

**HOUSE COMMITTEE ON**  
**AGRICULTURE AND NATURAL RESOURCES**

**February 9, 2005 Hearing Room 50**

**3:30 P.M. Tapes 16 - 18**

**MEMBERS PRESENT: Rep. Patti Smith, Chair**

**Rep. Brian Boquist, Vice-Chair**

**Rep. Arnie Roblan, Vice-Chair**

**Rep. Terry Beyer**

**Rep. Chuck Burley**

**Rep. Mark Hass**

**Rep. Mac Sumner**

**STAFF PRESENT: Patrick Brennan, Committee Administrator**

**Jania Zeeb, Committee Assistant**

**MEASURES/ISSUES HEARD:**

**Wolf Management – Informational Meeting**

**These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.**

| <b>TAPE/#</b> | <b>Speaker</b> | <b>Comments</b> |
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## TAPE 16, A

003            Chair P. Smith            Calls the meeting to order at 3:32 p.m. and opens the informational meeting on wolf management.

### WOLF MANAGEMENT - INFORMATIONAL MEETING

017            Rep. Greg Smith            House District 57. Gives reason why the issue of wolves is important and expresses gratitude for the discussion. States that it is important to hear from both sides of the issue.

042            Lindsay Ball            Director, Oregon Department of Fish and Wildlife (ODFW). Gives the history of the discussion on wolves. Discusses the proposed wolf management plan.

064            Chair P. Smith            Asks for information on the meeting of the Wolf Advisory Committee scheduled for February 10, 2005.

065            Ball            Provides an overview of the meeting agenda.

071            Chair P. Smith            Inquires what time the meeting starts on Friday February 11, 2005.

072            Ball            Responds that the meeting is scheduled to begin at 1:30 p.m.

079            Craig Ely            Northwest Regional Manager, ODFW. Gives a history of wolves moving into Oregon.

117            Ely            Discusses the activities of the Wolf Advisory Committee.

132            Ely            Mentions that two of the members of the advisory committee did not sign the report, rather they signed minority reports. Details the informational meetings that were held around the state.

179            Ely            Submits and presents prepared testimony in support of the wolf management plan (**EXHIBIT A**). Submits a summary of the federal court case (**EXHIBIT B**).

191            Rep. Burley            Inquires if he can explain what the 4(d) rules did and where they applied.

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| 198 | Ely            | Answered that the rules allowed landowners to take more aggressive action with wolves. Remarks that this brought standards down so landowners could protect their livestock from predators. |
| 212 | Rep. Burley    | Clarifies that the protection was only under the federal Endangered Species Act (ESA).                                                                                                      |
| 214 | Ely            | Concurs with Rep. Burley. Observes that the Oregon ESA provides a higher level of protection than the federal ESA.                                                                          |
| 223 | Rep. Hass      | Asks if Judge Robert E. Jones' decision had the effect of making the wolf management plan moot.                                                                                             |
| 225 | Ely            | States that Rep. Hass is correct, in that the 4(d) rules were vacated as a result of Judge Jones' decision.                                                                                 |
| 229 | Rep. Hass      | Asks whether the current draft management plan will be sufficient if the court decision is reversed, or whether a different plan might be needed.                                           |
| 231 | Ely            | Speculates that would depend on whether the same rules are used.                                                                                                                            |
| 237 | Rep. Hass      | Inquires how long this would take.                                                                                                                                                          |
| 239 | Ely            | States that it is difficult to predict, the U.S. Fish and Wildlife Service (USFWS) has not indicated what the process will be.                                                              |
| 249 | Chair P. Smith | Inquires if that means that a decision on adopting the draft management plan should be put off until the federal court case has been resolved.                                              |
| 252 | Ely            | States that his recommendation is that adoption of the draft management plan goes forward. Reiterates ODFW's goal of bringing the 4(d) rules and Oregon's rules together.                   |
| 270 | Rep. Boquist   | Requests confirmation that there are 14 members on the advisory committee.                                                                                                                  |
| 274 | Ely            | Concurs with Rep. Boquist.                                                                                                                                                                  |

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| 275 | Rep. Boquist   | Asks if the two groups that filed the federal lawsuit are part of the 14-member committee.                                                                                                                                                                                                                                                                                                          |
| 279 | Ely            | Clarifies that there were two members of the wolf advisory committee that represent groups that were among the 19 that filed the federal lawsuit.                                                                                                                                                                                                                                                   |
| 289 | Rep. Boquist   | Summarizes the extenuating circumstances affecting the wolf management plan. Comments that the advisory committee should continue to examine the issue, particularly in light of the federal court decision. Inquires what the rationale is behind not waiting a month or two until the issue is clarified.                                                                                         |
| 304 | Ball           | Explains that if the department waits to adopt the plan, the time remaining to move the requisite bills through the legislative process will diminish. Warns that without the plan to guide the state, the federal government will be left to make the decision. Comments that it is better for Oregon to have a plan to deal with the issue than to let the federal government make the decisions. |
| 334 | Chair P. Smith | Inquires when the commission meets next after the February 11 meeting.                                                                                                                                                                                                                                                                                                                              |
| 337 | Ball           | Answers that the commission meets once per month.                                                                                                                                                                                                                                                                                                                                                   |
| 342 | Chair P. Smith | States that the decision on the draft management plan could be postponed until the March meeting.                                                                                                                                                                                                                                                                                                   |
| 346 | Ball           | Remarks that the department would prefer to utilize this session to get legislation passed.                                                                                                                                                                                                                                                                                                         |
| 356 | Chair P. Smith | Asks what legislative concepts are currently being prepared for introduction that addresses this issue.                                                                                                                                                                                                                                                                                             |
| 358 | Ball           | Responds that the department has yet to put any bills in motion, though three are anticipated.                                                                                                                                                                                                                                                                                                      |
| 374 | Rep. Burley    | Requires confirmation that parts of the plan will need legislation for implementation.                                                                                                                                                                                                                                                                                                              |
| 383 | Ball           | Concurs with Rep. Burley.                                                                                                                                                                                                                                                                                                                                                                           |

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| 390 | Rep. Burley | Asks if it is necessary to have a plan in place before introducing legislation.                                                                                                                           |
| 394 | Ball        | Comments that it is important that there be assurances that wolves will be managed by the State, and therefore a plan is necessary.                                                                       |
| 403 | Rep. Burley | Discusses the issue of the lethal taking of wolves. Asks for clarification in how take plays into the issue while the wolves remain classified as endangered, and what the plan does in response to that. |

#### **TAPE 17, A**

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| 008 | Ball           | Responds that it is more appropriate to have a plan than to just have the federal government tell the state how wolves are to be managed.                                                                        |
| 017 | Rep. Burley    | Asks if we cannot have lethal take given the current status of the wolves.                                                                                                                                       |
| 022 | Ball           | Responds that he is correct, adding that USFWS is going to review the plan. It is unclear if they will allow lethal take, but without the wolf management plan in place they cannot allow lethal take in Oregon. |
| 037 | Rep. Boquist   | Inquires if it is true that the USFWS cannot take a position on Oregon's plan until decisions are made at the federal level.                                                                                     |
| 041 | Ball           | Answers that the issue for the federal government is whether or not lethal take is legal with or without a plan.                                                                                                 |
| 044 | Rep. Boquist   | Notes that the deadline for introducing legislation has passed. Asks how the department plans to bring bills forward after this point.                                                                           |
| 052 | Chair P. Smith | Explains the process by which legislation can still be introduced.                                                                                                                                               |
| 053 | Rep. Boquist   | Inquires if ODFW or the Governor's Office has addressed this with the speakers office.                                                                                                                           |
| 056 | Ball           | Reiterates that he has not allowed his staff to second guess the commission by bringing legislation before the commission has voted on the wolf management plan.                                                 |

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| 063 | Rep. G. Smith | States that he has introduced three bills that would address this issue.                                                                                                                                                                |
| 077 | Ely           | Begins walking through the federal court decision and its consequences <b>(EXHIBIT A)</b> .                                                                                                                                             |
| 094 | Ely           | States what the current status of the wolf management plan is <b>(EXHIBIT A)</b> .                                                                                                                                                      |
| 110 | Ely           | Discusses the issue of livestock losses. Compares the Oregon wolf management plan with current federal law.                                                                                                                             |
| 131 | Rep. Roblan   | Inquires if the wolves crossing the border are part of an ESA 10J experimental population that was placed in the Rocky Mountains.                                                                                                       |
| 133 | Ely           | Replies affirmatively.                                                                                                                                                                                                                  |
| 134 | Rep. Roblan   | Asks whether an agreement is necessary in order to have an experimental population placed in a state.                                                                                                                                   |
| 136 | Ely           | States that Rep. Roblan is correct.                                                                                                                                                                                                     |
| 141 | Rep. Roblan   | Suggests that if the wolves crossing the border are part of an experimental population then Oregon may have a right to ask the federal government to return them to Idaho.                                                              |
| 146 | Ball          | States that the federal government is not willing to take them back because of their endangered status.                                                                                                                                 |
| 154 | Rep. Roblan   | Clarifies if he is saying that the wolves either lose their experimental status once they cross the border or the state has a right to ask the federal government to deal with them, as they would still be under federal jurisdiction. |
| 156 | Ball          | Concurs with Rep. Roblan. Mentions that state law mandates that the wolf be managed when it is in Oregon.                                                                                                                               |
| 166 | Rep. Roblan   | Asks if it is acceptable under federal rules to eradicate predatory animals if they are causing harm to farm animals.                                                                                                                   |
| 170 | Ball          |                                                                                                                                                                                                                                         |

Answers that in regard to predatory animals there are provisions that allow lethal take in such cases.

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| 174 | Rep. Roblan   | Inquires if the wolves are covered under those provisions.                                                                                              |
| 176 | Ball          | States that wolves are not classified as a predator under existing statute.                                                                             |
| 177 | Rep. Roblan   | Remarks that in Oregon statute they are not predators, but under federal statute they are predators.                                                    |
| 178 | Ball          | States that he is not familiar with the federal law.                                                                                                    |
| 180 | Ely           | Continues comparing Oregon's law with the federal law ( <b>EXHIBIT A, Page 2</b> ).                                                                     |
| 223 | Rep. Roblan   | Inquires about the economic impact of the wolf management plan.                                                                                         |
| 230 | Ely           | Responds that there was a chapter in the report on the economic impacts. Details the conclusions that were come to and how they drew those conclusions. |
| 253 | Rep. Roblan   | Asks if there is an estimate on the number of livestock that might be lost to wolves that the state would be responsible for reimbursing ranchers for.  |
| 257 | Ely           | Responds that there is an estimate and he will get the numbers for the committee.                                                                       |
| 291 | Rep. G. Smith | Inquires what the potential migration of the grey wolf would be and if it is expected to reach the Ochoco or Deschutes National Forest.                 |
| 301 | Ely           | Answers that the wolf management plan does not restrict where wolves can be, the goal is to limit conflict around the wolves.                           |
| 333 | Rep. G. Smith | Remarks that there is a potential for gray wolves to spread throughout the state.                                                                       |
| 335 | Rep. Boquist  | Asks for information on the potential compensation package in regard to the wolf management plan.                                                       |

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| 350 | Rep. Burley | Encourages the department to wait at least a month to see what the USFWS will do.                                                                                                                              |
| 364 | Ball        | Discusses the importance of take, and how the state ESA currently does not allow for taking of wolves.                                                                                                         |
| 395 | Rep. Burley | Offers a hypothetical case in which lethal take were to be provided for under the state ESA, and a person were to take a wolf; asks whether that person would be subject to prosecution under the federal ESA. |
| 406 | Ely         | Replies affirmatively.                                                                                                                                                                                         |
| 415 | Rep. Sumner | States that he is more concerned with the well-being of sheep ranchers and beef ranchers than with that of endangered species.                                                                                 |

**TAPE 16, B**

|     |                   |                                                                                                                                                                                                                                                                                                                                                            |
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| 023 | Chair P. Smith    | Asks if General Fund moneys have been expended on the wolf management plan.                                                                                                                                                                                                                                                                                |
| 029 | Ely               | Details from the sources of funding for the development of the plan.                                                                                                                                                                                                                                                                                       |
| 044 | Ball              | Comments that this is an extremely emotional issue that has gotten much participation. Remarks that the State of Oregon could do a better job managing the wolves than the federal government can.                                                                                                                                                         |
| 063 | Sen. Ted Ferrioli | Senate District 30. Testifies as a resident of John Day Oregon. Expresses that the effort that was put forth in the wolf management plan is excellent. Notes that the decision by Judge Jones changes the political and legal landscape in which the management plan is in, and as a result Oregon will not be allowed to manage the wolf.                 |
| 108 | Sen. Ferrioli     | Asserts that management is necessary if lethal take is to be allowed. Gives an example of what happened with a case in 1999 regarding a plan to prevent the Coastal Coho from being listed. Comments on the federal government's involvement in this situation. States that it is better to have a plan but only if that plan can create management tools. |
| 149 | Sen. Ferrioli     | Comments that, in order to remedy the current situation, the State of Wyoming needs to revisit the issue in their state. States that the wolf                                                                                                                                                                                                              |

management plan has few deliverables. Discusses the problem with the plan.

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| 200 | Sen. Ferrioli       | Points out the possibility of lawsuits under the federal endangered species act.                                                                                                                                                                                                                                                                  |
| 245 | Sen. Ferrioli       | Remarks that we accomplished the goal of achieving a management plan that features incidental take. Suggests the plan could have been adopted had it not been for the federal decision.                                                                                                                                                           |
| 332 | Sen. Ferrioli       | Opines that the commission should wait to take action on the draft management plan because of the federal courts decision.                                                                                                                                                                                                                        |
| 347 | Rep. Mike Schaufler | House District 48. Provides insight on why he is interested in this issue. Expresses his support to the people who will be affected and emphasizes the need flexibility to allow landowners to take care of their cattle, pets, livestock and family without having to go through a long process of verification.                                 |
| 422 | Chuck Craig         | Deputy Director, Oregon Department of Agriculture (ODA). States that the department has been following the development of this plan.                                                                                                                                                                                                              |
| 435 | Rodger Huffman      | Animal Health Division Administrator, ODA. Acknowledges that the livestock industry will be impacted by wolves coming to Oregon, adding that the management plan was intended to deal with some of those impacts. Submits and discusses two letters containing recommendations made by the department to the commission <b>(EXHIBITS C and D)</b> |

#### **TAPE 17, B**

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| 043 | Rep. Hass   | Inquires if there is a barrier to Oregon developing some form of compensation plan even in light of the federal decision.                                                                    |
| 045 | Huffman     | Responds that the compensation issue is still viable. Continues his presentation by stating the concern that Oregon is not getting any federal money to help the state deal with the wolves. |
| 074 | Rep. Roblan | Asks if it is true that Oregon issues permits to own wolves and take care of them.                                                                                                           |
| 076 | Huffman     | Answers that Rep. Roblan is correct.                                                                                                                                                         |

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| 077 | Rep. Roblan   | Inquires if part of that agreement is that the owner is responsible for the wolf, so that if the animal escapes the owner is responsible for recovery of their animal.                                                                                                                                                                                                                        |
| 078 | Craig         | Responds that he is correct, adding that the animals are required to be in continuous captivity.                                                                                                                                                                                                                                                                                              |
| 081 | Rep. Roblan   | Asks if there is any way to compel the federal government to acquire permits if they are going to have the wolves.                                                                                                                                                                                                                                                                            |
| 082 | Craig         | States that the Attorney General's Office has indicated that the law does not apply to this problem.                                                                                                                                                                                                                                                                                          |
| 110 | Justin Martin | Defenders of Wildlife. Introduces Amaroq Weiss.                                                                                                                                                                                                                                                                                                                                               |
| 122 | Amaroq Weiss  | Director, Defenders of Wildlife. Gives background of her organization and her position. Submits and reviews prepared testimony in support of the wolf management plan ( <b>EXHIBIT E</b> ).                                                                                                                                                                                                   |
| 151 | Weiss         | Expresses the view that the federal lawsuit is not a brick wall to the Oregon wolf management plan process. Gives a history of the federal case. States that Defenders of Wildlife supports wolf conservation.                                                                                                                                                                                |
| 181 | Weiss         | Remarks that state management of wolves with a balanced, science based, and legal management plan is what the organization wanted to happen. Emphasizes the importance of an adequate regulatory mechanism, such as a state plan, so that the federal protections can be removed. Says the plan needs to address the social concerns of the people as well as the conservation of the wolves. |
| 206 | Weiss         | Asserts that Defenders of Wildlife will not sue for habitat protection for wolves because wolves are naturally mobile.                                                                                                                                                                                                                                                                        |
| 215 | Rep. G. Smith | Inquires what part of Oregon Ms. Weiss is from and how many head of cattle she owns.                                                                                                                                                                                                                                                                                                          |
| 218 | Weiss         | Responds that she lives between Medford and Jacksonville, and that she does not have cattle but she does have horses.                                                                                                                                                                                                                                                                         |
| 221 | Rep. G. Smith | Comments on the compensation plan, and the money for the plan could potentially come from the General Fund. Asks whether it is                                                                                                                                                                                                                                                                |

acceptable to take money away from other programs in order to pay for compensation.

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| 231 | Weiss         | States that she feels that protecting native species is a legacy for future generations.                                                                                                                                           |
| 243 | Rep. G. Smith | Inquires if putting money into a compensation plan is more important than our schools, state police or senior citizens.                                                                                                            |
| 255 | Weiss         | Answers that agriculture interests are as important as the services mentioned.                                                                                                                                                     |
| 277 | Rep. G. Smith | Inquires what steps were taken to stop the judicial action in order to prevent the wolf management plan from being preempted by the decision of the court.                                                                         |
| 290 | Weiss         | Responds that legal efforts against USFWS have been ongoing for years and gives a history of the court case.                                                                                                                       |
| 308 | Rep. Burley   | Asks that the committee be provided with details of the Defenders of Wildlife compensation plan in Oregon.                                                                                                                         |
| 314 | Weiss         | Refers to the informational packet on <i>Wolf Compensation Guidelines (EXHIBIT F)</i> .                                                                                                                                            |
| 327 | Rep. Burley   | Comments that if the state has the conservation plan in place it might provide the federal government with more flexibility, and asks if that could mean the wolf could be downlisted in Oregon, thereby allowing for lethal take. |
| 340 | Weiss         | Remarks that the only way the federal government can downlist the wolf is if the management plan is in place.                                                                                                                      |
| 354 | Rep. Burley   | Asks if Defenders of Wildlife would support the downlisting of wolves if the management plan was in place.                                                                                                                         |
| 365 | Weiss         | Answers that the organization is still consulting with their lawyers on that issue.                                                                                                                                                |
| 399 | Sharon Beck   | Co-Chair Wolf Task Force; Oregon Cattlemen's Association (OCA). States that OCA has a zero tolerance policy toward wolves. Submits                                                                                                 |

and reads prepared testimony in opposition to the draft wolf management plan (**EXHIBIT G**).

**TAPE 18, A**

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| 053 | Chair P. Smith | Requests clarification on county ordinances forbidding wolves from coming into that territory. Asks if Multnomah county passed such an ordinance.  |
| 055 | Beck           | Responds that Grant County passed such an ordinance.                                                                                               |
| 068 | Bill Hoyt      | Rancher. Submits and reviews prepared testimony on the Oregon Wolf Management Plan ( <b>EXHIBIT H</b> ).                                           |
| 125 | Hoyt           | States that if the plan is adopted the state will be asked to pay for damage inflicted by wolves. Questions whether the state can afford to do so. |
| 140 | Rep. Beyer     | Expresses appreciation for those who testified on the issue.                                                                                       |

**The following prepared testimony is submitted for the record without public testimony:**

|     |                |                                                                                                               |
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|     | Clint Krebs    | Morrow County. Submits a letter to the committee in support of the wolf management plan ( <b>EXHIBIT I</b> ). |
| 156 | Chair P. Smith | Closes the informational meeting on the wolf management plan and adjourns the meeting at 5:34 p.m.            |

**EXHIBIT SUMMARY**

1. **A. Wolf Management Plan, prepared testimony, Craig Ely, 3 pp**
2. **B. Wolf Management Plan, summary of the federal court case, Craig Ely, 35 pp**
3. **C. Wolf Management Plan, letter to Chair Rae on 10/18/04, Rodger Huffman, 3 pp**
4. **D. Wolf Management Plan, letter to Chair Rae on 12/22/04, Rodger Huffman, 3 pp**
5. **E. Wolf Management Plan, prepared testimony, Amaroq Weiss, 2 pp**
6. **F. Wolf Management Plan, informational packet, Amaroq Weiss, 8 pp**
7. **G. Wolf Management Plan, prepared testimony, Sharon Beck, 3 pp**

8. **H. Wolf Management Plan, prepared testimony, Bill Hoyt, 3 pp**
9. **I. Wolf Management Plan, letter to the committee, Clint Krebs, 3 pp**