

Senate Committee on Agriculture and Natural Resources May 15, 1991 -
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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.

SENATE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

May 15, 1991Hearing Room C 8:00 a.m. Tape 199 -200

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

MEMBERS EXCUSED:

VISITING MEMBERS:

STAFF PRESENT: Peter Green, Committee Administrator Chris Beck,
Research Associate Barbara Porter, Committee Assistant

MEASURES CONSIDERED: SB 972 SB 1108 HB 2077 HB 2124
HB 2143 HB 2236 HB 2328 SB 685 SB 265 SB 266 SB 686 SB 316 SB
699 SB 726 SB 1094

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proceedings, please refer to the tapes.

TAPE 199 SIDE A

003 CHAIR SPRINGER CALLS THE MEETING TO ORDER AT 8:00 AM

WORK SESSION ON SB 2077

018 DON HULL, DEPARTMENT OF GEOLOGY: Supports amendments, urges passage
of A- engrossed version of the bill.

042 Discussion of wood vs plastic posts.

090 TOM BARROWS, NORTHWEST MINING ASSOCIATION: Supports the bill and
the amendments.

101 MOTION: SEN. TIMMS MOVES HB 2077 A-engrossed to the floor with a do
pass recommendation.

VOTE: In a roll call vote, the motion passes. Sen. Gold is excused.

WORK SESSION ON SB 2124

117 STEVE HAWES, OREGON REAL ESTATE AGENCY: Supports the bill. Submits and

summarizes written testimony (EXHIBIT A).

156 MOTION: SEN. KINTIGH moves HB 2124 to the floor with a do pass recommendation.

VOTE: In a roll call vote, the motion passes. Sen. Gold is excused.

WORK SESSION ON HB 2143

169 JOHN CHRISTIE, OREGON HARDWOOD FOREST PRODUCTS RESOURCES COMMITTEE: Supports the bill.

198 RAY CRAIG, DEPARTMENT OF FORESTRY: Supports the bill.

211 MOTION: SEN. KINTIGH moves HB 2143 A-engrossed to the floor with a do pass recommendation.

VOTE: In a roll call vote, the motion passes. Sen. Gold is excused.

WORK SESSION ON HB 2236

243 PETER BOND, OREGON STATE PARKS: Supports the bill. Submits and summarizes written testimony (EXHIBIT B).

MOTION: SEN. COHEN moves HB 2236 A-engrossed to the floor with a do pass recommendation.

VOTE: In a roll call vote, the motion passes.

WORK SESSION ON HB 2328

271 PHIL WARD AND KEN SIMILA, OREGON DEPARTMENT OF AGRICULTURE: Supports the bill. Submits and summarizes written testimony (EXHIBIT C).

340 SEN. TIMMS: How is the program funded?

346 WARD: Eighty percent fee supported and twenty percent general fund this biennium.

367 MOTION: SEN. SMITH moves HB 2328 to the floor with a do pass recommendation.

VOTE: In a roll call vote, the motion passes.

408 CHAIR SPRINGER: Discusses bills for tabling.

MOTION: CHAIR SPRINGER moves to table SB 685, SB 265, SB 266, SB 316, SB 699, SB 726, and SB 1094.

VOTE: IN a roll call vote, the motion passes.

TAPE 200 SIDE A

WORK SESSION ON SB 972

SUBMITTED FOR THE RECORD SB 972 dash 1 amendments (EXHIBIT D) and SB 972 dash 2 amendments (EXHIBIT E) by the staff.

020 FRED FISHER, NORTHWEST COALITION FOR ALTERNATIVES TO PESTICIDES: Submits and summarizes written testimony. (EXHIBIT F).

042 CHAIR SPRINGER: Refers to memo from Lorna Young (EXHIBIT G).

061 LORNA YOUNG, OREGON DEPARTMENT OF AGRICULTURE: Responds to questions.

100 Discussion of dash 2 amendments.

150 MOTION: SEN. SMITH moves dash 2 amendments in the hand-engrossed version (see exhibit F).

164 FISHER: Discussion of new language in dash 2 amendments.

WORK SESSION ON HB 1108

SUBMITTED FOR THE RECORD SB 1108 dash 1 amendments (EXHIBIT H), SB 1108 dash 1 hand engrossed (EXHIBIT I), and letters from the Oregon Retail Council, AOI (EXHIBIT J) and Oregon Environmental Council (EXHIBIT K) by the staff.

218 QUINCY SUGARMAN, OSPIRG: Section by section discussion of hand engrossed version of 110 8 dash 1 (see exhibit I). Answers questions from the members.

TAPE 199 SIDE B

070 CHAIR SPRINGER: Back to 972.

075 PETER GREEN: Explains changes in Dash 1 amendments.

085 SEN. COHEN: We are not increasing the fertilizer fee.

094 CHAIR SPRINGER: We are increasing the registration fee.

119 SEN. COHEN: Supports the amendments.

123 MOTION: SEN. SMITH moves the dash 2 amendments as explained in the most recent hand-engrossed version, by which motion her previous motion is effectively withdrawn.

126 SEN. BRENNEMAN: Objects to the bill.

THE AMENDMENTS ARE ADOPTED.

129 MOTION: SEN. SMITH moves SB 972 to Ways & Means as amended to Ways and Means with a do pass recommendation.

VOTE: In a roll call vote, the motion is adopted. Sen. Timms is excused.

153 CHAIR SPRINGER: Back to 1108.

156 SUGARMAN: Recommends no further changes in the amendments.

162 MOTION: SEN. SMITH moves SB 1108 dash 1 amendments as amended be adopted.

HEARING NO OBJECTION, THE MOTION PASSES.

167 BOB DANKO, DEQ: Discusses fiscal impact.

196 MOTION: SEN. SMITH moves SB 1108 as amended to Ways and Means with a Do Pass recommendation.

VOTE: In a roll call vote, the motion passes. Sen. Timms and Sen. Brenneman are excused.

210 CHAIR SPRINGER: Adjourns the hearing at 9:40 a.m..

EXHIBIT LOG:

A - Testimony on HB 2124 - Steve Hawes - 5 pages
B - Testimony on HB 2236 - Peter Bond - 2 pages
C - Testimony on HB 2328 - Phil Ward - 2 pages D - SB 972-1
Amendments - staff - 2 pages E - SB 972-2 hand engrossed
amendments - staff - 3 pages F - Testimony on SB 972 - Fred Fisher
- 8 pages G - Testimony on SB 972 - Lorna Young - 1 page
H - SB 1108-1 amendments - staff - 3 pages I- SB 1108-1
hand engrossed amendments - 4 pages J - Testimony on SB 1108 - Jim
Whitty - 1 page K - Testimony on SB 1108 - Jean Cameron - 1 page

Submitted by: Reviewed by:

Barbara Porter Peter Green Assistant Administrator

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SENATE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

May 15, 1991Hearing Room B 5:00 PMTape 201 - 202

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 Jill Rader, Committee
Clerk

MEASURES CONSIDERED: SB 555(WRK) SB 1125(WRK)

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TAPE 201 SIDE A

006 CHAIR SPRINGER RECONVENES THE MEETING AT 5:15 PM

WORK SESSION ON SB 555 AND SB 1125

WITNESSES: JANET MCLENNON, CHAIR, BOARD OF FORESTRY LIZ FRENKEL,
SIERRA CLUB, OREGON CHAPTER MARK LIVERMAN, CONSERVATION
DIRECTOR, PORTLAND AUDOBON PAUL KETCHUM, SENIOR PLANNER, 1000 FRIENDS OF
OREGON

015 JANET MCLENNON, Chair, Board Of Forestry: Introduces (EXHIBIT A), revised SB 1125- 5 amendments. This proposal directs the board to commission a scientific inquiry on the relative effects of forest practices on fish runs, and identify how forest practices have affected habitats and fish runs before and after the 1972 Forest Practices Act. This idea comes from the California Legislature's Commission to study the problem of Mono Lake. This type of study relative to Forest Practices and anagromous fish runs could produce information that would either affirm our regulation or suggest policy changes. Urges committee to include this proposal in legislation.

102 CHAIR SPRINGER: We have had a fair amount of testimony from the experts on this; some point to harvest as the major factor where others

point to agriculture practices as the cause of fish population decline. Should the Oregon Department of Fish and Wildlife (ODFW) be involved in the process?

120 MCLENNON: A lead scientist would be contracted to select a panel and then they would design the study. Many agencies would be involved. -The proposed change on page 2, SB 1125-5 amendments (EXHIBIT A) is a funding mechanism

142 CHAIR SPRINGER: What is a reasonable time frame for this study?

MCLENNON: About 2 years.

152 SEN. KINTIGH: How do you compare the scope of this study to that of Mono Lake?

156 MCLENNON: The Mono Lake situation was a multifaceted problem in a discreet geographic area. Our situation would be a much broader geographic scope.

173 SEN. KINTIGH: What about the complexity of the issues?

176 MCLENNON: Both situations are complex.

183 CHAIR SPRINGER: How would the board respond?

MCLENNON: It depends on the results. If the regulations under our authority need to be changed, we would amend our rules. If the need for legislative action is necessary, we would be back here. A two year study from now would push the results of this study to the '95 Session.

200 CHAIR SPRINGER: Should we give you standby authority in case compelling evidence should suggests action before the next legislative session?

208 MCLENNON: It is conceivable that we could go beyond the riparian direction we have, but I don't think so.

213 CHAIR SPRINGER: Do you support habitat other than fish in the statute or amendments.

220 MCLENNON: Under existing statutes, we have more authority than we have exercised with respect to wildlife. This will probably change soon.

248 SEN. SMITH: In sub 2 of Section 20 of the SB 1125-5 amendments (EXHIBIT A) it says you will contract with a disinterested and independent organization, how will you find such an organization?

260 MCLENNON: An ecologist associated with an academic institution and a panel of experts from diverse disciplines would probably be the answer.

277 SEN. SMITH: How would you base your needed action since Forestry only governs Forest Practices and this is a much wider study with many components?

287 MCLENNON: Hopefully the results will be specific enough to show how to change Forest Practices Regulations for the most benefit. We are focusing on our practices and not other agencies.

310 SEN. COHEN: Is it feasible to choose specific areas of geography in

each region in order to focus our resources? Can the Board do a study on an actual operation?

384 MCLENNON: This work can be done, but there are so many different opinions on what the cumulative effects are. It also depends on how you focus your examination.

411 SEN. COHEN: But what about using this as a tool to improve management practices as you go along instead of doing a study to discover the ultimate cumulative effect.

422 MCLENNON: Some of these effects are long lasting where others aren't.

TAPE 202 SIDE A

005 SEN. COHEN: There is little agreement on the rate of ephemerality. There needs to be a system of monitoring so an assessment can be made whether or not it was an actual ephemeral effect.

013 MCLENNON: The facts are diverse and not necessarily available.

018 SEN. COHEN: The facts are available now, its just that they aren't being studied. We aren't keeping track of what we do.

034 MCLENNON: The kind of information that causes a variety of results in the answers are the soil, the site itself...

036 SEN. COHEN: There is no one answer. This effort is about making judgements on actions and reactions. The Department of Forestry needs to be willing to make these judgements.

053 MCLENNON: The Department of Forestry is making these judgements you talk about. They may not always be right; they haven't accumulated them in a systematic way but it would be a good thing to do in each region. As we go further, regulation will become less generic and more particular to individual circumstances.

082 SEN. COHEN: On what other basis can you make as a board?

086 MCLENNON: Regarding issues where we have adopted rules we have testimony and factual basis brought before us. We haven't as a board, worked on road building and harvest rules.

105 SEN. SMITH: You indicated you are on the threshold of drafting rules for endangered species. Is that the list that ODFW gave you?

108 MCLENNON: We are on the threshold of a revision of the forest practices rules. We have been working on the rules relative to endangered species from the ODFW list.

115 SEN. SMITH: There was recent testimony regarding a list of wildlife that needed to be addressed in your rule making. The Department indicated that they didn't anticipate doing this. Are you aware of that?

121 MCLENNON: Not of this list or of the Department not being willing to do that. My understanding is they are reworking this list and then undertake rule making.

137 SEN. SMITH: What do your rules require you to do with a sensitive

species?

139 MCLENNON: Presently they don't require anything, but they do permit us to deal with problems that may arise regarding these species.

155 LIZ FRENKEL, Sierra Club, Oregon Chapter, Refers to DEQ's and the Department of Forestry's Proposed Amendments to SB 1125 (DEQ/DOF) (EXHIBIT B) that deal with Water Quality. - Concerns with Amendments; There is an attitude that if you meet the best management practice, then you are achieving the ideal standard. This isn't necessarily true. - Section 18, of DEQ/DOF amendments (EXHIBIT B), has philosophical problems. - There shouldn't be a two year time lag after a Water Quality Standard is violated.

260 SEN. COHEN: There is no LC language to these DEQ/DOF amendments EXHIBIT B at this time.

267 FRENKEL: Would be more comfortable with LC language to be specific about the citizen review process.

274 SEN. COHEN: What does a citizen do now?

277 FRENKEL: They can't do much.

288 SEN. KINTIGH: In Section 18 of the DEQ/DOF amendments EXHIBIT B, how would you know a given operator is responsible?

297 FRENKEL: You're saying that as long as he's doing what he's told, everything is fine, my concern is with the fact that it has happened and not how.

318 SEN. KINTIGH: How can one person be responsible for the condition of the stream?

335 FRENKEL: It really doesn't matter, because nothing happens...The people downstream pay the price.

353 SEN. KINTIGH: You can't blame the wrong person

FRENKEL: I'm just saying these DEQ/DOF amendments EXHIBIT B aren't the answer

365 CHAIR SPRINGER: We have a memo from the Sierra Club EXHIBIT C

372 MARK LIVERMAN, Conservation Director, Portland Audobon Society, It (EXHIBIT C) is an example of another legislature dealing with this problem. - Agrees with FRENKEL. - In cases where it is simple to prove certain forest practices are violating Water Quality, the operator will be exempt under Section 17 of the DEQ/DOF proposed amendments EXHIBIT B if he is complying with management practices. - In cases where it isn't clear who is violating Water Quality, there is still some measure of proof. DEQ can handle this and the forest industry doesn't need an exemption; there is evidence that forestry is responsible for a lot of damage. - The proposed language seems to eliminate the system of checks and balances between agencies involved. Leaves more to the federal government which doesn't always have high standards. - The Mono Lake Study: We don't know how long it took to complete that study and the study confirmed the obvious. - Opposes more scientific studies but supports a compilation and distribution already known by numerous agencies. Collectively we know a good deal. - Supports a comparative

study of regulatory programs between state and federal agencies.

TAPE 201 SIDE B

023 LIVERMAN: It is now necessary for someone to accept responsibility to take steps to protect resources until better information is available.

034 PAUL KETCHUM, Senior Planner, 1000 Friends Of Oregon, Agrees with Frenkel. Gives testimony on SB 555 and SB 1125 and comments on Water Quality issues.

044 SEN. SMITH: The legislature is dealing with these specific standards when there is a Board, Public Agencies, and a public process. It is their responsibility to set these standards. Why do you think we are doing this through the legislative process rather than requiring the Board of Forestry and other Agencies to establish balanced Forestry Practices.

063 KETCHUM: This committee should be dealing with Policy changes in the Board of Forestry. Legislating conservation direction is the wrong way to go about this. The legislative process isn't the place to be dealing with scientific concerns. Instead the legislature should be giving the Board a clear objective and the authority to carry out or adopt regulations.

092 LIVERMAN: Advocates interim standards for the Board of Forestry to give them the ability to be flexible in their decisions. This would prevent abuses.

104 CHAIR SPRINGER: We need to conclude.

112 KETCHUM: It is more difficult to get a conservation standard through a legislative process, these standards limit the Board's discretion.

122 CHAIR SPRINGER: As a committee we have put in about 40 hours on this. We haven't reached a clear consensus. My sense is those responsible for SB 1125 are still close to that bill in terms of their bottom line. We should come back Friday and just decide whether or not to get the bill out.

143 CHAIR SPRINGER ADJOURNS MEETING AT 6:30 P.M.

EXHIBIT LOG:

A - Amendments to SB 1125 - Janet McLennon - 3 pages
B - Proposed Amendments to SB 1125 - Andy Sivell - 6 pages
C - Testimony on SB 1125 - Mark Liverman - 2 pages D
- Amendments to SB 1125 - Sen. Smith - 2 pages E -Amendments to
SB 1125 - Fred Robinson - 1 page

Submitted by: Reviewed by:

Jill Rader

Peter Green Clerk

Administrator