

January 24, 1979

The House Natural Resources Committee convened on Wednesday, January 24, 1979, in room 3 of the Capital Annex, at 1:30 p.m. with Chairman Sheldon presiding and sixteen members present (absent were Reps. Fagg, Nathe and Quilici). Chairman Sheldon opened the meeting to a hearing on the following bills.

#### HOUSE BILL 192

REP. REX MANUEL, District No. 11, the chief sponsor, said this is a requested bill by the Code Commissioner. He asked Jim Lear of the Legislative Council to explain the contents of the bill.

JIM LEAR, Legislative Council, said he was not the drafter of the bill but that he would explain the bill and answer as well as he could any questions. He went through the bill section by section explaining any and all changes.

REP. HUENNEBENS spoke as an opponent. He said on page 9, line 1, the word "lagooning" is misinterpreted. In this part of the bill it means "the placing of a body of earth across a body of water to segregate that body of water." He said the word here has nothing to do with sewage and so asked that the word be returned to its original meaning.

During questions from the committee, Rep. Scully questioned the removal of language from page 13, subsection 2. Mr. Lear said this was redundant language. He said there are two violation penalties in the same part, one for license of refuse disposal and one for disposition of dead animals. He said it was felt there should be equal treatment for violations throughout the part. He said one change is the deletion of the 90 day possible imprisonment.

#### HOUSE BILL 168

REP. REX MAUEL filled in for the chief sponsor, Rep. Kvaalen, and said this is also a Code Commissioner request bill. He asked Randy McDonald of the Legislative Council to explain the bill.

RANDY McDONALD, Legislative Council, explained the bill. He said it was mostly grammatical changes. He said the most important thing the bill does is repeal section 90-2-105 and 90-2-106.

#### HOUSE BILL 222

REP. GENE FRATES, District No. 60, the chief sponsor, said this bill is an attempt to save a natural resource that we have developed at great expense--reservoirs to hold water. He said this bill should benefit all users of that water. He said it has been suggested that the title state small farm and ranch reservoirs are not included. He said the bill was not planned to affect them. He said he would

like to formulate a program to create the machinery and the technical knowledge needed for silt removal. He said his bill also includes the using of excess electricity, like at runoff times and floods, when feasible for the removal of the silt.

Chairman Sheldon mentioned the hearing on this bill will be continued until Friday if necessary for people who couldn't be at the hearing today.

PETE JACKSON, WETA, was the first opponent speaker. He said opposing this bill put one in a wee bit of an awkward situation. He said he could foresee that 30 to 40 years down the road this bill would be needed but that the state's money would be better spent now in developing sites they have and finding new sites. He said a lot of people are more prone to finding new sites than to repair. He said the average fill in back of the reservoirs has been about 10% in the first forty years. He said the cost of removal would be about \$180 an acre foot and it would refill in about 20 years. He said just the study would cost about \$220,000.

STEVE WILLIAMS, Ananconda Company, said his only reason for speaking as an opponent was that the bill as written could affect their tailings ponds. He asked that an amendment be added that would exclude tailings ponds.

GENE PHILLIPS, ASARCO, the next opponent speaker, said they, too, would request that an exemption be added excluding tailings operations.

REP. FRATES, in his closing speech, said he would not have any objection to an amendment removing tailings ponds. He said in response to Mr. Jackson's testimony that there is a limit to new dam sites available and many of the better and cheaper sites have already been used. As far as waiting, he asked when should we look at a problem, now or when the reservoir's capacity has been greatly diminished by the sedimentation. He said if we started looking now we perhaps could use some of the excess electricity and we would also have the needed machinery ready when needed.

Chairman Sheldon requested Rep. Frates and the opposing gentlemen to work out an agreeable amendment to remove tailings ponds. He asked Rep. Frates if there would be more testifiers on Friday. Rep. Frates said labor and farmers favored the bill and he asked the chair if new information could be introduced on Friday. Chairman Sheldon said new information could be added.

During questions Rep. Huennekens asked Mr. Jackson where he had obtained his data on cost and was the cost by surface acre feet. Mr. Jackson said from the DNR&C and it is surface acre feet. In answer to a question from Rep. Cooney, Mr. Jackson said there are 30 to 35 dams under the supervision of the DNR&C and he felt 40 years down the road if they are 25% full we should do something like what your bill is going to do. He said there are no maps of the bottom

topography of these dams and so they would have to be sounded, which he said the Corps of Engineers has been doing for years and is not difficult. He said Madison Lake because of the quake has nearly filled itself and is causing some problems.

Rep. Scully said he was having difficulty ascertaining just what the bill was intended to do--planning or implementing. He suggested the following amendments to make it a planning bill: 1) line 3, page 1, change "establish" to "plan"; 2) on line 16, following "removal" strike the following sentence; 3) and strike the lines 19 through 23 following "shall" and insert "select reservoirs needing such removal and solicit federal funding sources for such projects." Rep. Frates said he had no objection to these amendments.

Rep. Burnett asked Rick Bondy, DNR&C, for some information. Mr. Bondy responded that they did prepare a fiscal note on this based on the Cooney Dam. Costs they came up with are conservative, he said. He said they estimated it would cost \$138,000 for the first fiscal year and \$136,000 for the next. He said they would look at three or four of their own reservoirs to establish a program that might work. He said as far as the actual cost of removing the silt it would be about \$300 an acre foot of the additional storage volume.

Rep. Curtiss asked how many dams would the bill affect. Mr. Bondy said that 2000 dams meet the qualifications written into this bill --private dams, settlement dams, state dams. Rep. Scully asked what they planned to do with \$260,000 planning money. Mr. Bondy said they would identify specific dams and determine how much material needs to be removed.

Rep. Keedy asked Rep. Frates if the intent of his bill was to require the department to remove silt. Rep. Frates said his intent was to study the feasibility and establish a program. The department would be asked to study the feasibility and economics involved. Rep. Frates said his bill would try to correct something that is ongoing and only going to get worse.

Chairman Sheldon recessed the hearing on HB 222 until Friday.

#### EXECUTIVE SESSION

HOUSE BILL 168 Rep. Cooney moved do pass. The motion passed unanimously (except for those absent--Fagg, Nathe, Quilici). Rep. Metcalf moved that it be placed on the consent calendar. This motion passed unanimously with those present (same absent).

HOUSE BILL 112 Rep. Huennekens moved his amendment on page 9, line 1, following "weeds;", to insert "lagooning."

meaning the placement of a narrow strip of land across a shallow portion of a lake to create a lagoon;". Rep. Bertelson suggested removing the word "shallow." Rep. Huennkens agreed and moved the above amendment. Motion carried unanimously (same absent). Rep. Cooney moved that the bill as so amended do pass. The motion carried unanimously with those present (same absent). Rep. Metcalf moved the bill be placed on the consent calendar. This motion failed. HB 192 receives a Do Pass As Amended recommendation from the committee.

Meeting adjourned at 2:45 p.m.

Respectfully submitted,

  
ARTHUR H. SHELDEN, Chairman

Amelia Satre, Secretary