

Senate Committee on Agriculture and Natural Resources February 4, 1991 -  
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report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

SENATE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

February 4, 1991Hearing Room C 8:30 a.m. Tapes 29 - 32

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

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

WITNESSES: Fred Hansen, Director of the Department of  
Environmental Quality Bruce Sutherland, DEQ Jill Zarnowitz, Assistant  
Chief of the Habitat Conservation Division, Oregon Department of Fish  
and Wildlife Jeff Curtis, Director of Intergovernmental Affairs, ODFW  
Jean Cameron, Policy Director, Oregon Environmental Council John Burns,  
Western States Petroleum Association Alan Willis, Port of Portland Rob  
Douglas, Portland Steamship Operators Association Sara Armatage, DEQ

MEASURES CONSIDERED: SB 76 (PUB) SB 242 (PUB) SB 185  
(PUB)

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TAPE 29, SIDE A

004 CHAIR SPRINGER CALLS THE MEETING TO ORDER AT 8:35 AM

PUBLIC HEARING ON SB 76, SB 242

013 CHAIR SPRINGER: Gives brief explanation of the reasons behind proposed legislation on oil spills. SB 76, SB 242. SEE EXHIBITS A-F

035 SEN. KINTIGH: Is California involved in this too?

036 CHAIR SPRINGER: Yes.

045 PETER GREEN: Gives overview of EXHIBITS A-F (SB 76 and SB 242).

114 FRED HANSEN, Director of the Department of Environmental Quality, gives overview of EXHIBIT G and issues dealing with SB 76 & SB 185.

250 BRUCE SUTHERLAND, DEQ, agrees to provide documentation on documents being spoken of.

267 SEN. KINTIGH: Do you feel that what is being proposed here will not be a duplication of the federal effort?

268 HANSEN: Yes. We are focusing on different aspects than that of the federal act. Continues testimony on EXHIBIT G.

316 SEN. SMITH: Would you establish additional safety requirements for tankers by rule?

326 HANSEN: Yes. That would be a part of what the Environmental Quality Commission would do under rule authority.

327 SUTHERLAND: In addition we would expect the Harbor Safety Committee to look at the tanker requirements for individual situations within a specific harbor. That would not be by rule but something that the Harbor Safety Committee would adopt on a regional basis.

333 SEN. SMITH: What kinds of requirements are you talking about?

341 SUTHERLAND: Additional officers on the bridge, training for crew members and having response equipment on the tanker.

345 SEN. SMITH: You're not talking about physical requirements of the tanker itself?

346 SUTHERLAND: That's correct.

347 HANSEN: Anything done here would have to be done under the confines of the preemptions of the federal act.

358 VICE-CHAIR COHEN: Do we have tankers going into the ports listed in 6?

365 SUTHERLAND: Yes, we do have tankers going into all of these ports except for Yaquina Bay.

369 VICE-CHAIR COHEN: How are we going to coordinate to make sure that we don't have completely different requirements for each port?

383 SUTHERLAND: There will be a coordination effort with Washington and we will be coordinating with the Coast Guard, as well as sitting on each of these committees.

396 HANSEN: There will be differences among the recommendations that the committees will bring forward.

409 VICE-CHAIR COHEN: It seems that it would be better to start with one base requirement plan and then have the local ports add on. Is this the case?

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007 HANSEN: We would consider appropriate some form of legislative direction saying that we would expect similarity.

017 SEN. SMITH: Do you plan to testify on SB 76?

019 HANSEN: Not today but we could offer some comments if you would like.

022 SEN. SMITH: Could you give us a comparison of SB 185 and SB 76 and perhaps what should be kept in each of them and how we can put them together to make a good bill?

023 HANSEN: We would be very happy to.

035 JILL ZARNOWITZ, Assistant Chief of the Habitat Conservation Division, Oregon Department of Fish and Wildlife: We strongly support SB 242 but we feel that it needs some changes. Began presentation of EXHIBIT H.

074 SEN. COHEN: Why can't we use a mobile trailer in conjunction with Oregon and Washington together?

076 ZARNOWITZ: It would be best for each state to have at least one trailer given the distances involved.

084 SEN. BRENNEMAN: What would be the difference between the trailer and what you do now, in terms of going in and setting up a rehabilitation center?

090 ZARNOWITZ: The trailer would contain the supplies that are needed to clean up the oil spill so that we wouldn't need to rely on donations like we do now.

101 ZARNOWITZ: The bill does not include any of the supplies that would be needed in the trailer. The one minor change that we would like to make is to add the reference of a statute in Section 13 (4). This would be the civil penalties statute (ORS 468.745) which allows civil penalties for pollution damages to fish and wildlife and their habitat.

138 ZARNOWITZ: Statute 466.890 is referenced in the bill. We would expect that the values of fish and wildlife given in that statute will increase due to House Bill 214 0.

151 JEFF CURTIS, Director of Intergovernmental Affairs for ODFW.

155 SEN. COHEN: Is what you want to do with SB 242 what you have here?

157 CURTIS: That is correct.

161 ZARNOWITZ: Another suggestion is to amend Section 27.

167 SEN. TIMMS: What has Washington done in regards to this problem generally concerning oil spills?

169 SEN. COHEN: Let's deal with the wildlife issue.

181 ZARNOWITZ: I don't have any information on the wildlife issue.

186 SEN. TIMMS: This is a Northwest problem not strictly an Oregon problem so we should coordinate the total process.

189 SEN. BRENNEMAN: Is the vehicle included in the budget now at Ways and Means?

191 ZARNOWITZ: No. Given this bill it is something that we feel would be required.

193 JEAN CAMERON, Policy Director of The Oregon Environmental Council, gives testimony on SB 76, SB 242 and presents EXHIBIT I.

300 SEN. SMITH: There are no intrastate shipments by water; they are all continuations of a single move and that would preempt Oregon from siting requirements. Do you know whether or not that is the case?

311 CAMERON: No. I have not had the opportunity to look into the legalities.

316 CHAIR SPRINGER: Are you working on a bill concerning the conservation issue at the state level?

319 CAMERON: We are not at this time.

347 SEN. COHEN: How are we proceeding state by state with the various versions of SB 242? Is the state of Washington amending their bill and have they had the same bill introduced?

353 CHAIR SPRINGER: What is the update on the Washington legislation?

358 PETER GREEN: They had one hearing on their original bill and due to the many concerns it is being redrafted considerably.

368 SEN. COHEN: Are we trying to conform these pieces as much as possible?

390 CHAIR SPRINGER: That is the clear intent here. Governor Gardner of Washington has also proposed an increase in the fee imposed on petroleum products in part to create a contingency fund to deal with oil spills. Are you aware of that and is that part of what other states are doing?

394 SUTHERLAND: Yes, both the states of Alaska and California have done that and Washington is doing that. We would like to do that but there is a constitutional amendment which prohibits us from assessing a fee on petroleum products. Instead we have gone with the inspection fee as a way to try to fund our program.

405 CHAIR SPRINGER: Do you have a sense of what kind of contingency funds the other states have? If we didn't have the constitutional impediment what amount would be reasonable as a contingency fund here in Oregon?

TAPE 29 SIDE B

006 SUTHERLAND: I think that would need to be studied more to give you an idea of what would be needed. California has about \$50 million and Washington is somewhere in that area.

009 CHAIR SPRINGER: What is the rationale of those states for the need for a contingency fund at the state level?

015 SUTHERLAND: Part of the contingency fund is used for response. They want to have a response capability that is at least in line with what the Coast Guard provides if not better.

019 HANSEN: Answers series of questions from Sen Smith and Sen Timms

095 SUTHERLAND: Yes. At present time we would have the EQC adopt rules that would cover Fish and Wildlife although we would have to amend it to make it current.

097 SEN. SMITH: So you would determine how much money you would need to adopt this bill and you would divide it out among the plan holders and that would be the fee?

098 HANSEN: The Ways and Means Committee has established limitations in both state agency budgets and the fee is set to raise that amount of money and no more. That at least has been how the budget structure has worked in the past.

103 SEN. SMITH: Should this bill get to Ways and Means will you be there with a dollar figure?

106 HANSEN.: Yes.

110 CHAIR SPRINGER: How much were you estimating that you might need?

113 HANSEN: We estimated right around \$500,000.

115 CHAIR SPRINGER: Do you know how much additional fees the state of Washington proposed to levy per gallon or per barrel with this new provision in the law?

118 SUTHERLAND: No.

120 CHAIR SPRINGER: A fee of 1/2 cent is levied on petroleum products that pass through Washington even if it is destined for Oregon. Is that correct?

130 HANSEN: If they impose it the same way that they have imposed other fees on hazardous materials then yes. It would apply to all petroleum products that originate in the state of Washington from their refineries.

133 CHAIR SPRINGER: What is the estimated percent of petroleum products consumed in Oregon that come through Washington state that would be subject to that fee?

140 SUTHERLAND: Virtually all.

153 HANSEN: Most of it comes through Washington.

166 CHAIR SPRINGER: How would other hazardous materials be regulated or affected by this legislation?

168 HANSEN: We feel that the largest threat to the environment is oil not hazardous materials right now. We did not include hazardous materials in SB 242. However, it is included in SB 76.

189 JOHN BURNS, THE WESTERN STATES PETROLEUM ASSOCIATION, gives testimony on SB 76 AND 242. I see a need for some coordination as far as the concepts are concerned. I do have a number of serious technical questions relating to SB 242. Generally the oil industry favors a uniform set of contingency reforms.

269 SEN. GOLD: Do you mean immunity for individuals who happen to be operating as officers of the corporation?

275 BURNS: For the emergency spill responders.

278 SEN. GOLD: Does that mean the company or the officers of the company?

280 BURNS: Both.

281 CHAIR SPRINGER: How do you feel about targeting prevention?

294 BURNS: We are generally supportive. We agree that prevention has to be the focus. The problem is with the tramp steamers that come from countries that don't have this equipment.

329 SEN. TIMMS: Do you see a proliferation of the total process and a lack of coordination to have the best programs out there to mitigate the problems?

340 BURNS: I don't see a big proliferation in the private sector. I do

think that the industry is concerned that every state is going to go a different way.

377 SEN. TIMMS: When did the clean river response group come into place?

387 BURNS: There has been a clean river response group in Portland since at least 1977.

407 CHAIR SPRINGER: We would also welcome any additional comments on funding.

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007 BURNS: It is the same thing that we faced with the funding of the super fund. Washington State doesn't have a constitutional restriction so they add a surtax on a product that comes through the pipeline that Oregon consumers have to pay to fund their super fund program and now they are doing it as far as oil spills are concerned. It is particularly unfair when it comes to underground storage tank insurance for small service stations.

020 CHAIR SPRINGER: Members of the Washington Legislature are not exactly forthcoming in terms of volunteering the kind of relief that we would like to see or sharing of those funds with Oregon. I would welcome any comments on how we can work cooperatively with Washington State.

033 BURNS: About 80% of our refined product (diesel and motor gasoline) in the state of Oregon comes down the Olympic pipeline. About 80% of the gasoline, diesel and heating oil sold in Oregon bears the Washington super fund tax and now the Washington oil spill tax.

049 ALAN WILLIS, Port of Portland, gives testimony on SB 76 and SB 242.

075 CHAIR SPRINGER: To what extent are ports other than the Port of Portland involved in "bunkering" facilities in terms of storage and refueling vessels?

080 WILLIS: Coos Bay went actively into this but I don't know the exact figures and in Portland it is largely private facilities.

085 CHAIR SPRINGER: Do you know at what extent ships are topping off at Astoria before they are shipping off?

088 WILLIS: Very little as far as I know.

PUBLIC HEARING ON SB 477

100 ROB DOUGLAS, PORTLAND STEAMSHIP OPERATORS gives testimony on SB 477 which has been introduced through Sen. Springer. The bill requires that the equipment be in place, that there would be a plan on how the equipment would be used and the plan would be approved by DEQ. It would be funded by the industry through a vessel assessment fee and it would cover vessels whether or not they help fund the plan. We feel that this bill not only meets the requirements set by Washington State but exceeds it in a practical and efficient manner. We have a particular strength in that we have operators that operate in the Puget Sound as well as the Columbia and off the Oregon Coast.

130 CHAIR SPRINGER: Does that include barges?

131 DOUGLAS: Yes.

132 CHAIR SPRINGER: Will bunker from carrier vessels be covered?

137 DOUGLAS: I will have to defer that until I have one of my members here to answer the more technical questions.

158 CHAIR SPRINGER: We will be posting this bill for hearing within 2-3 weeks. The next bill we will hear is SB 185. SEE EXHIBIT J

PUBLIC HEARING ON SB 185

165 FRED HANSEN, DEQ, gives testimony on SB 185, and presents EXHIBIT K, containing DEQ's amendments to SB 185.

265 HANSEN: Continues testimony on and overview of SB 185.

365 HANSEN: Continues testimony on and overview of SB 185.

398 SEN. SMITH: Why are residential homes excluded?

401 HANSEN.: There are two reasons: with most of the work being done by homeowners we felt that the regulatory activity was too great to extend to this level.

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004 SARA ARMITAGE: Second, all of the work practices that a contractor coming into a house would have to follow would be in place but we wouldn't require an inspection prior to construction.

018 SEN. SMITH: Is there information available for homeowners to alert them of the dangers of aSB estos in the home?

025 ARMITAGE: We have some educational programs in place and we are present at home shows and are hoping to put something in utility bills to warn people of the dangers of aSB estos. They can also call us.

031 SEN. SMITH: Any contractor hired to do work on a home would be required to follow the regulations on aSB estos removal?

034 HANSEN: Yes.

036 SEN. SMITH: Do they have any liability risk in exposing their employees to aSB estos?

038 HANSEN: Yes. The difficulty is that the results do not show up for 15-40 years.

039 SEN. TIMMS: How much aSB estos exposure does it take to harm someone?

040 HANSEN: There is no level that is safe.

059 SEN. TIMMS: We are not mandating anything that goes beyond what the federal government is mandating as far as aSB estos is concerned?

062 HANSEN: What we have as an aSB estos program is a program that is not specifically mandated. The federal government does not require worker training programs as a way to regulate exposure to aSB estos.

073 A few other items in the legislation that are important. >The Environmental Quality Commission would provide for the accreditation of the certain courses that must be completed to become a licensed aSB estos inspector. >We would also provide reciprocity among other states.

>The fees are intended to make the program self-supporting. >Section 9 provides for civil penalty without the normal five day warning for non-license inspections.

112 SEN. KINTIGH: What do they do in the case of demolition?

116 ARMITAGE: Existing aSB estos regulations require removal of aSB estos materials prior to demolition of all buildings in the state. We do allow them to leave in certain types of aSB estos which we deem nonfreeable.

120 SEN. KINTIGH: What about floor tile?

SERIES OF QUESTIONS ON ASB ESTOS

126 ARMITAGE: Floor tile can break down. Roofing materials can stay in place.

128 CHAIR SPRINGER: To what extent are local governments affected by this?

130 ARMITAGE: Local governments that own buildings will be under this inspection requirement.

133 SEN. SMITH: Would local governments send one of their own staff people through your program to become an inspector?

135 HANSEN: Yes.

139 CHAIR SPRINGER: This bill has subsequent referrals to Rules and Ways and Means Committees but we'll pursue further clarification of that depending on how the bill is addressed here.

150 HANSEN.: Our view is that aSB estos fibers that are released from a renovation or demolition of a publicly owned building pose the same environmental and health risks as a privately owned building and feel that therefore they should equally apply.

153 SEN. TIMMS: Can this licensed aSB estos inspector be trained by a private person or is it strictly by the government?

164 HANSEN: We certify the training and there are both private trainers and public.

180 SEN. SMITH: What is the cost of an inspection?

187 ARMITAGE: Estimates range from 4-5 cents per square foot and as high as 10 cents per square foot (floor space footage) in rural areas.

193 HANSEN: If there is demolition then we would expect that the whole building must be inspected. If there is renovation or reconstruction then only the part that would be disturbed would need to be inspected.

199 CHAIR SPRINGER: We will carry over the rest of the agenda to the hearing one week from today.

CHAIR SPRINGER ADJOURNS THE MEETING AT 10:45.

EXHIBIT LOG:

A - Staff Measure Summary - SB 76, Committee Staff - 2 pages  
B - Bill Analysis - SB 76, Committee Staff - 3 pages



C - Staff Measure Summary - SB 242, Committee Staff - 2 pages D  
- Issue Brief - SB 242, Committee Staff - 5 pages E - Bill Summary  
- SB 242, Committee Staff - 5 pages F - Comparison of bills - SB 76 &  
SB 242, Committee Staff - 5 pages G -Testimony - SB 242, Fred Hansen,  
Director, Department Environmental Quality - 10 pages H -Testimony - SB  
24, Jill Zarnowitz, Assistant Chief, Oregon Dept. Fish and Wildlife - 2  
pages I -Testimony - SB 76, SB 242 - Jean Cameron, Oregon Environmental  
Council - 13 pages J -Staff Measure Summary - SB 185, Committee Staff -  
1 page K -Testimony - SB 185, Fred Hansen - 17 pages

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