

HB 2594



March 3rd,
2015

Testimony of Michael J. Early

Ladies and Gentlemen of the House,
My name is Michael J Early, I am a Private Emergency Response Contractor located in Southern Oregon. My Company Name is North, its function is as an Earth and Environmental Service. I along with my crew provide response and containment services to Hazardous Material Incidents that require clean up measures to be implemented according to the Oregon Environmental Laws and Departmental Policy as well as Federal Environmental Laws and Departmental Policy. The Issues I present have had a profound effect on myself and the emerging industry I represent. I believe that the issues at hand have not only impacted myself and fellow Businessmen in the industry there is a direct impact to Public Monies as well as Public Health and Safety.

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TESTIMONY OF MICHAEL J. EARLY

My business is young, I became established as an emergency response contractor in 2009/2010 when I began sourcing equipment and training myself and others for the role. I have been involved in contracting and land development since 2003. My story is not unlike others that experienced success and failure with the real estate market boom. In 2007 I experienced financial disaster and my mother was suffering from Cancer, during this period of time I was working to understand where I could allocate my time and equipment in a sustainable field that had or has future growth potential. Possessing an education that included Business, Biology and Construction with years of field experience and continuing education I became interested in Oregon's Environmental Policy and opportunities that were developing around it.

By 2009/2010 I reached out and met with agencies such as ODOT and DEQ that were being impacted by laws that required immediate response to spills. I understood that there were limited resources and they were pulling companies from the Portland market to do the work in this Region. At this point I dove in head first, excited to be a part of the industry and this emerging market. I allocated close to a million dollars in assets which included Trucks, Heavy Equipment and the established business platform and tools that were used prior to this for my residential and commercial land development company. I invested in the long distance training of a 21 man crew that was certified on every level to handle level C and D response issues that impacted the southern portion State with the goal of being a resource for Level A measures and marine incidents which would require an additional investment of 1.5 million.

By 2011/2012 I was fully immersed in the developing industry, I found that once again I was slipping into a controversial situation. As mentioned, my early market analysis and research that prompted me to be a part of this proved that there was no one in this region competing for the work dynamic; this was substantiated by claims asserted from department figures with the aforementioned State offices. Initially spill responses were simple and quick jobs of responding to instances that kept fuel or oil from infiltrating a drains etc., by 2012 I received the largest job and undertaking that I had done to date. And within a few months I had another job of equal scale. My excitement and rejoice was to be short lived, I actually had the feeling that I made a good decision and this business was going to be successful. Within 6 months I realized after no payment that the first large job was headed to litigation and within a couple months of the second large job that followed I realized it too was headed to court as well. I contacted ODOT and DEQ Representatives that I work with on HAZMAT issues after explaining my circumstance I received a response identifying that this was a common occurrence and historically the State had succumbed to the same issues. Additionally I discovered that there had been other Response Contractors in this area, they simply had went out of business do to the situations I mention.

By 2013/2014 I found myself 50,000 in the hole on legal representation with no outcome, I was fortunate to have received 2 small response calls that made a meager contribution to the seemingly insurmountable debt that was accruing. By this time I was getting foreclosure notices on my Farm, Threats of tax liens and a few

judgments from vendors who I could not pay as I did not get paid. I was posed with the decision of having to sell my equipment and my home or wait to get paid and deal with repercussions and ramifications of outstanding debt. I had to take on a job to continue paying Attorneys, vendors, tax liabilities and save my Farm from foreclosure. During this period of time I fully immersed myself in understanding my position 100% as I could not believe that I was once again receiving the short end of the stick; I felt and still believe that there is no way I can respond in the interest of the public safety and statutes that exist and be required to actually pay to clean up these hazards that are a result of someone's violation or accident, I should not be held financially responsible or suffer losses in this, I am a business and deserve to be profitable when I work, not the opposite.

By early 2014 I had 2 more jobs with attorneys trying to get some form of payment. As time progressed in 2013/2014 I was posed with settlement offers from insurance companies; I was forced to take the settlement offers as the debt I incurred was impossible to pay without getting paid for the jobs. Combined I have lost over 300,000 dollars, this is just the portion of the invoices remaining after settlement. This does not include in any part the suffering that emerged from stress or financial distress and doing without, the risk of losing my farm, the time I had to spend working a regular job to stay afloat, research time and time spent or money spent with Attorneys and legal research, debt I paid out of pocket, judgments and interest and the loss of credibility with my vendors. I now am on a cash only basis which makes it near impossible for me to continue work and when I do it is at high interest on credit cards which I am reluctant to extend as there is a track record of no payment. Needless to say, I now understood fully why other hazmat teams floundered and did not succeed.

By spring of 2014 my research had precluded that when current Statutes were constructed there was no consideration given to the Private Emergency Responder which is in this case is the Hazardous Material Cleanup Contractor but in other emergency instances there are a variety of Private companies that respond as supporting contractors to a situation that are governed by a set of laws and or an agency. In addition my research outlined that the Statutes supporting and opening the opportunity for environmental cleanup contractors were founded to protect the public's interest from negative impacts that result from a spill of toxic materials, I found that the State did not want to allocate tax dollars to this situation as it was expected that the Polluters Liability Insurance would cover any damages that would occur. The Gross Pollution charge is a Criminal Violation, I determined that clean up responsibility was mandated and charges were not pursued so long as incidents were cleaned up; I continue outlining this in attached documents.

I believe that the Laws in existence are rooted in good intent, the need for response was determined from time based research and a full understanding of the impacts of toxics on humans over time; when statutes were implemented they were determined necessary for Public Health and Safety but they were not fully stated as a full understanding of how the Statute would be fulfilled was not known at the time (i.e. who was to respond and how). My goal is to carve out a section in the Statutes that will offer continued assurance for Public Health and Safety by considering those that respond and by considering those responders the public will be assured of their continued existence and ability to contain and mitigate hazardous situations. I believe Public Responders and State Agencies have the need to draw from outside resources to bridge the gap to successful mitigation of emergency situations. I do not believe that Tax dollars need to be allocated to Public Private Alliances or partnerships of this nature when Liability Coverage is in place; the financial responsibility should not rest on the people but rather on the offender.

Thank You for your time and consideration on this important matter

Mike Early