

HOUSE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

January 30, 1997 Hearing Room D

08:30 AM Tapes 12 - 14

MEMBERS PRESENT:

Rep. Charles Starr, Chair

Rep. Terry Thompson, Vice-Chair

Rep. Dennis Luke

Rep. Ken Messerle

Rep. Kurt Schrader

Rep. Judith Uherbelau

Rep. Larry Wells

MEMBER EXCUSED:

STAFF PRESENT:

Judith Gruber, Administrator

Linda Kowal, Administrative Support

MEASURE/ISSUES HEARD:

Invited Testimony Only, Salmon Restoration Initiative/Healthy Streams

Paula Burgess, Governor's Office

Langdon Marsh, Department of Environmental Quality Phil Ward, Department of Agriculture

HB 2136, Work Session

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 12, A (Tape number 11 not used)		
002		

	Chair Starr	Opens meeting at 8:32. Calls Paula Burgess to present the Salmon Restoration Initiative/Healthy Streams
<u>SALMON RESTORATION INITIATIVE/HEALTHY STREAMS</u>		
010	Paula Burgess	Natural Resource Advisor, Governor's office. Introduces Phil Ward, Oregon Department of Agriculture (ODA) and Langdon Marsh Department of Environmental Quality(DEQ).
020	Burgess	Begins overhead presentation on The Oregon Natural Resource Investment Account. (EXHIBIT A) Coastal Coho salmon are scheduled for a threatened species listing decision on April 25. The decisions on Steelhead will be at the end of July and possibly Bull Trout in March. States there are 870 stream segments, (12,000 miles of stream) that are not in compliance under the Clean Water Act
050	Rep. Luke	Asks where the streams are in relation to the mountains.
052	Burgess	Responds they are widely distributed in Oregon.
	Rep. Luke	Asks how many are polluted by city contaminates.
	Burgess	Responds about half.
062	Rep. Messerle	Asks how many miles are affected that are not temperature related.
	Langdon	Responds that would need to be calculated.
070	Burgess	Resumes presentation, gives an overview of the plan and states the final plan will be ready about March 1st.
091	Rep. Schrader	Asks would the details of final plan be available to committees or individuals.
100	Burgess	Responds it could be as a briefing for committees or selected groups.
107	Rep. Messerle	States the user groups are in favor of the concept but need more details.
112	Rep. Luke	Asks if any game species are at risk.
118	Burgess	Responds that the captain of the state police was consulted. He has proposed to take five officers to focus on the salmon.
125	Rep. Luke	Asks if this is to reorganize five people or add five people.
	Burgess	Responds the captain requested additional positions.
131	Rep. Thompson	Inquires, rather than shift officers between game and fish wouldn't it better to concentrate on streams.

138	Burgess	Enforcement is critical to the plan.
151	Rep. Thompson	Asks wouldn't it be in our best interest to state specifics as an enforcement plan.
	Burgess	Responds they hope to prove compliance so the National Marine and Fisheries Service (NMFS) won't have to enforce our plan.
166	Rep. Thompson	Asks if a farmer has non-point pollution on his property would the NMFS issue a federal violation.
174	Burgess	Suggests that the Attorney General address this question. If the NMFS filed suit it could go to federal court.
194	Burgess	Resumes presentation. States she will be submitting the salmon plan to NMFS on March 1st.
220	Burgess	Continues with presentation. Points out that major costs are in monitoring. Proposes that some funds be available through the Governor's Watershed Enhancement Board (GWEB).
244	Rep. Schrader	Asks what the general makeup of the watershed councils is.
250	Burgess	Generally industry, land, environmental, soil and water and usually local government.
260	Rep. Uherbelau	States there should be some discussion of the costs involved.
271	Burgess	Responds that if the species is listed as endangered, the recovery responsibility goes to the NMFS. Documentation of the required paperwork is significant.
290	Rep. Thompson	Asks in reference to her experience with the spotted owl, was there any funds made available.
219	Burgess	Responds affirmatively, there was research money. In regard to this project, they are pushing to bring the money up-front
325	Rep. Schrader	Mentions that this could be an example for fisheries and game management. States he would like to see a detail of the costs involved to the people of Oregon if the federal government makes the listing.
345	Rep. Messerle	States that he sees a lot of interest in this being done correctly. Asks what is the figure for staff that is representative of the total effort.
371	Burgess	Responds there are 61 new positions in addition to efforts through other agencies.
	Rep. Messerle	Comments he comes up with 66 new positions. States his opinion on the overall effort.
TAPE 13, A		

019	Rep. Messerle	Mentions that from a landowners point of view, we need to have some assurance from the state and the federal governments that there will be some protection in the courts for this compliance.
033	Burgess	If the NMFS will give us a chance to implement the plan, it is believed that it would be legally defensible.
046	Rep. Schrader	Suggests there be a comment in this regard added to the plan.
	Rep. Luke	States if the federal government approves the plan they should defend the landowners.
050	Burgess	States the federal government would defend the position they took of not listing the species.
052	Rep. Wells	Asks how will GWEB be involved and how will it be funded
058	Burgess	Responds they are proposing \$20 million for a watershed investment fund.
081	Burgess	Continues with presentation. Historically one-third of the funds for GWEB goes to soil and water conservation districts. Refers to the presentation and outlines who does what.
131	Burgess	Continues with presentation. Shows areas of proposed species listings.
146	Rep. Thompson	Refers to the slide, asks about Steelhead.
	Burgess	Shows on the slide presentation the locations.
156	Rep. Schrader	Asks what is the job description for the new positions.
160	Langdon Marsh	From DEQ. Describes that they have to determine what the stream will bear in terms of a nutrient, chemical or temperature and then incorporate a plan that will assure over time that the various sectors work together to bring the streams back to health. Gives details of how they plan to get the data.
	Rep. Schrader	Asks how will they get more data without more people.
201	Marsh	Anticipated they would need additional DEQ laboratory staff, but after discussion with other members of the partnership, it was determined preferable for members to apply for funds to hire someone to collect the data.
211	Rep. Messerle	States that we need a good data base. Asks for an estimate of how much of the 20 million dollars would be going towards the collection of data and other parts of the governor's proposal.
246	Marsh	Assuming about 1 million per biennium.

252	Rep. Thompson	Inquires if Oregon does not fund would the Environmental Protection Agency (EPA) provide funding.
253	Marsh	Responds they are putting pressure on EPA to help and also pressing Congress to fund the 319 program at a higher level.
269	Rep. Messerle	Asks to identify how the million will be used to develop the type of data base that is needed.
286	Rep. Schrader	Asks how DEQ will get involved.
289	Marsh	Responds by providing collection of data to put before the EPA.
301	Rep. Schrader	States he would like to see a detail explanation of the rule they plan to establish and how it ties to SB 1010 (1993 Session).
356	Phil Ward	Oregon Department of Agriculture. (EXHIBIT B)
TAPE 12, B		
011	Ward	Gives an overview of how ODA is involved in the Healthy Streams Partnership and what the process is for implementing SB 1010 (1993 session).
041	Ward	Refers to paragraph four, page one of the exhibit Why Does ODA Need 19 Positions To Implement the Healthy Streams Partnership.
056	Rep. Messerle	Asks why the NRCS technical staff isn't doing this.
059	Ward	Responds the Natural Resources Conservation Service is critical on-the-ground implementation support. The NRCS would require funding and staff to help the ODA.
075	Rep. Messerle	Asks is there a commitment from NRCS as to what staff they have available.
	Ward	Responds he will be meeting with senior NRCS staff.
	Rep. Messerle	Asks how to get de-listed from the water quality limited status. Also asks what is the status of the Tualatin.
090	Marsh	States there has been great progress made but cannot give an exact time for de-listing.
100	Rep. Messerle	Asks is there a way to distinguish point and non-point source.
112	Marsh	Depends on the reason for the listing, about 3/4 are listed for non-point source only.
122	Rep. Scharder	Who determines when de-listing takes place and what steps are followed to get a de-listing.
129	Marsh	

		Responds, basically the State would make the determination and EPA would approve it.
159	Rep. Thompson	States his concern of ODA "to move the goal post". Suggests that those involved be told up-front what needs to be done.
173	Marsh	States the effort is to keep the healthy stream objective in place.
204	Rep. Thompson	States it is discouraging to try and meet the standards and find out it is not enough.
216	Rep. Uherbelau	Asks is there a program that monitors the progression.
223	Marsh	Responds part of the reason for the data specialist is to monitor the effectiveness.
246	Rep. Messerle	Agrees with Rep. Thompson regarding the moving goal post except in regard to the temperature standards. Some of these standards are unattainable goals. Suggests instead to start at an attainable level.
279	Marsh	Responds the assessment process is another reason that technical assistance is needed to determine what is attainable and in the best interest of that stream to support the survival, spawning and rearing.
315	Ward	Continues with testimony with regard to the 19 positions. Sums up that in working with agriculture that it works better if they don't prescribe what to do, but instead describe conditions that shouldn't exist. The landowners with the help of technical assistance will figure out what can be done.
356	Rep. Luke	States there should be distinct separation between advice and enforcement.
391	Rep. Wells	Asks what is the enforcement plan for uncooperative people.
398	Ward	Explains how SB 1010 (1993 Session) prescribes specific enforcement strategies.
TAPE 13, B		
019	Burgess	Continues with presentation.
040	Rep. Schrader	States it would be helpful to have some documentation of the enforcement strategies.
045	Rep. Uherbelau	Asks how the federal government will respond if we have a plan but no funding.
051	Burgess	Responds that Mr. Stelle, NMFS is the person to ask.
062	Rep. Thompson	Clarifies that if there is no funding in place we lose our position regarding lawsuits and our potential for future de-listings.
067	Burgess	

		Affirms that a concern is that the domino effect will occur if they list the Coho.
078	Rep. Thompson	Clarifies that there could be follow up lawsuits.
081	Rep. Schrader	When is the information needed to halt the listing.
088	Burgess	States the plan will be submitted in detail March 1st.
096	Rep. Schrader	Clarifies that time is of the essence.
	Chair Starr	Recognizes the presence of former Senator Rod Johnson in the audience.
103	Burgess	States the Governor's proposal, in brief: "is \$30 million to support the park system, \$20 million the watershed investment fund and \$10 million for the coordination and implementation of the salmon plan and the healthy streams partnership." The Natural Resources Investment Account would be funded by an excise tax on recycled beverage products. Three cents goes to the account and 1.5 cents would become a handling fee.
130	Rep. Luke	Recalls a hearing in 1993 on redemption centers. Asks where the 1.5 cent figure came from.
136	Burgess	Responds in detail that it takes from 2 - 4 cents to run a redemption center.
150	Rep. Luke	Asks would a state agency need to be created to collect the money and redistribute it.
159	Burgess	Responds they propose that the Department of Revenue collects the money and returns it to the redemption centers.
159	Rep. Luke	Describes the process: "a 1.5 cent, up-front charge on the can, at the store level. The store then sends that money to the Department of Revenue. The redemption center collects that can, keeps the scrap, then sells it to a recycler and then sends a bill to the Department of Revenue for the other 1.5 cents." Asks what happens to the stores that take in more cans then they put out.
171	Burgess	States the excise tax would be at the distributor level not the grocer. They are proposing the distributor add 4.5 cents to the cost of the can which is on passed to grocer then on to the consumer.
183	Rep. Luke	States that the redemption center has to pay out the money before it comes in.
204	Rep. Wells	

		States his understanding of the current system in which the nickel goes to the distributor who holds the money. The store gives the money back.
217	Rep. Uherbelau	Asks if the 60 million includes what it will cost for the new positions.
219	Burgess	Responds the costs for the new positions is the \$10 million staffing component.
223	Rep. Messerle	Asks Ward if the three positions for Confined Animal Feeding Operations (CAFO) is in addition to current staff.
232	Ward	Responds affirmatively.
	Rep. Messerle	Asks are they two inspectors and one technician
	Ward	States the technician is actually a courtesy inspector.
241	Rep. Thompson	Asks to explain the logic behind the bottle bill.
245	Burgess	States they wanted a broad base tax that is shared by most of the public because most of the public will benefit.
262	Rep. Thompson	Asks what benefits has the public received by allowing the waters to be polluted.
268	Burgess	Responds, there are no benefits to not addressing this. Oregon is attempting to do what no other state has attempted to do.
295	Rep. Thompson	States in his understanding the general public has benefited by the low cost of timber and food and that basically they are asking the public to repay.
305	Rep. Wells	Asks who would pay if nothing is done.
	Burgess	In the long term all of us, the landowners would feel it first.
329	Rep. Wells	States we are voluntarily taxing ourselves and planning a program. Asks can the federal government mandate we fund a program if we weren't willing to do it ourselves.
345	Burgess	Responds that under a federal recovery plan, ultimately the cost would come back to Oregon.
356	Rep. Schrader	Asks is there any long term possibility of this being funded by a portion of the general fund.
366	Burgess	Asks if he is referring to a general or dedicated amount from the general fund.
372	Rep. Schrader	Asks can funds be committed to this effort in the future.
381	Rep. Luke	

		Responds that one legislature cannot commit another legislature to spending programs.
386	Chair Starr	States for the record: "It's obvious from your comments and things that I know, that we do need to make investments in our natural resources. At the same time, it is my belief, that as stewards of our natural resources we need harvest and that without the harvest of those natural resources and the proper return that that brings to our state, it's much more difficult to make the investment in those resources. So, I would urge us to look at what we're doing to ourself and inflicting ourselves with in that regard." Closing public hearing, opens work session HB 2136.
HB 2136 WORK SESSION		
TAPE 14, A		
034	Rep. Luke	Referring to the fiscal impact statement, asks if the hydrologist position will come out of the \$257,000.
	Gary Lynch	Department of Geology and Mineral Industries (DOGAMI) Mine Land Reclamation Program. Responds affirmatively.
043	Rep. Luke	Asks what is the salary range of the hydrologist.
054	Lynch	Responds that it is a range 29 position.
073	Rep. Luke	Referring to the fiscal impact statement, expenditures of \$270,000 and revenue of \$257,000. Asks where is the other money coming from.
082	Lynch	States they have attracted outside monies through grants and other programs.
085	Rep. Luke	Refers to the \$20,000 general fund.
088	Lynch	Responds this is a new item. Describes how this is used for enforcement action.
101	Chair Starr	States they have assurances from the department (EXHIBIT C) that if this is not working to the benefit of the industry in four years, the department will support the removal of these additional fees, therefore the amendment has been withdrawn.
	Rep. Luke	MOTION: Moves HB 2136 to the floor with a DO PASS recommendation.
		VOTE: 7-0 AYE: In a roll call vote, all members present vote Aye.
	Chair	The motion CARRIES.

		REP. SCHRADER will lead discussion on the floor.
	Chair Starr	Adjourns meeting.

Submitted By, Reviewed By,

Linda Kowal, Judith Gruber,

Administrative Support Administrator

EXHIBIT SUMMARY

A - Salmon Initiative, written testimony, Paula Burgess, 4 pp.

B - Salmon Initiative, written testimony, Phil Ward, 8 pp.

C - HB 2136, written testimony, Don Hull 1 pp.