

**HOUSE COMMITTEE ON
ENVIRONMENT AND LAND USE**

February 13, 2003 Hearing Room HR E
8:30 AM Tapes 19 - 20

MEMBERS PRESENT: Rep. Bill Garrard, Chair
 Rep. Dennis Richardson, Vice-Chair
 Rep. Cliff Zauner, Vice-Chair
 Rep. Robert Ackerman
 Rep. Dan Doyle
 Rep. Mitch Greenlick
 Rep. Diane Rosenbaum

STAFF PRESENT: Ray Kelly, Committee Administrator
 David Peffley, Committee Assistant

MEASURES HEARD: HB 2468 – Public Hearing
 HB 2458 – Public Hearing
 HB 2533 – Public Hearing

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.

TAPE/#	Speaker	Comments
TAPE 19, A		
003	Chair Garrard	Calls the meeting to order at 8:45 and opens a public hearing on HB 2468.
<u>HB 2458 and HB 2468 - PUBLIC HEARING</u>		
008	Rep. Jenson	HD 58. Hermiston, Pendleton. Speaks to HB 2458 regarding the Endangered Species Act. (ESA). States the intent of the statute with regard to the federal government.
064	Rep. Kropf	States that if the federal government delists an animal from the ESA, then Oregon should do likewise. Remarks that the federal government has much tougher guidelines.
085	Rep. Rosenbaum	Asks how many species are still listed in Oregon which have been removed by the federal government.
090	Rep. Jenson	Responds that he isn't sure. Recommends asking Oregon Department of Fish and Wildlife (ODFW).
096	Rep. Greenlick	Asks witnesses to confirm lines 12-14 on of HB 2458 regarding the statute and their applicability to the federal Endangered Species Act.
113	Rep. Jenson	Confirms that species can still be added to the list.
136	Rep. Greenlick	Asks if ODFW has delisting authority.
143	Rep. Jenson	States that he doesn't know. Continues that they may require an amendment to this bill.
150	Rep. Kropf	Adds that Rep. Greenlick's concern will be addressed by HB 2468.

160	Brendan McCarthy	Legislative Council. Responds to Rep. Greenlick's concern regarding listing species.
189	Rep. Kropf	HD 17. Introduces HB 2468, retaining the flexibility to list a species in the state before it is listed by the federal government.
220	Rep. Jenson	Recommends approval of HB 2468. Refers to the Oregon Plan for recovery as an example of this kind of legislation.
248	Rep. Kropf	Adds that HB 2468 would limit the duplicative listings.
315	Chair Garrard	Acknowledges that the committee agrees to hear both bills, but asks the witnesses to differentiate between the two.
320	Glen Stonebrink	Oregon Cattlemen's Association and the Oregon Hay and Forage Association. Speaks in support of HB 2458. Reiterates that this bill would eliminate duplication which would save the state money.
357	Stonebrink	Speaks to HB 2468. States that it would eliminate the grandfather clause, which does not make much sense. Cites the grey wolf case as an example.
TAPE 20, A		
004	Roy Elicker	ODFW. Submits (EXHIBIT A) informational testimony regarding HB 2458. States concern with the proposed legislation. Recommends a work group to examine these issues further.
070	Ron Anglin	Explains Attachment A to (EXHIBIT A) -concerns and potential improvements to the State ESA.
125	Chair Garrard	Asks Anglin to define the connotation of the word <i>take</i> .
131	Anglin	Defines take as it relates to this issue. Continues testimony on potential improvements.
145	Rep. Rosenbaum	Asks how many species are on the list and how many have been removed.
151	Martin Nugent	Wildlife Diversity Program Manager, ODFW. Notes that there are thirty-six listings of species and five which the federal government has removed.
163	Chair Garrard	Asks if any species have ever been delisted.
167	Nugent	Responds with the 1994 case of the whitetail deer becoming delisted.
171	Rep. Greenlick	Asks which are the five species which should be removed.
175	Nugent	Lists the animals which are being removed from federal list.
180	Rep. Greenlick	Asks if the delisting process would remove all five.
182	Nugent	Responds that the mechanisms to delist a species are in effect now.
188	Rep. Greenlick	Asks about the status of the grandfathered species.
190	Nugent	Provides that there are no distinctions in the current statutes for grandfathering.
196	Elicker	Points out that ODFW disagrees with Legislative Counsel with regard to this issue.
210	Elicker	Provides informational testimony on HB 2468. Submits (EXHIBIT B) and speaks to the issues of duplication and flexibility for the state. Cites the example of the Modoc sucker fish.
257	Chair Garrard	Asks why we would want to list a species if the federal government already does.
260	Elicker	Responds to Chair Garrard's concern.
271	Rep. Zauner	Asks about Oregon taking the lead in removing species from the federal ESA.
273	Elicker	Affirms that we're better off to be active in listing and delisting

		species.
291	Stephen Kafoury	Oregon Chapter of the Wildlife Society. Introduces the purpose of the Wildlife Society. Speaks to the process of listing and delisting and that the issue is a scientific issue, not a political one.
354	Warren Aney	Oregon Chapter of the Wildlife Society. Submits (EXHIBIT C) supporting testimony regarding HB 2458. Recommends that the legislature take no action which would weaken Oregon's protection of at-risk species.
404	Rep. Richardson	Asks what is meant by the term <i>scientifically credible evidence</i> .
415	Aney	States that it is evidence which has been established by proven scientific methods.
440	Rep. Richardson	Asks if peer review and reproducible results would be enlisted in the process of listing and delisting species.
TAPE 19, B		
007	Aney	States that this has been the case in the cases of which he is familiar.
014	Rep. Richardson	Asks what the process would be for delisting a species.
017	Aney	Speaks to a couple of provisions. Reiterates the importance of scientific and credible evidence.
028	Rep. Richardson	Explains that he is trying to determine how the scientific community arrives at information regarding delisting.
045	Aney	Gives elements of scientific analysis which go into the listing and delisting of species.
063	Chair Garrard	States concern that scientific data is very subjective and potentially a non-credible barometer.
074	Aney	Addresses Chair Garrard's concerns regarding the Klamath water issue.
091	Kafoury	Says that they would reproduce the findings which Aney referred to.
095	Chair Garrard	Reaffirms skepticism of scientific data.
104	Kafoury	Addresses scientific process. Affirms that science is not always perfect, but is based upon the best available evidence and the alternative of not dealing with the best available evidence is cause for greater concern.
123	Chair Garrard	Cites concern with bias involved with science.
130	Kafoury	Attests to the peer review process which helps to safeguard against bias.
136	Aney	Submits (EXHIBIT D) in opposition to HB 2468 and states concern that HB 2468 would weaken Oregon's laws protecting species at risk of extinction in Oregon.
211	Aney	Adds that the bald eagle has been downgraded on the protection list.
223	Chair Garrard	Asks how many species annually move on the list, either up or down.
229	Aney	Recalls that only about one species per year moves on the list.
238	Kafoury	States the willingness to serve on a work group to address this legislation.
246	Rep. Greenlick	Comments that he'd like to see two pieces of testimony in opposition to both HB 2458 and HB 2468 entered into the record, (EXHIBIT E) from the Hell's Canyon Preservation Council and (EXHIBIT F) from the Defenders of Wildlife.
263	George Hutchinson	Coalition for the Recovery of Oregon Wolves (CROW). Voices a strong opposition to HB 2458 and HB 2468. Believes that this

		act will undercut the Oregon ESA. Encourages wide coalition work group to examine this issue.
311	Jennifer Flynt	Audubon Society. Introduces (EXHIBIT G) in strong opposition to HB 2458 and HB 2468, believing that certain species need protection.
387	Rep. Rosenbaum	Asks for clarification of Flynts assertions regarding the process of federal delisting of endangered species.
396	Flynt	Responds that she will research the issue and report back to the committee.
401	Rep. Richardson	Attempts to clarify the transfer of responsibility from the state to the federal government.
409	Flynt	Agrees to the intent with Rep. Richardson.
TAPE 20, B		
002	Al Elkins	Testifies in support of HB 2458. Adds that he'd like to participate in a work group to address these issues.
025	Jim Welsh	Oregon State Grange. Testifies in support of both HB 2458 and HB 2468 in order to reduce duplication. Volunteers to serve on a work group.
038	Rep. Greenlick	Asks what issues the Grange is interested in specifically, and whether their opposition is a technical matter or if the Grange wants to get rid of protections.
049	Welsh	States concern for the technical issues and the costs to the state.
058	Chair Garrard	States that he will consider appointing a work group.
066	Chair Garrard	Asks Mark Nugent about the dollar figure inherent in duplication.
069	Nugent	Testifies that in fact the federal government contributes money for endangered species protection, so duplication might not cost us money at all, but have a positive fiscal impact.
111	Chair Garrard	Notes that a referral could possibly be needed.
114	Nugent	Speaks to the benefits of working in partnership with the federal fish and wildlife service.
117	Chair Garrard	Asks how much money might be involved.
119	Nugent	Speaks to funding dollars for the recovery program.
133	Rep. Ackerman	States concern that there are no federal ESA officials are here to testify and would like their input. References previous predator legislation.
157	Chair Garrard	Ends testimony and closes the public hearing on HB 2458 and 2468. Opens a public hearing on HB 2533, which parallels HB 2466, heard earlier in the week. Announces his intention to merge these two bills.

HB 2533 – PUBLIC HEARING

171	Lana Butterfield	Northwest Propane Gas Association. Submits (EXHIBIT H) and testifies in support of HB 2533 as it would take care of some of the issues raised by HB 2466 heard on Tuesday.
185	Chair Garrard	Closes the public hearing on HB 2533 and adjourns the meeting at 10:25 a.m.

EXHIBIT SUMMARY

- A – HB 2458, written testimony, Roy Elicker, 4 pp.**
- B – HB 2468, written testimony, Roy Elicker, 1 p.**
- C – HB 2458, written testimony, Warren Aney, 1 p.**

- D – HB 2468, written testimony, Warren Aney, 1 p.**
- E – HB 2458 and HB 2458, written testimony, Rep. Greenlick, 2 pp.**
- F – HB 2458 and HB 2468, written testimony, Rep. Greenlick, 11 pp.**
- G – HB 2468, written testimony, Jennifer Flynt, 2 pp.**
- H – HB 2533, written testimony, Lana Butterfield, 6 pp.**