

Senate Committee on Agriculture and Natural Resources April 3, 1991 -
Page

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SENATE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES Senate Agriculture
and Natural Resources April 3, 1991 Page

April 3, 1991Hearing Room C 8:00 a.m. Tape 120 - 122

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

VISITING MEMBERS: Sen. Bill Bradbury

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

MEASURES CONSIDERED: SB 499(WRK) SB 162(WRK) SB
242(WRK) SB 189(WRK) SB 500(WRK) SB 263(WRK) SB 715(WRK)

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TAPE 120 SIDE A

003 CHAIR SPRINGER CALLS THE MEETING TO ORDER AT 8:15 AM

WORK SESSION ON SB 499

WITNESSES: Sen BillBradbury Dennis Olmstead Jeannette Holman

008 SEN. BILL BRADBURY, DISTRICT 54, gives testimony on SB 499 with - 4
amendments EXHIBIT A - definition of exploration on LINE 18 - definition
of scientific research LINE 21 - DOGAMI's request to further amend these
amendments

038 DENNIS OLMSTEAD, DOGAMI, gives testimony on SB 499 - 5, proposed
definition of exploration not being proprietary.

058 OLMSTEAD: gives suggested amendments to line 23 of the - 4
amendments, requesting the word "hazards" after the word "processes".

070 JEANNETTE HOLMAN, Legislative counsel, concurs with proposed
amendment language.

118 SEN COHEN: Discussion with SEN TIMMS on language in the - 5
amendments

MOTION: Chair Springer moves the DOGAMI amendments adding "hazards" on line 23 page 1

VOTE: Hearing no objections the MOTION CARRIES

MOTION: Sen Cohen moves the - 4 amendments

VOTE: Hearing no objections the MOTION IS ADOPTED with Sen Smith excused

WORK SESSION ON SB 242

WITNESSES: Andy Schaedel Bruce Sutherland Allen Lewis Paget Engen
Dave Obern

143 PETER GREEN, Committee Administrator, gives overview on the progress of the Funding Work Group Meeting, Chaired by Sen Springer and gives overview of proposed - 3 amendments EXHIBIT B

166 ANDY SCHAEDEL, DEQ, Surface Water Manager, gives overview of amendments to SB 242 and presents EXHIBIT C and D

- instructions for implementation of the plan, and subsequent rules - contingency plan - language in the proposed amendments

268 BRUCE SUTHERLAND, DEQ, clarifies amendment language and intent. EXHIBIT C, D - section 10 sub 2

217 SIDELL: - Section 13, financial insurance with the adoption of Federal limits.

- natural resource response plan - discussion with Committee Members on proposed amendments - gross tons and gallons - largest tank vessel carries 12 million gallons. - average barge has a capacity of 2.94 million gallons. Most are smaller.

351 SEN COHEN, BRENNEMAN, SPRINGER:

361 SUTHERLAND: The covered vessels would include fishing vessels and would not be the same liability as for tankers.

TAPE 121 SIDE A

017 SCHAEDEL: continues testimony on SB 242 amendments, EXHIBIT D - booms could have some benefit. As written this gives us authority to have the booms at a later date. - funding - removal from other liabilities

068 CHAIR SPRINGER: What is Washington doing with Booms on board? - Washington State gives the minimum funding. Will the Pilot Board adopt rules relating to speed etc?

092 SUTHERLAND: The Maritime Safety Board, if they want to pursue them, will be implemented on the state level through the Governor's Office.

010 GREEN: Gives overview of work group.

125 CHAIR SPRINGER: gives list of those participating in the work group.

133 GREEN: - continues overview of Funding Work group

211 ALLEN LEWIS, Port of Portland, gives overview of EXHIBIT E. Speaks in support of the bill and is pleased with the planing being done around contingency planning. The coast guard is active in rules enforcement. If other authority is necessary we suggest DEQ.

- answers questions from Committee Members

370 PAGET ENGEN, Oregon Public Ports Association, gives testimony on the size and capacity of ships supplying fuel to coastal ports and presents EXHIBIT H.

TAPE 120 SIDE B

005 ENGEN: continues testimony on SB 242.

- assessment must not cost more for a ship calling at Newport than one at Portland. - state review of plans - coastal ports must not be put at a competitive disadvantage - implementation of the plan - acknowledgement that resources are different on the coast

062 CHAIR SPRINGER: Reads section from ORS 777.120 relating to waterways.

079 DAVE OBERN, Facilities Manager, State Marine Board, gives testimony on marine fueling stations related to SB 242

WORK SESSION ON SB 162

WITNESSES: Eldon Hout

104 CHRIS BECK, Committee staff, gives overview of -1, -2, -3, DOGAMI Amendments for SB 162 (EXHIBIT F)

153 ELDON HOUT, Land Conservation and Development (LCDC), gives overview of amendments for SB 162 (EXHIBIT F)

160 BOB BAILY, LCDC, gives overview of amendments in EXHIBIT F

- gives overview of proposed amendments

215 HOUT: continues overview of suggested amendments to SB 242. EXHIBIT F

MOTION: Sen Cohen moves the -3 Amendments

VOTE: Hearing no objections the MOTION is ADOPTED

WORK SESSION ON SB 242

WITNESSES: Sandra Bishop Bob Bailey

309 SANDRA BISHOP, League of Women Voters, gives overview of suggested amendments to SB 242 -2 AMENDMENTS.

- BISHOP and BAILY answers questions from Committee Members

TAPE 121 SIDE B

005 SEN. COHEN: I would move the deletion of lines, 19-22 of the - 2, and not the lines 16-18 amendment, leaving 7-15. Is the adoption of lines 7 - 15 agreeable?

029 BAILY: 10 - 15 are the lines we would agree to.

MOTION: Sen moves the adoption of Lines 10 - 15 of - 2 Amendments

VOTE: Hearing no objections the MOTION is ADOPTED with Sen Smith excused

WORK SESSION ON SB 162

WITNESSES: Dennis Olmstead

048 BAILY: refers to the - 4 amendments to SB 162

055 HOUT: This is not a recommendation of the Ocean Task Force

058 BISHOP: The League of Women Voters would oppose that industry representative.

060 SEN. TIMMS: It is important to be cautious how this law is passed. I don't want to lock up the environment issue in case there are some important things to be found in the ocean. We need to come up with environmentally correct methods of exploration.

112 OLMSTEAD: gives testimony on amendments to SB 162

MOTION: Sen Cohen moves SB 162 as Amended DO PASS to Ways and Means Committee

VOTE: In a roll call vote the MOTION PASSES 5 - 1 with Sen Timms voting NAY and Sen Smith excused

WORK SESSION ON SB 715 (EXHIBIT J)

MOTION: Chair Springer moves - 5 amendments

VOTE: Hearing no objection MOTION ADOPTED

- discussion of amendments

MOTION: Chair Springer moves SB 715 as Amended to the floor DO PASS

VOTE: In a roll call vote the MOTION CARRIES 7 - 0

WORK SESSION ON SB 499

MOTION: Sen Smith moves SB 499 as amended to the Floor DO PASS

VOTE: In a roll call vote the MOTION PASSES 4 - 2 with Sen Timms, Kintigh voting Nay

WORK SESSION ON SB 263

WITNESSES: Peter Green

282 GREEN: Gives overview of EXHIBIT I

288 SEN. COHEN: It was not my intention that they go into a full fledged regulation program.

348 CHAIR SPRINGER: Reads letter from the mayor of Brookings Oregon.

367 NORM MEYERS, Public Utilities Commission, gives testimony on the Fiscal Impact of SB 263 .

368 SEN. COHEN: We are not asking you to set rates.

378 MEYERS: We would be testifying to set forth costs for governing bodies to set rates.

395 SEN. SMITH: I thought you would only give basic guidelines for rates.

TAPE 122 SIDE A

005 MEYERS: - answers questions from Committee Members.

WORK SESSION ON SB 242

050 CHAIR SPRINGER: These - 3 amendments represent over a years work. I feel that we have made every effort to accommodate the demands of the industry. We have to every extent possible made sure that the SB 242 as Amended meet those demands. This bill should be stronger.

MOTION: Chair Springer moves - 3 amendments with additional comments from DEQ and work on funding with interoffice amendment from Bruce Sutherland.

VOTE: In a roll call vote the MOTION PASSES 7 - 0

CHAIR SPRINGER RECESSES MEETING AT 10:17 AM

RECONVENES AT 5:00 PM

EXHIBIT LOG:

A - Proposed Amendments to SB 499 - Sen Bill Bradbury - 6 pages
B - Proposed Amendments to SB 242 - Committee Staff - 1 pages
C - Testimony on SB 242 - Andy Schaedel - 4 pages
D - Proposed Amendments to SB 242 - Andy Sidel - 23 pages
E - Testimony on SB 242 - Allan Lewis - 2 pages F - Hand
Engrossed SB 162 - 1 - Committee Staff - 7 pages G - Testimony on
SB 162 for the record - Debra Boone - 1 page H - Testimony on SB
242 - Paget Engen - 2 pages I - Fiscal Analysis SB 263 - Committee
Staff - 3 pages J - Proposed amendments for SB 715 - Committee
Staff - 7 pages

Submitted by: Reviewed by:

Kus Soumie Peter Green Assistant Administrator

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SENATE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

April 3, 1991Hearing Room B 5:00 a.m.Tape 123 - 126

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

MEASURES CONSIDERED: SB 555 SB 1125 "Cumulative Effects"

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TAPE 123 SIDE A

003 CHAIR SPRINGER RECONVENES MEETING AT 5:00 PM

CUMULATIVE EFFECTS

WITNESSES: Lydia Taylor Neil Mullain Jeff Dose Dr Gordon Reeves
Chris Fresell George Brown Dr. Robert Beschta Jim Brown Debra Wallace
James McPeake Karl Anuta

022 LYDIA TAYLOR, Water Quality Division, DEQ, gives overview of the T M
D L process and resources required to measure it.

036 NEIL MULLAIN, Manager, Standards and Assesments Section, DEQ, gives
description of TMDL or Total Maximum Daily Loads

- assesing the ability of a body of water to assimilate waste to meet
standards - identify water bodies not meeting quality standards - Water
Quality Limited List (streams not meeting standards) - 15 water bodies
are water quality limited - 2 bodies each year are assesed at a cost of
\$ 300,000.00 per year

071 CHAIR SPRINGER: Is this work done in house or is this contracted
out, and how is it paid for?

074 MULLAIN: The work to date has been primerily funded Federally
through EPA with most of the work being done by DEQ. Some of the larger
projects involving other point source agencies are putting together
funds.

- continues overview of TLDM - waste load allocations - reserve capacity or safety margin - future growth and development

099 CHAIR SPRINGER: How did the problem occur due to forest practices within the water shed of the Tualatin river?

113 MULLAIN: When a water body is defined for TMDL, and the concentration is defined for that particular body, we then sit down and decide who gets to put in how much of each defined substance. In the case of the Tualatin we looked at the point sources, and allocated them a load for the river at their discharge point. This relates to the concentration of phosphorous at the discharge point. - establish allocated load uses - identify what the load would have to be

140 MULLAIN: - continues description and background of formulation of TMDL's - answers questions from committee members

178 TAYLOR: It is the intent of DEQ's Department of Water Quality to protect and take enforcement action. We work with the Dept of Forestry to be a portion of the TMDL for the Tualatin.

199 - continues with questions from committee members - Federal funding is not available - 1 TMDL per year. - TMDL's required through Federal law

323 SEN. COHEN: What type of material are we talking about when dealing with TMDL's?

331 MULLIAN: Dissolved oxygen toxins, and others that have potential for impacting fisheries.

- continues with questions from Committee Members - reviews language in section 15, in relation to the Federal Clean Water Act. - who should deal with water quality? - best management practices

TAPE 124 SIDE A

003 TAYLOR: - continues overview of SB 555, 1125, CUMULATIVE EFFECTS - best forest practices - questions from Committee Members

010 CHAIR SPRINGER: What means do you have at your disposal to meet Forest Practices Act?

020 TAYLOR: Non point source is difficult to deal with at the state level. County authority could be employed. The County could have storm water runoff that would apply to Agriculture if they wish to do that. We would hope in Oregon the Department of Agriculture would take the lead in trying to seek ways to have those nonpoint source activities be controlled.

- We would like to work out a process when the best management is measured to see if it is effective or one that would improve the process of the BMVB

052 PETER GREEN, Committee Administrator, gives overview of recommendations from the Department of Fish and Wildlife EXHIBIT A,B,C

050 JEFF DOSE, Forest Fisheries Biologist, Umpqua National Forest, Co-Chairman, Stream Habitat Committee, Oregon Chapter American Fisheries

Society, gives testimony on SB 555 AND 1125, and presents EXHIBIT D

191 DOSE: Slide presentation. - environmental assessment - answers questions from Committee Members - defining statute of procedures

315 DR. GORDON REEVES, Oregon American Fisheries Society, US Forest Service, gives slide presentation on cumulative effects

- defining cumulative effects - decrease in diversity of species in the fish community

421 CHRIS FRESELL, Researcher, Oregon Department of Fish and Wildlife, continues testimony with slide presentation overview of EXHIBIT D

TAPE 123 SIDE B

003 FRESELL: continues testimony and slide presentation.

- increased landslide in relation to cumulative effects - many studies of landslides in Oregon - large increase in harvested lands, especially those with roads - many lands being logged at this time have very unstable soil - high rate of failure for forest roads - stream side failures pulling earth from the toe of the slope - channelization - difficult for fish to survive the type of habitat and fisheries today

375 REEVES: Testimony on upper Brietenbush River with overview of habitat decline since 1936.

TAPE 124 SIDE B

003 REEVES: continues overview (slide presentation)

- changing stream processes nutrient intake - in Oregon fish face double jeopardy, warm and cold ocean currents - more restrictive regulation and restoration is needed

084 DOSE: gives concluding remarks about major questions facing land management. - answers questions from Committee Members

TAPE 125 SIDE A

008 REEVES, DOSE and FRESELL: - conclude testimony with questions from Committee

025 GEORGE BROWN, Dean, College of Forestry, Oregon State University, gives answers to questions on cumulative effects related to hydrology.

054 DR. ROBERT BESCHTA, Professor of Forest Hydrology, college of Forestry, Oregon State University, gives overview of EXHIBIT E including testimony on TMDL's and their approach to water quality control. - answers questions from SEN SMITH 360 - landslide issues

TAPE 126 SIDE A

003 JIM BROWN, State Forester, gives testimony on that of BART BENZIGER, who gave testimony on 3-27-91. EXHIBIT F

059 SEN KINTIGH: Continues testimony on BART BEZINGER.

080 CHAIR SPRINGER: Monday was the deadline for some recommendations

from your staff.

090 BROWN: Staff is in the process of taking into account each of the issues contained in the document. We will take care of the substantive elements of the document. The board will resolve and prioritize goals within the board identifying areas we wish to take on.

135 CHAIR SPRINGER: I would like to know from you whether current forest practices have improved. Fish habitats still have serious problems. Where are improvements needed in your opinion? How much data have you pulled together?

157 BROWN: We could share what we have learned in the last 2-3 years. How the agency deals with

168 CHAIR SPRINGER: What about the difference in opinion in observations on these issues?

177 BROWN: In the 1980's the board adopted some rules, and hired geo-technical engineers to help with road design.

194 DEBRA WALLACE, Tenmile STEP, gives testimony on FOREST PRACTICES ACT and

presents overview of EXHIBIT G. Finds fault with the Forestry departments treatment of buffer strips. There is massive clear cutting between two lakes. Volunteers are working to get data and streams are not classified. More protection for class 2 streams.

274 JAMES McPEAKE, STEP, gives testimony on FOREST PRACTICES ACT, the forest

practices act is just disgusting.

PUBLIC HEARING ON SENATE BILL 1125

372 KARL ANUTA, representing self, gives testimony on BMP's. I feel I have something to help the committee on section 15. I agree with some of the testimony given by

TAPE 125 SIDE B

003 ANUTA: continues testimony on SB 1125. - Section 15 would take away authority from DEQ and give it to the Department of Forestry. - if this provision is enacted the provision of the Clean water act of the EPA - Forestry doesn't have enough knowledge in water policy - consider that provision it is dangerous

090 CHAIR SPRINGER: Will ask Fish and Wildlife to address some of the issues brought up on March 27, 1991. The proponents of 1125 are free to speak to the affected agencies. Will send matrix of issues and ask members to visit with affected parties and be prepared to deal with these issues.

MEETING ADJOURNES AT 8:23 PM

EXHIBIT LOG:

A - Testimony on SB 1125/555 - Committee Staff - 2 pages
B - Testimony on SB 1125/555 - Committee Staff - 10 pages

C - Testimony on SB 1125/555 - Staff - 2 pages D - Testimony on SB 1125/555 - Jeff Dose - 11 pages E - Testimony on SB 1125/555 - Dr. Robert Beschda - 10 pages F - Testimony on SB 1125/555 - Jim Brown - 3 pages G - Testimony on SB 1125/555 - Debra Wallace - 95 pages

Submitted by: Reviewed by:

Kus Soumie Peter Green Assistant Administrator