

HOUSE COMMITTEE ON STREAM RESTORATION
& SPECIES RECOVERY

January 24, 2001
1:00 P.M.

Hearing Room E
Tapes 16 - 17

MEMBERS PRESENT: **Rep. Bob Jenson, Chair**
 Rep. Jan Lee, Vice-Chair
 Rep. Randy Leonard Vice-Chair
 Rep. Tim Knopp
 Rep. Jeff Kruse
 Rep. Patti Smith
 Rep. Al King
 Rep. Carolyn Tomei
 Rep. Kelley Wirth

VISITING MEMBERS: **Sen. Joan Dukes**
 Rep. Wayne Krieger

STAFF PRESENT: **Sandy Thiele-Cirka, Committee Administrator**
 Linda K. Gatto, Committee Assistant

MEASURE/ISSUES HEARD:
 Informational Meeting – Invited Testimony
 National Marine Fisheries Service
 Army Corps of Engineers (ACOE)
 Introduction of Committee Bills

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 16, A		
006	Chair Jenson	Calls the meeting to order at 1:05 p.m. as a subcommittee and opens informational meeting.
<u>INFORMATIONAL MEETING</u>		
025	Garth Griffin	Branch Chief Protected Resources Division, National Marine Fisheries Service (NMFS). Submits (EXHIBIT A) and presents overview.
026	Chair Jenson	Closes subcommittee and opens full committee.
082	Griffin	Refers to the map on page four, (EXHIBIT A) . Begins an overview on the 4(d) rules.
161	Chair Jenson	Requests an explanation on the difference in the rules for tribal governments.
166	Griffin	Responds a separate rule was developed that acknowledges the unique relationship of tribal governments and the federal government.
211	Griffin	Continues overview on the 4(d) rules. Refers to page eight, (EXHIBIT A) .
221	Rep. Kruse	Questions why state agencies can not manage these activities under the Oregon Plan.

245	Chair Jenson	Notes that the goal is for Oregon to manage.
253	Griffin	Responds the Oregon Plan procures public involvement in salmon recovery. Notes there are concerns on the level of protection.
358	Griffin	Continues with overview, refers to page 12, (EXHIBIT A) .
407	Griffin	Summarizes that NMFS can contribute to setting up scientific principals and recovery goals.
TAPE 17, A		
025	Rep. King	Comments that Oregon needs clarity on what the benchmarks are in order to develop a plan.
040	Griffin	Responds that identifying the biological objective will initiate recovery plans. Notes the technical recovery teams will be releasing a scientific package by fall of this year.
050	Rep. Tomei	Inquires about the makeup of the recovery teams.
052	Griffin	Responds in detail.
110	Rep. Kruse	Inquires if the compliance requirements between the Environmental Protection Act (EPA) and the Clean Water Act are different in riparian management.
120	Griffin	Defers question to Mike Tehan's upcoming testimony.
122	Rep. Krieger	Inquires for clarification, what improvements need to be made in the Oregon Forest Practices Rules.
125	Griffin	Defers question to Tehan's upcoming testimony.
127	Rep. Krieger	Inquires what criteria will be used to count the fish. Questions if a new type of hatchery will improve recovery.
128	Griffin	Defers hatchery portion of the question to Rob Jone's upcoming testimony. Notes the number will relate to naturally produced salmon.
143	Rep. Leonard	Inquires why returning hatchery fish are not counted toward species recovery.
173	Griffin	Defers to Rob Jones's upcoming testimony.
174	Rep. Lee	Refers to the 4(d) limit plan submitted by Clackamas County's Endangered Species Act coordinating council. Inquires if this is the first local government plan being reviewed.
191	Griffin	Responds that there are a number of local government plans in Washington and Oregon.
240	Mike Tehan	Branch Chief, Oregon's State Branch, Habitat Conservation Division, NMFS. Submits (EXHIBIT B) and provides an overview.
343	Rep. King	Inquires if it is possible to have a successful recovery plan in the watershed even though there has not been a successful return yet.
352	Tehan	Responds affirmatively and provides an example.
397	Rep. Kruse	Questions if the definition of a properly functioning condition means the condition of the habitat before human impact.
404	Tehan	Responds that the regulations are a stopgap to protect the species until long-term recovery goals are established.
TAPE 16, B		
017	Tehan	Continues presentation.
032	Tehan	Responds to Rep. Lee's inquiry regarding Clackamas County's 4 (d) limit plan.
047	Tehan	Discusses NMFS participation in the Oregon Plan, slide 12, (EXHIBIT B) .
099	Tehan	Responds to Rep. Krieger's request regarding the Oregon Forest Practices Act. Submits that management of landslides to protect habitat and the riparian rules under the Clean Water Act are areas

		that need improvement.
123	Tehan	Refers to slide 17, (EXHIBIT B) and concludes presentation.
150	Rep. Kruse	Inquires how other Evolutionary Significant Units (ESU's) with different habitat requirements are addressed.
157	Tehan	Responds that prior to the widespread salmon listings, NMFS was engaged in recommendations for other species. Comments the United States Fish & Wildlife Service (USFWS) has an interest in addressing those broader issues.
172	Tehan	Responds to Rep. Kruse's concerns regarding EPA and CWA compliance requirements stating that the overlap is jurisdiction differences.
184	Rob Jones	Branch Chief, Hatchery & Inland Fisheries, Sustainable Fisheries Division NMFS. Submits (EXHIBIT C) and states the true issue is about rivers producing fish and sustaining populations for the future.
259	Jones	Refers to page four, (EXHIBIT C) .
328	Rep. Tomei	Questions how NMFS has lowered the percentage of natural fish being caught.
330	Jones	Responds that ODFW marks the hatchery fish.
343	Rep. Tomei	Clarifies that if an unmarked fish is caught it goes back into the river.
351	Jones	Discusses hatchery reform and continues testimony.
390	Jones	Concludes that technical recovery teams are in Puget Sound, the Lower Columbia, and Willamette. Notes the first draft is expected this summer.
425	Rep. Jenson	Requests information on NMFS's opinion of the strengths and weaknesses of the Umatilla Tribe restoration project.
TAPE 17, B		
019	Rep. Krieger	Comments that ODFW is developing a wild fish policy. Questions how a fish that has adapted to an environment that no longer exists, recover.
036	Jones	Responds that the genetic and life history characteristics of fish from 100-years ago are unknown. States the goal is to preserve the fish that display the ability to survive and produce young that survive.
059	Chair Jenson	States his goal and objective is that the Oregon Plan be used by NMFS as a limit to give Oregon jurisdiction.
080	Lawrence Evans	Chief of the Regulatory Branch, ACOE. Describes the regulatory program's responsibilities and limitations in issuing permits.
101	Evans	Continues testimony and reviews the four types of permit review processes that are applied to applications.
153	Chair Jenson	Discusses the procedure between ACOE and NMFS.
173	Chair Jenson	Questions the alternate procedure if the decision by NMFS is negative and the ACOE fails to issue a permit.
177	Evans	Responds there is a federal appeal process. Notes if that appeal process is not met, the alternative is litigation.
211	Chair Jenson	Requests information on what two or three things the Oregon Plan needs to do to attain ACOE goals. Closes informational meeting and opens a work session on LC 2840.

INTRODUCTION OF COMMITTEE BILLS

250	Rep. Knopp	MOTION: Moves LC 2840 dated 01/23/01 BE INTRODUCED as a committee bill.
256	Rep. Leonard	Explains the reasons for not supporting this draft.
266	Rep. Knopp	Comments that there needs to be discussions.

319	Chair Jenson	Notes this is a companion bill to HB 2275. Discusses the bill intent.
345	Rep. King	States support to move forward.
355	Rep. Kruse	States support but notes reservations about funding.
386	Rep. Tomei	Notes support.
391		VOTE: 8 – 1 AYE: 8 – Lee, Smith, Knopp, Kruse, Tomei, Wirth, King, Jenson NAY: - Leonard The motion CARRIES.
400	Chair Jenson	Closes the work session and adjourns meeting at 3:00 p.m.

Submitted By,

Reviewed By,

Linda K. Gatto,
Committee Assistant

Sandy Thiele-Cirka,
Committee Administrator

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EXHIBIT SUMMARY

- A – NMFS overview, written materials, Garth Griffin, 17 pp.**
- B – NMFS overview, written materials, Mike Tehan, 9 pp.**
- C – NMFS overview, written materials, Rob Jones, 6 pp.**
- E – LC draft 2840 dated 1/23/01, staff, 4 pp.**