

Senate Committee on Agriculture and Natural Resources February 1, 1991 -
Page

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 SB 2 (PUB,WRK) SB 95 (PUB,WRK) SB 94 (PUB,WRK) SB
93 (PUB,WRK) SB 81 (PUB,WRK) SB 98 (PUB,WRK)

SENATE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

February 1, 1991 Hearing Room C 8:00 a.m. Tapes 26 - 28

MEMBERS PRESENT: Sen. Dick Springer, Chair Sen. Joyce Cohen, Vice
Chair Sen. Shirley Gold Sen. Bob Kintigh Sen. Tricia Smith Sen.
Eugene Timms Sen. John Brenneman

STAFF PRESENT: Peter Green, Committee Administrator Chris Beck,
Research Associate Kus Soumie, Committee Assistant

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marks report a speaker's exact words. For complete contents of the
proceedings, please refer to the tapes.

TAPE 26 SIDE A

004 CHAIR SPRINGER CALLS THE MEETING TO ORDER AT 8:05 AM

WORK SESSION ON SB 2, Increases membership of Forest Research Laboratory
Advisory Committee to 16

WITNESSES: Peter Green

010 PETER GREEN, Administrator Senate Agriculture and Natural Resources
Committee, gives overview of SB 2 Amendments EXHIBIT A, and presents
EXHIBIT B

MOTION: Chair Springer moves -1 amendments to SB 2 be adopted

VOTE: Hearing no objection, Chair Springer so moves.

MOTION: Sen Cohen moves SB 2 to floor with do pass recommendation as
amended

VOTE: In a roll call vote, the motion carries. Senator Kintigh will carry
the bill.

WORK SESSION SB 95, Relating to State home oil weatherization program extending it beyond the sunset date of 1-1-92 to 1-1-97

WITNESSES:Chris Beck Mike Grainey

069 CHRIS BECK, Research Associate, Senate Committee on Agriculture and Natural Resources, gives overview of SB 95

072 MIKE GRAINEY, Department of Energy, this bill has a subsequent referral to Revenue Committee after leaving Sen. Agriculture & Natural Resources. SB 95 has no amendments.

MOTION:Sen Timms moves SB 95 to Revenue Committee with Do Pass recommendation

VOTE:Hearing no objection, Chair Springer so moves.

WORK SESSION ON SB 94

WITNESSES:Mike Grainey

087 GRAINEY: Gives testimony on SB 94 and presents EXHIBIT C. Speaks on issues of confidentiality which if adopted into this law may restrict the ability of State auditors to review records and books. I have a letter from the Attorney General which clearly states that this would in no way prevent an audit. If passed this bill will go the Senate Floor. Presents EXHIBIT C

MOTION:Sen Cohen moves SB 94 without amendments to the floor with do pass recommendation

VOTE:In a roll call vote Motion passed, SB 94 carried by sen cohen

WORK SESSION ON SB 93, relates to the Energy Facility Siting Council, with amendments clarifying concerns of regulated parties. EXHIBIT D

WITNESSES:Mike Grainey Tom Berry Dave Stewart-Smith Paul Cosgrove

175 CHAIR SPRINGER: Voices opposition to amendments not brought before committee in open forum, and will proceed with the bill unamended.

222 TIMMS: We need more time to work on this bill.

240 SEN KINTIGH: Regarding liquified Natural Gas Storage Facility, will this apply to existing facilities or only new facilities?

243 GRAINEY: Only new facilities. Northwest Natural Gas asked that this be clarified in the statutes. Intent was not meant to apply to existing facilities.

256 SEN COHEN: If the language says that if you triple expansion. I need to look more carefully, and make sure that language drafted hard cold absolute language which includes opportunity to examine any changes in activities or different facility going in.

285 TOM BERRY, Northwest Natural Gas, SECTION 4 PAGE 4 LINE 39, request for amendment language.

326 GRAINEY: Expansion of existing facilities , that are significant,

would trigger siting council review, with three exceptions the committee should be aware of:

- expanding electrical capacity without expanding the facility
- co-generation of energy/heat
- transmission line of similar size built within 500 feet of existing right of way

Language would be on Line 39 page 4 after, "Natural gas. Constructed after the effective date of this bill."

MOTION:Sen Cohen moves the committee adopt additional amendment on page 4 line 39, with the understanding that Legislative Counsel may wish to rework these words.

VOTE:Hearing no objection, Chair Springer so moves.

394 SEN COHEN: Would like to look at the 93-2 amendments and hear from staff to get the bill technically in order. Make sure the deletion of section 7 is in the amendments.

411 GRAINEY: gives summary and clarifies bill changes

MOTION:Senator Cohen moves to delete Section 7 and renumber subsequent sections of - 2 amendments

VOTE:Hearing no objection Chair Springer so moves.

430 GRAINEY: First page of amendments, LINES 1 THROUGH 18, dealing with civil penalty provisions, meant to clarify concerns Portland General Electric has regarding penalties.

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018 GRAINEY: continues explanation of proposed amendments

MOTION:Chair Springer moves adoption of proposed amendment LINES 1-18 PAGE 1 SB 93-2

VOTE:Hearing no objections Chair Springer so moves.

052 GRAINEY: Lines 19-23 of SB 93-2, amendments dealing with Pacific Power concerns about transmission line jurisdiction and their ability to upgrade to higher KV without siting council review.

062 CHAIR SPRINGER: Addresses concerns with electromagnetic radiation's adverse impact on health.

069 SEN SMITH: Mirrors Chair Springer's concern about overhead power lines.

077 SEN KINTIGH: It would make sense from the land use perspective to use the right of way and not take more land out of production.

082 SEN COHEN: Why are you amending LINE 36?

092 GRAINEY: DEFINITION OF ENERGY GENERATING RESOURCE AREA. Concern whether this gets into co-generation or hydro facilities on the same

river but not physically separate from each other. Intent was to focus on geothermal, solar and wind, which are not subject to state review.

107 SEN COHEN: In effect you are eliminating hydro.

116 SEN TIMMS: How many wind turbines would it take to go over 25 megawatts?

118 GRAINEY: Depending on the size perhaps 200. On the Oregon coast a wind facility proposed for Whiskey Run proposed for 80 Megawatts of generation.

122 SEN TIMMS: Would it be difficult to go through all the siting counsel departments for less than 25 megawatts?

133 GRAINEY: The advantages of going through the siting council is the centralized one stop process available.

143 CHAIR SPRINGER: Reschedule this bill for work session.

163 SEN SMITH: What is the notification procedure for siting a facility?

167 DAVE STEWART-SMITH, Reactor and Safety Facility Division, speaks about the Siting Council's process for involving local parties.

181 SEN SMITH: Do you send notices directly to people living within a certain vicinity of the proposed site?

183 STEWART-SMITH: No. We use public notification systems, newspapers, public hearings, etc.

203 SEN SMITH: Has anyone ever complained that they were not notified?

207 STEWART-SMITH: No.

221 PAUL COSGROVE, Anadarko Petroleum, Geothermal Division, gives overview of facility siting interests in Oregon, addresses technical problems within current statutes and presents EXHIBIT E

311 CHAIR SPRINGER: What is your company doing in Oregon currently, and what is the projected capacity of this field?

315 COSGROVE: Permits have been issued by the BLM to drill two test wells. One was drilled in 1989. It is the largest geothermal plant on BLM land, and could produce 90 megawatts in the next 30 years.

335 SEN SMITH: How large is the field?

339 COSGROVE: Total extent of the reservoir is not known, but covers at least a few square miles.

346 SEN SMITH: What language will you be using for your first amendment?

356 COSGROVE: Any plant within 1 mile, or some other specific distance of any other plant will be deemed one plant for the purpose of determining whether there is 25 megawatts.

368 COSGROVE: This proposal lets the Department Of Energy define

specific geographical limit.

375 SEN SMITH: Will there be more than one plant per square mile in a geothermal facility?

379 COSGROVE: Our concern is defining boundaries from one plant versus another.

423 SEN COHEN: I am leery about the private nature of these negotiations.

TAPE 26 SIDE B

016 SEN COHEN: A plant like this may interfere if it were on the fringes of their ranch.

031 COSGROVE: We are trying to give some clear statutory guidelines.

049 GRAINEY: I agree the question of generation area needs to be defined in a public rule making process.

056 SEN SMITH: People living in the potential site are not always those that you notify in your rule making procedures, unless you have specific requirements within your notification rules, the people in the affected counties may never know about your rule making.

067 GRAINEY: We let them know now by personal contact.

074 SEN SMITH: Assuming you know where the possible Oregon sites for geothermal plants will be and will notify all affected parties.

077 CHAIR SPRINGER: Will grazing rights be affected on this property? What about wildlife refuges?

085 GRAINEY: The siting counsel would examine and weigh those issues. We would contact BLM and other interested groups to weigh all the environmental impacts.

098 COSGROVE: The Department of Fish and Wildlife is specifically required to receive notice and submit comments on any project.

103 SEN TIMMS: Is going through the siting counsel an advantage or a disadvantage?

107 COSGROVE: I understand this was an attempt to put all affected agencies inputs into a comprehensive process to assist in getting a project on line.

118 SEN TIMMS: In the case of siting for geothermal drilling, wouldn't the drilling need to be done first to see what the environmental impact will be?

121 COSGROVE: There is a current dispute with environmental groups in this state about whether we should be allowed to drill test wells on sites being considered.

128 CHAIR SPRINGER: What severance tax or revenues state or Federal, will be imposed as condition of leases involved with generation of geothermal energy.

138 HULL: In addition to normal property, income, and all the facilities on federal land that equipment is taxed under, BLM assesses a fee and 50 per cent is turned over to the State of Oregon and 50 per cent of that is turned over to the local jurisdiction.

145 CHAIR SPRINGER: Hopefully those jurisdictions would be compensated for the services that they will be providing. The question is should the people of Oregon have their costs covered or should we derive some income from the depletion of our natural resources.

PUBLIC HEARING ON SB 81 AMENDMENTS EXHIBIT F E

WITNESSES: Frank Wallace Janet Neuman

184 FRANK WALLACE, Deputy Director Department of Veteran's Affairs, the Division of State Lands is not happy with amendments to SB 91, we would like more time to work with DSL.

200 CHAIR SPRINGER: This has to do with mineral rights that may attach to properties coming into the possession of the State through the DVA.

205 BECK: The amendments deal with the size of property.

221 JANET NEUMAN, Acting Director, Division of State Lands, If we worked with DVA we could focus the issues and policy choices the committee needs to make, and some consensus language to solve the problems reviewing these properties.

PUBLIC HEARING ON SB 98 EXHIBIT F

WITNESSES: Tom Berry Bert Mueller Don Hull Richard Angstrom

245 HULL: SB 98 WITH -2 AMENDMENTS is satisfactory with us.

270 TOM BERRY Northwest Natural Gas Co, gives testimony on SB 98.

280 SEN COHEN: All parties need to give public testimony.

285 BERT MUELLER, Northwest Natural Gas, primary concern is assurance we did not discourage exploration in Oregon for an ...(inaudible)...gas. Some concern was with amount of penalty, having a maximum of \$50,000.00 per day and asked that be dropped to \$25,000.00 per day.

300 SEN COHEN: We need to know that you did or did not want the \$50,000.00 amount.

306 MUELLER: There was also a need for assurance the warning period was adequate to stop operation or get the problem in hand prior to imposition of penalty. Concern about the length of penalty, so fines would be imposed only for the actual violation time. Does the penalty stop on the date of filing? How would we know when the violation stopped? Will those operating without a permit be stopped?

362 DON HULL, Oregon Department of Geology and Mineral Industries, the amendments clarify our intent as we described it in testimony. Although not part of the original bill, most of this has been presented in previous meeting.

TAPE 27 SIDE B

HEARING ON SB 92 AMENDMENTS CONTINUES

009 CHAIR SPRINGER: Speaks to language problem within amendment.

015 HULL: On line 6 this is clarified.

019 SEN SMITH: Are those violations included in those statutes? If so why are they repeated?

023 HULL: Yes. For emphasis.

027 SEN COHEN: I have a problem when we don't know where these amendments come from, and negotiating is going on outside the Committee. Why is only surface drilling mentioned?

043 HULL: Refer to Section 3, Section 5, Section 1 deals only with geothermal violations.

059 RICHARD ANGSTROM, OCAPA, gives testimony on mining reclamation statutes.

078 SEN SMITH: Are you saying there are violations within ORS 517.752.955 which should not be subject to these penalties?

080 ANGSTROM: Correct.

081 SEN SMITH: If so, I suggest amendments to eliminate those particular provisions or amend this sentence.

096 SEN COHEN: If we apply civil penalties they ought to apply to conditions you are speaking about, if they meet the standards of severity, possible degradation and possible damage. I want those civil penalties to apply. We don't want to use a reclamation bond after you have ruined a stream. I disagree with the premise of the amendments you are asking for.

110 ANGSTROM: This bill rarely relates to streams. DEQ will step in on any stream damage and assess their civil penalties to correct violations.

120 SEN COHEN: I have had experience of agencies' unwillingness to do what is necessary to enforce violations. I don't want to rely on DEQ on reclamation.

126 CHAIR SPRINGER: Did Legislative counsel process these amendments?

135 HULL: We rely on committee administrators and yourself to have amendments drafted. Amendments on page 2 and 3 speaking to minor violations.

163 SEN SMITH: What is the intent of the agency for the amendments on page 1?

167 HULL: For purpose of clarity and emphasis. Our intent is to apply to any violations of those laws.

170 SEN SMITH: That amendment makes your intent unclear.

176 HULL: If we have lost clarity I suggest the amendment on page 1 is dropped.

- continues overviews of proposed amendments to SB 97

187 SEN COHEN: I have a problem with the "funny" trust funds. Anything collected for civil penalties should be put in a general reclamation fund. I recommend one reclamation fund to be drawn on for all reclamation activities.

222 SEN TIMMS: I have problem with the amount of the civil penalty. I suggest we designate a civil penalty for those who fall below the threshold where the large civil penalty would apply.

248 HULL: Historically mining sites below 1 acre of disturbance have always been exempt. I am not sure how we get at those small operators without a more comprehensive regulatory system for them. Civil penalties would not be under the provisions of this bill.

266 COHEN: If those not needing a permit do something harmful, we need to specify a cap limit so we can say this is what they can be fined.

288 SEN GOLD: I have concerns about the previous bill, this bill and the whole subject of civil penalties. I understand if there is damage done, the department must correct it and needs money to do so. I have a problems with how the hearings are held and by whom the civil penalty is fixed. Is it a hearings officer appointed by the department who first hears the case?

314 HULL: This bill would require an authorized civil penalties to be administered by the governing board, not agency staff. Or it could be delegated to a hearings officer.

356 HULL: The intent is to levy a penalty the severity of which is proportional to the severity of the offence, not the cost of cleaning up the mess, which would have a bond for alternate security. We are looking for a deterrent not a funding mechanism to clean up messes.

369 HULL: We understand that staff not have access to moneys except to the extent need to enforce the provision.

408 CHAIR SPRINGER: If a smaller site caused a problem they would not be subject to the reclamation portion of these penalties, they may be subject to other agency penalties?

412 HULL: Correct

TAPE 28 SIDE A

003 CHAIR SPRINGER: There is discomfort inside and outside the committee with your agency collecting or benefitting from the money collected for the reclamation. I understand intent however, language needs to be cleaned up to avoid problems with this language.

023 HULL: Many interest groups representing various segments of the minerals industry, were concerned that DOGAMI civil penalty authority would be adding to existing civil penalties of other agencies, and give government folks authority to penalize twice for the same offence.

030 SEN SMITH: It would be a violation of two different statutes being watched by two different agencies. I have difficulty with the concept when two laws are violated you should be penalized for one.

046 SEN TIMMS: One law is passed and administrative rules are developed by a department which is sometimes in conflict with other departments. If this clause is put in, that can be prevented from happening.

057 SEN GOLD: In committing an unlawful act, is the penalty on the unlawful act, or on one two or four different parts of the law. In my mind, one act is one penalty. What is the precedent?

073 SEN SMITH: If you only want one agency's penalties to apply, then say that in a specific way without discussion of inadvertent double penalties.

100 CHAIR SPRINGER: Who have you been working with on these amendments.

104 HULL: Environmental groups, industries, current permittees throughout Oregon.

117 SEN TIMMS: How are we affecting small miners?

152 HULL: In the case of immediate threat we want to do something fast to prevent violations.

187 SEN SMITH: Cease and desist order. How often are these sent?

226 SEN COHEN: I have no problem with language. I am interested in a reclamation fund somewhere in DOGAMI, and more specificity for people with no permits made across the board.

253 SEN GOLD: I have a problem with the manner in which our system of law deals with civil penalties, and the need for some agency uniformity.

298 HULL: There is no current Oregon Severance, or other production tax on geothermal energy. There is on oil and gas. There is a statutory requirement to notify a variety of other agencies, local governments, local geothermal heating districts and other affected parties.

332 GRAINEY: We would only get involved when 25 megawatts threshold is reached. There are no royalties, however costs for inspection and regulation are paid based on BTU's. Up to 25 MW's no siting or energy council involvement.

MEETING ADJOURNED AT 10:30

EXHIBIT LOG:

A - Amendments to SB 2-1 - Peter Green - 2 pages
B - Testimony on SB 2-1 - Peter Green - 5 pages
C - Testimony on SB 94 - Mike Grainey - 2 pages D - Amendments to SB 93 - Peter Green - 2 pages E - Amendments to SB 93 - Paul Cosgrove - 1 page F - Amendments to SB 81 - Peter Green - 2 pages G - Amendments to SB 98 - Peter Green - 7 pages

Submitted by: Reviewed by:

Kus Soumie Peter Green Assistant Administrator

