

**HOUSE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES**

February 20, 1997 Hearing Room D

08:30 AM Tapes 28 - 30

**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:**

HB 2448 Work session

HB 2496 Work session

HB 2449 Work session

HB 2546 Public hearing

HB 2547 Public hearing

HB 2555 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
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<b>TAPE 28, A</b>		
<b>008</b>	<b>Chair Starr</b>	<b>Calls meeting to order at 08:33 am. Opens work session on HB 2448.</b>
<b><u>HB 2448 WORK SESSION</u></b>		
<b>012</b>	<b>Judith Gruber</b>	<b>Policy analyst. Gives an overview of what the bill does. Refers to the hand engrossed version of HB 2448 which includes the -1 amendments. (EXHIBIT A)</b>
<b>025</b>	<b>Rep. Uherbelau</b>	<b>States the -3 amendments (EXHIBIT C) were done by consensus of the Department of Geology and Mineral Industries (DOGAMI) and Oregon Concrete and Aggregate Producers Association (OCAPA). The first part is the same as the -2 amendments (EXHIBIT B) "shall" versus "may." Added "reasonable."</b>
<b>035</b>	<b>Chair Starr</b>	<b>Asks Rep. Uherbelau to read the sentence.</b>
<b>036</b>	<b>Rep. Uherbelau</b>	<b>Refers to line 14 (EXHIBIT A) after the word "corrected" and reads.</b>
<b>046</b>	<b>Rep. Schrader</b>	<b>States his concern with a "reasonable" time frame, suggests to specify a time frame.</b>
<b>057</b>	<b>Rep. Luke</b>	<b>States the department may include a date but if they don't it has to be "reasonable." Asks what does that mean.</b>
<b>060</b>	<b>Rep. Uherbelau</b>	<b>States after lengthy discussions a reasonable time gives some standard but also offers flexibility.</b>
<b>081</b>	<b>Rep. Luke</b>	<b>States why complicate the bill with additional language.</b>
<b>090</b>	<b>Rep. Uherbelau</b>	<b>States this line talks about commencing work not completing work.</b>
<b>096</b>	<b>Chair Starr</b>	<b>Calls Gary Lynch to help with this issue.</b>
<b>099</b>	<b>Rep. Luke</b>	<b>Asks does the department sit down with people when there is a violation.</b>
<b>102</b>	<b>Lynch</b>	<b>Refers to the -2 amendments (EXHIBIT B) line 11 and states the second "may" should be a "shall" for sure. States the 90 - 95 percent of the time they will specify a date.</b>
<b>112</b>	<b>Rep. Luke</b>	<b>Asks if a violator is not moving along fast enough, can't you then specify a completion date.</b>
<b>127</b>	<b>Lynch</b>	<b>Affirmative, but only by inspection of the site.</b>
<b>137</b>	<b>Rep. Luke</b>	<b>Asks if the "shall" is adopted, do you need the remainder of the amendments (EXHIBIT C).</b>
<b>141</b>	<b>Lynch</b>	<b>States it does not limit the department or decrease the effectiveness of the bill.</b>
<b>142</b>	<b>Rep. Uherbelau</b>	

		Points out line 11, how the notice would read but that this amendment would offer some parameter if there is no date on the notice.
151	Rep. Wells	Refers to the -3 amendments.
155	Lynch	States they want to delete the second "may" in line 11 and replace it with "shall."
166	Rep. Schrader	Asks why the first "may" remains.
156	Lynch	On the advice of the Attorney General, allows the department more flexibility to tailor the administrative order.
174	Rep. Luke	States an example of a minor violation.
183	Rep. Schrader	Clarifies that some are minor, but has concerns about the 10 percent closures, refers to a site in his district.
184	Lynch	Referring to the site in Rep. Schrader's district. States that prior to 1991 the department did not have civil penalty authority, only criminal.
226	Rep. Schrader	Asks is there a way to be sure the bonding is adequate.
234	Lynch	States they bond for the actual cost of reclamation
256	Rep. Messerle	Regarding the word "reasonable" by whose definition.
280	Lynch	States any subjective term can be abused.
300	Rep. Uherbelau	Responds to Rep. Messerle's concern by stating that reasonableness has long been recognized as a "reasonable man's standard."
320	Rep. Luke	States he agrees with the -1 and -2 amendments but feels the -3 amendments complicates the bill.
336	Rep. Luke	<b>MOTION: Moves to ADOPT HB 2448-1 amendments dated 02/12/97.</b>
	Chair Starr	<b>Hearing no objection, declares the motion CARRIED.</b>
344	Rep. Luke	<b>MOTION: Moves to ADOPT HB 2448-2 amendments dated 02/18/97.</b>
	Chair Starr	<b>Hearing no objection, declares the motion CARRIED.</b>
348	Rep. Uherbelau	<b>MOTION: Moves to ADOPT HB 2448-3 amendments dated 02/19/97.</b>
	Chair Starr	<b>VOTE: 3-4</b> <b>AYE: 3 - Thompson, Schrader, Uherbelau</b> <b>NAY: 4 - Luke, Messerle, Wells, Starr</b>
	Chair Starr	<b>The motion FAILS.</b>

	Rep. Luke	<b>MOTION: Moves HB 2448 to the floor with a DO PASS AS AMENDED recommendation.</b>
	Rep. Wells	<b>VOTE: 4-3</b> <b>AYE: 4 - Luke, Messerle, Wells, Starr</b> <b>NAY: 3 - Thompson, Schrader, Uherbelau</b>
	Chair Starr	<b>The motion CARRIES.</b> <b>REP. MESSERLE will lead discussion on the floor.</b>
	Chair Starr	<b>Closes work session on HB 2448 and opens work session on HB 2496.</b>
<b><u>HB 2496 WORK SESSION</u></b>		
394	Judith Gruber	<b>Policy Analyst. Gives and overview of HB 2496 and the -1 amendments. (EXHIBIT D)</b>
422	Rep. Wells	<b>MOTION: Moves to ADOPT HB 2496-1 amendments dated 02/19/97.</b>
	Chair Starr	<b>Hearing no objection, declares the motion CARRIED.</b>
	Rep. Wells	<b>MOTION: Moves HB 2496 to the floor with a DO PASS AS AMENDED recommendation.</b>
<b>TAPE 29, A</b>		
012	Rep. Schrader	<b>States his concern for off-site damage.</b>
025	Chair Starr	<b>Invites Gary Lynch to respond to Rep. Schrader's concern.</b>
026	Gary Lynch	<b>DOGAMI. States that if the reclamation is approved beyond the permit boundary, DOGAMI would have to bond it. Stresses that DOGAMI does not site mines.</b>
	Chair Starr	<b>The motion CARRIES.</b> <b>REP. WELLS will lead discussion on the floor.</b>
071	Chair Starr	<b>Closes work session on HB 2496 and opens work session on HB 2449.</b>
<b><u>HB 2449 WORK SESSION</u></b>		
073	Judith Gruber	<b>Policy Analyst. Gives an overview of HB 2449. Refers to the hand engrossed version of the bill which includes the -1 amendments. (EXHIBIT D)</b>
090	Rep. Luke	<b>MOTION: Moves to ADOPT HB 2449-1 amendments dated 02/19/97.</b>
	Chair Starr	<b>Hearing no objection, declares the motion CARRIED.</b>

096	Rep. Schrader	<b>MOTION: Moves HB 2449 to the floor with a DO PASS AS AMENDED recommendation.</b>
098	Rep. Schrader	<b>States he would like to see a sentence added that clarifies who is the authority.</b>
110		<b>VOTE: 6-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 1 - Rep. Uherbelau</b>
	Chair Starr	<b>The motion CARRIES.</b> <b>REP. SCHRADER will lead discussion on the floor.</b>
122	Chair Starr	<b>Closes work session on HB 2496 and opens public hearing on HB 2546.</b>
125	Rep. Luke	<b>MOTION: Moves to SUSPEND the rules for the purpose of allowing Rep. Messerle to record his vote on HB 2496.</b>
126		<b>EXCUSED: 1 - Rep. Uherbelau</b>
	Chair Starr	<b>Hearing no objection, declares the motion CARRIED.</b>
126	Rep. Starr	<b>MOTION: Requests unanimous consent that the rules be SUSPENDED to allow REP. MESSERLE to BE RECORDED as voting AYE on HB 2496 as amended.</b>
<b><u>HB 2546 PUBLIC HEARING</u></b>		
141	Rep. VanLeeuwen	<b>Asks that HB 2547 be open for public hearing now also.</b>
147	Chair Starr	<b>Opens public hearing on HB 2546 and HB 2547 since they cover the same portion of the statutes.</b>
<b><u>HB 2546 &amp; 2547 PUBLIC HEARING</u></b>		
153	Rep. VanLeeuwen	<b>District 37. States that HB 2546 asks the state to use "sound verifiable science" versus "best available science" before listing any more species.</b>
190	Chair Starr	<b>Refers to page 1, line 16 of the printed bill. Refers to page 1, line 30 of HB 2546.</b>
219	Rod Ingram	<b>Oregon Department of Fish and Wildlife. (ODFW) (EXHIBIT E)</b>
238	Chair Starr	<b>States it's the Chair's opinion there is no need for further change on the language as it does not change the intent.</b>
242		

	Rep. VanLeeuwen	Refers to page 7 of Division 100 of the ODFW Commission rules.
263	Ingram	States there was some concern over water resources and the Commission has the rules on hold at this time until these concerns can be addressed. The language that Rep. VanLeeuwen is referring to is the definition of "verifiable science."
301	Chair Starr	Asks that these rules be supplied to the committee. (see notation at end of minutes) Refers to HB 2547.
310	Rep. VanLeeuwen	States that HB 2547 is asking that the ODFW Commission give equal consideration to human and fiscal impacts as is given to other factors. Refers to page 26, Division 100 of the rules.
348	Ingram	Gives the history behind this bill. States that HB 2120, as passed by the 1995 legislature addresses Rep. VanLeeuwen's current bills. (EXHIBIT F)
TAPE 28, B		
046	Rep. VanLeeuwen	Concern for the lands that fund schools.
071	Rep. Messerle	Asks are they discussing just state owned lands and the impact to state government and state agencies, or, the well being of the society of the state. States his concern about how overlaying new rules and regulations impacts the economy as a whole.
091	Ingram	Refers to lands that have a statutory requirement, particularly O & C lands. Most of the impact comes from a confusing overlay of federal and state listings.
100	Rep. VanLeeuwen	States if a listed species is nesting on private property, the property owner can not harvest.
114	Rep. Luke	Asks Rod Ingram what groups were involved in regard to HB 2120 in the 1995 legislature.
122	Ingram	Responds, IFC, Forestry, ODFW, The Wildlife Society, former Sen. Stephen Kafoury, and possibly Oregon Trout.
132	Rep. Messerle	Asks was the agriculture community there.
134	Ingram	Responds he believes the Farm Bureau was there.
147	Rep. Wells	States he worked on this last session.
157	Chair Starr	States he will set these bills over and wait until they receive the administrative rules from the Commission.
169	Rep. Messerle	States he would appreciate written testimony.
177	Chair Starr	Offers remaining witness to testify.
	Dave Babits	

		Legislative Chair, Oregon Small Woodlands Association. Offers written testimony on HB 2546 and HB 2547. (EXHIBIT G)
	Gil Riddell	Council of Forest Trust Land Counties. Offers written testimony on HB 2546 and HB 2547.(EXHIBIT H)
	Jim Myron	Conservation Director, Oregon Trout. Offers written testimony on HB 2546 (EXHIBIT I ) and HB 2547 (EXHIBIT J)
	Tom Novick	The Wildlife Society Oregon Chapter. Offers written testimony on HB 2546 and HB 2547.(EXHIBIT K)
194	Chair Starr	Closes public hearings on HB 2546 and HB 2547. Opens public hearing on HB 2555.
<b><u>HB 2555 PUBLIC HEARING</u></b>		
213	Jim Myron	Oregon Trout (EXHIBIT L) Gives an overview of what they seek to accomplish with this bill.
268	Rep. Luke	Refers to the written testimony regarding Walleye.
282	Rep. Wells	Asks how to eliminate them.
284	Myron	States this is something they hope the study will help them with.
296	Rep. Thompson	Asks is the exotic issue addressed in the Governor's Salmon Initiative and are there any exotic species on the coast that affect Coho.
299	Myron	Affirmative.
349	Myron	States the department adopted rules that prohibits the introduction of new exotic species to the state.
363	Steven Kafoury	Representing the American Fisheries Society. States the organization has allowed him to solicit experts from their membership to provide technical expertise.
416	Doug Markel	Professor of Fisheries at Oregon State University. States for the record that he is before the committee as a private citizen and is not representing Oregon State University or the American Fisheries Society.
424	Markel	Gives a brief history, problems and remedies of exotic species. Defines what is meant by "exotic".
<b>TAPE 29, B</b>		
010	Rep. Luke	Refers to the presence of Walleyes' in the Columbia River.
013	Markel	States "not native". Discusses "authorized intentional introductions" and "unauthorized or accidental introductions".
014	Markel	States the five problems typically identified with fish from exotic introduction.

041	Rep. Thompson	Asks if the environment in the Columbia River is favorable to the Zebra Mussel.
044	Dr. Dennis Lassuy	States that according to the results of a map that the National Aquatic Nuisance Species Task Force did, most of the nation is suitable for Zebra Mussel.
055	Markel	Continues with testimony on the five identifiable problems.
108	Dr. Dennis Lassuy	(EXHIBIT M) States this bill asks that we be educated in our decisions. Discusses his experience with a similar study.
156	Lassuy	Refers to his written testimony.
178	Rep. Thompson	Clarifies his understanding that exotic fish impact more than pollution.
181	Lassuy	Responds that habitat degradation was the leading factor, second was the effect by exotic species and third was the effect of contaminants.
189	Rep. Thompson	Asks if he has knowledge of the Governor's Initiative relative to exotic species.
191	Markel	States he cannot answer at this time.
200	Rep. Wells	Asks how much research will it take, is there information available now.
207	Lassuy	Responds that most of the information needed already exists, it needs to be accessed and acted upon.
226	Rep. Thompson	Ask how well prepared is he to pull the information together from a university standpoint.
234	Markel	States the university has a lot a resources.
234	Rep. Thompson	Asks if more money is needed.
237	Markel	States that if a person from ODFW was assigned to this project, he's not sure if more money would be needed.
250	Rep. Schrader	Suggests working with fiscal and getting a defined scope of the project.
259	Markel	Answers that this is a statewide problem.
272	Rep. Thompson	Asks if this is also a federal problem.
274	Lassuy	Responds that this is a global problem.
283	Rep. Thompson	Makes a statement regarding ballast water and that the EPA has asked him to put together a commission.
296	Lassuy	States that all eight of the Oregon species that were impacted by exotic's, were non-coastal species.
320	Rep. Schrader	States the Governor's plan is a statewide plan.



341	Rod Ingram	Deputy Director ODFW, provides testimony. (EXHIBIT N)
420	Rep. Thompson	Asks is it possible that millions of dollars could be spent in stream restoration and have an exotic species that would prevent the recovery of the fish.
433	Kay Brown	ODFW. States taking care of the habitat will not necessarily take care of the problem.
TAPE 30, A		
010	Rep. Thompson	Restates the question.
013	Brown	Affirmative.
015	Rep. Thompson	Asks doesn't it make sense to have someone in the department looking into this issue.
019	Brown	States there are plans for this in the future.
027	Rep. Thompson	Asks if the money the state is spending as a whole addresses the problem of exotic species.
032	Ingram	Discusses live wells and illegal introductions.
054	Rep. Thompson	States for clarification that the National Marine Fisheries Service's (NMFS) Recovery Program may have impossible standards due to exotic species.
058	Ingram	States he is not aware if exotic's have been addressed with NMFS.
065	Rep. Messerle	States that this is a whole segment that hasn't been discussed.
080	Rep. Luke	Asks if some native fish have been eliminated to benefit other native fish.
084	Ingram	Responds he is not aware of any.
091	Rep. Luke	Talks about 10 Mile where ODFW destroyed perch to make way for trout. Asks if perch were native to Ten Mile.
094	Ingram	Perch are native to the state.
101	Rep. Luke	Clarifies that the introduction is sometimes done by the department.
111	Rep. Schrader	States that the Governor's Salmon Initiative task force should be informed of this issue. Gives suggestions for providing more information to a work session.
128	Ingram	States the focus is to make this do-able.
133	Chair Starr	Asks Joe Rohleder (EXHIBIT O) to submit his written testimony, states there will be more work done on this subject. Closes the public hearing on HB 2555 and adjourns meeting.
HB 2546 & HB 2547, Oregon Fish and		

**Submitted By, Reviewed By,**

**Linda Kowal, Judith Gruber,**

**Administrative Support Administrator**

**EXHIBIT SUMMARY**

**A - HB 2448, proposed amendment -1, staff 4 p.p.**

**B - HB 2448, proposed amendment -2, staff 1 p.**

**C - HB 2448, proposed amendment -3, Rep. Uherbelau**

**D - HB 2496, hand engrossed bill with the -1 amendments, staff 2 p.p.**

**E - HB 2546, written testimony, Rod Ingram, 1 p.**

**F - HB 2547, written testimony, Rod Ingram, 3 p.p.**

**G - HB 2546 & HB 2547, written testimony, Dave Babits 2 p.p.**

**H - HB 2546 & HB 2547, written testimony, Gil Riddell, 1 p.**

**I - HB 2546, written testimony, Jim Myron, 1 p.**

**J - HB 2547, written testimony, Jim Myron, 1 p.**

**K - HB 2546 & HB 2547, written testimony, 2 p.p.**

**L - HB 2555, written testimony, Jim Myron, 12 p.p.**

**EXHIBIT SUMMARY (CONTINUED)**

**M -HB 2555, written testimony, Dr. Dennis Lassuy, 3 p.p.**

**N - HB 2555, written testimony, Rod Ingram, 3 p.p.**

**O - HB 2555, written testimony, Joe Rohleder, 1 p.**

**P - HB 2546 & HB 2547, draft rules, Rod Ingram, 87 p.p.**