 233-A.

Closes work session on SB 233-A.

Opens work session on SB 915-A.

WORK SESSION 915-A

143 DAVE BARROWS, MONSANTO CORPORATION: In support of 915-A7 amendments (EXHIBIT D).

Reviews provisions of 915-A7 amendments.

184 REP. DWYER: Where did you say you have authority until a certain time?

192 BARROWS: On lines seven and eight of SB 915-A, in the case of automatic dishwasher detergent, that between July 1 of this year and July 1 of 1995, a product could not be sold if it exceeded 8.7 percent or more phosphorous by weight. Thereafter, it could not be sold if it contained six percent or more phosphorous by weight. With the amendment, the standard in Oregon would be the same standard as every other state in the union that has placed a ban on phosphorous for an automatic dishwasher.

210 REP. LARRY SOWA: Refers to chart provided by Sen. Cohen at an earlier hearing.

219 BARROWS: Has not seen the chart.

246 REP. SOWA: Does not see why the language could not be changed to state by 1995, the level dropped to 6.5 percent.

275 JIM MORGAN, METROPOLITAN SERVICE DISTRICT: Our ordinance did not address dishwasher detergents.

Implementation costs of SB 915-A would be practically nil.

Distributors have been cooperative and the labeling requirement aids consumers in their purchases.

294 REP. SOWA: Are you referring to automatic dishwashing or dishwashing detergents?

299 MORGAN: Automatic dishwashing detergents.

305 DEBRA STURDEVANT, DEPARTMENT OF ENVIRONMENTAL QUALITY: Submits and summarizes testimony she submitted for HB 2985 (EXHIBIT E).

361 REP. SCHROEDER: You mentioned in your testimony that 12 states have banned phosphate laundry detergents since 1971. Are you referring to laundry detergents or dishwashing detergents?

371 STURDEVANT: These are for laundry detergents.

374 REP. SCHROEDER: What 12 states are you referring to?

389 STURDEVANT: The 12 states and four regions refer to the states and regions that have adopted a phosphorous detergent limitation bill. Including those that only limit laundry detergent as well as those that limit laundry and automatic dishwashing detergent.

413 MOTION: REP. MARKHAM moves to adopt the LC amendments (EXHIBIT D) dated

5/29/91 to SB 915-A. TAPE 83, SIDE A

003 REP. DWYER: Will support the amendment.

VOTE: In a roll call vote, the motion carries, with Rep. Sowa voting NAY.

MOTION: REP. NORRIS moves to amend SB 915-A by changing the phrase on page two, line eight from "less than 8.7 percent" to "8.7 percent or less".

VOTE: Hearing no objection, the amendment is adopted.

MOTION: REP. MARKHAM moves SB 915-A to the Ways and Means Committee with a "do pass" recommendation.

VOTE: In a roll call vote, the motion carries with all members voting AYE.

043 Opens work session on SB 839-A.

WORK SESSION SB 839-A

051 REP. ROD JOHNSON, District 45: Has negotiated with other parties to achieve an acceptable bill.

839 -4 amendment (EXHIBIT F) is the agreed upon language.

MOTION: REP. MARKHAM moves the LC amendment (EXHIBIT F) dated 5/24/9 to SB

839 A.

VOTE: Hearing no objection, the amendment is adopted.

MOTION: REP. MARKHAM moves SB 839-A to the floor with a "do pass" recommendation.

REP JONES: Will carry the bill.

VOTE: In a roll call vote, the motion carries with all members present voting AYE.

Closes work session on SB 839-A.

089 Opens work session on SB 201-A.

WORK SESSION SB 201-A

090 PATRINO: Reviews provisions of SB 201-A and a proposed amendment. On line 14, after the deleted word "the" add the phrase "evidence of".

MOTION: REP. DWYER moves to amend SB 201-A by deleting on line 14 the word "the" and adding the phrase "evidence of".

VOTE: Hearing no objection, the amendment is adopted.

MOTION: REP. DWYER moves SB 201-A to the floor with a "do pass" recommendation.

VOTE: In a roll call vote, the motion carries with all members present voting AYE.

123 REP. NORRIS: Will carry the bill.

Adjourns meeting at 3:20 p.m.

Submitted by: Reviewed by:

Karen Edwards Beth Patrino, Assistant Administrator

EXHIBIT LOG:

A - SB 233-A - Testimony - Janet Neuman - 3 pages B - SB
1080 - Amendments - Sen. Brenneman - 1 page C - SB 233-A -
Amendments - Staff - 1 page D - SB 915-A7- Amendments - Staff - 1
page E - SB 915-A - Testimony - Debra Sturdevant - 12 pages F-SB
839-A4 - Amendments - Rep. Rod Johnson - 1 page