

HOUSE COMMITTEE ON WATER POLICY

January 21, 1997 Hearing Room D

3:00 P.M. Tapes 3 -5

MEMBERS PRESENT:

Rep. Ken Messerle, Chair

Rep. Tim Josi, Vice-Chair

Rep. Jo Ann Bowman

Rep. Steve Harper

Rep. Jeff Kruse

Rep. Jim Welsh

MEMBER EXCUSED:

Rep. Tony Corcoran

VISITING MEMBER: Rep. Bob Jenson

STAFF PRESENT:

Pat Zwick, Policy Analyst

Rebecca M. Nickel, Administrative Support

MEASURE/ISSUES HEARD:

Agency Overviews

* Department of Environmental Quality

* Water Resources Department

* Department of Fish and Wildlife

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 3, A		
	Chair	

003	Messerle	Calls meeting to order at 3:05 p.m.
004	Chair Messerle	Notes for the record that Rep. Corcoran is absent and is excused.
010	Chair Messerle	Reviews meeting agenda.
<u>DEPARTMENT OF ENVIRONMENTAL QUALITY - AGENCY OVERVIEW</u>		
014	Langdon Marsh	Director, Dept. of Environmental Quality (DEQ), reviews written testimony regarding DEQ's Water Quality Program. (EXHIBIT A)
064	Marsh	Review - Protection of water quality
114	Marsh	Review - Surface water run-off and pollution concerns
157	Rep. Josi	Poses a question regarding standard setting and responsibility.
161	Marsh	Explains criteria setting for standards.
170	Rep. Josi	Asked for example of "criteria."
174	Marsh	The "criteria establish the types of beneficial uses that the standard must protect." It is the responsibility of the state to decide what measures are required to accomplish the protection of beneficial uses.
181	Rep. Josi	Asks for discussion on the federal criteria document.
182	Marsh	Offers to provide the committee a copy of this document in lieu of an oral explanation. States that the document is lengthy and contains scientific information and background.
187	Rep. Josi	Asked for agency standards regarding temperature based on the federal criteria.
191	Marsh	Will provide this information to the committee.
193	Chair Messerle	Asks Marsh for explanation regarding temperature standards definition and the lack of information available on this subject.
203	Marsh	Refers to the temperature standard "slide" in his presentation. Also refers to review of standards.
211	Rep. Josi	Asks when standards were last updated.

		The update is current.
212	Marsh	Review - Temperature Standards. Discusses the controversy with the National Marine Fisheries Service regarding the temperature range.
216	Marsh	Review - Temperature Standards * improvement of current standard and scientific input * controversy with the National Marine Fisheries Service (NMFS) * the 64(limit
263	Marsh	Review - The 64(Limit * different for each stream or waterway * depends on water quality assessment * flexibility in the standard to meet unique conditions
276	Chair Messerle	Ask for discussion on how the standards for optimum temperature are determined.
281	Marsh	Refers to the Technical Advisory Committee's recommendation of temperature range that are based on what conditions are needed for healthy fisheries (spawning and survival).
292	Rep. Kruse	Comments on Measure 38 and temperature standards. Asks if there is any flexibility in the timeframe required for getting streams exempted from the 64(limit and declared nonpolluted.
307	Marsh	Responds that DEQ is required to list streams that exceed temp. criterion because of lack of data on individual streams. The Clean Water Act requires that streams are listed first and then an assessment is made to determine if that particular stream is exempt.
330	Marsh	Discusses prioritization process for assessment of listed stream segments.
356	Rep. Kruse	Comments regarding Douglas County and Umpqua River as an example for implementation problems and concerns regarding timetables and potential lawsuits.
382	Marsh	States intent of DEQ and Governor's Partnership regarding potential difficulties and steps toward resolution.
Tape 4, A		
010	Rep. Josi	Requests additional information regarding issues and lawsuits.
		Gives a brief explanation of lawsuits:

014	Marsh	<ul style="list-style-type: none"> * plaintiffs (chiefly northwest environmental advocates) * results (changes in policy) and settlements * acceleration of total maximum daily load (TMDL) assessments
045	Rep. Josi	Asks for clarification on how listing is determined and how assessment conclusions are reached.
055	Marsh	Discusses DEQ's assessment process and possible steps. Offers to provide committee with additional information.
081	Rep. Josi	Asks for clarification on the controversy with NMFS regarding listing.
093	Marsh	Discusses the difference of focus between the two agencies and specific areas of controversy.
108	Chair Messerle	Comments regarding structuring of meeting and the necessity of DEQ returning at a later time to further discuss the temperature standards and other aforementioned issues.
118	Marsh	Offers to provide additional information to the committee at a later date.
125	Chair Messerle	Urges him to provide this additional information as it will be an important source of knowledge for the committee. Expresses his concerns regarding the database and whether or not it reflects improvements made in the last 20 years.
137	Marsh	Refers to written testimony regarding the 303(d) list and requirements. Discusses controversy with EPA regarding screening of data (including date and reliability of data). Warns that this information will be important in current litigation.
179	Chair Messerle	Asks for discussion on salmon recovery database for the habitat of the coastal area required by SB 198 (1993 Legislative Session).
186	Marsh	Defers answering as he does not have experience with this project, offers to find more information and provide to the committee.
188	Chair Messerle	Comments regarding potential legal problems and current lawsuits, "when we have standards that we very possibly can't meet under the best of conditions, it seems to me that we have perpetuated the lawsuit scenario and could be setting ourselves up for just a tremendous legal battle on down the road and so you kind of have the connotation that if we can get through these three or four lawsuits which we are dealing with right now, we should be in pretty good shape. I don't share that confidence that we could just see an unending number of these lawsuits coming at us."
		States that he shares the same concern and suggests that there

201	Marsh	needs to be an approach which is based on the Governor's Plan for settlement of current lawsuits and prevention of future suits.
213	Rep. Kruse	Asks for additional information regarding temperature limitation criteria and what long-term time investments are needed to resolve any difficulties.
237	Marsh	Discusses DEQ's 10 year plan, citing examples such as timeframes in other states, requirements of other agencies, and staffing requirements.
266	Rep. Josi	Asks about staffing requirements.
267	Marsh	Responds to question.
270	Chair Messerle	Asks that agency overview continue without further questions.
272	Marsh	Review - Affected waterways
320	Marsh	Review - Healthy Streams Partnership
359	Rep. Josi	Asks for explanation of "other management areas."
362	Marsh	Different state agencies will oversee related areas (i.e., Dept. of Forestry will oversee timbered areas; Dept. of Agriculture will oversee agricultural areas).
396	Chair Messerle	Asks for discussion on how temperature standards fit into the agency priorities.
405	Marsh	The priorities have been chosen for this year, based on the Coastal Salmon Restoration Initiative. Also discusses future methods for determining priorities.
TAPE 3,B		
022	Chair Messerle	Asks for additional questions and invites Marsh back for another presentation.
025	Marsh	Review - "401" grazing certification and proposed legislation.
031	Chair Messerle	Asks for representative of Water Resources Department to present agency overview.
<u>WATER RESOURCES DEPARTMENT - AGENCY OVERVIEW</u>		
036	Martha Pagel	Director, Water Resources Department (WRD), introduces Tom Byler, Legislative Coordinator, presents a broad overview of the department.

062	Pagel	Presents a set of Oregon Water Laws to each member. Distributes Strategic Plan 1997 - 1999. (EXHIBIT B)
084	Pagel	Presents a summary of pre-session filed bills. (EXHIBIT C)
095	Pagel	Introduces Weston Becker, Public Information Representative, and Geoffrey Huntington, Deputy Director, as possible information sources for the committee.
117	Tom Byler	Legislation and Rules Coordinator, WRD, presents a slide presentation on the water management in Oregon. (EXHIBIT D)
167	Byler	Slide presentation - Beneficial Use
215	Byler	Slide presentation - Exempt Uses
265	Byler	Slide presentation - Water Right Application Process
321	Byler	Slide presentation - Roles and Duties of WRD
365	Byler	Slide presentation - Water Rights Adjudication
415	Byler	Slide presentation - WRD Mission
Tape 4, B		
016	Byler	Slide presentation - Strategic Management Plan
055	Rep. Bowman	Asks for discussion on water rights for industrial companies.
057	Byler	Discusses placement of those companies under the beneficial use definition.
059	Pagel	Those companies would be governed under existing municipal water rights if located in a developed area.
063	Rep. Josi	Asks for discussion on bills introduced regarding in-stream flows.
065	Byler	The bills introduced provide incentives to water users to add in-stream flows; reduction of transfer fees, etc.
075	Rep. Harper	Asks for current status of adjudication process in the Klamath Basin.
078	Pagel	Will provide additional information regarding the Klamath Basin.
080	Chair Messerle	Asks that this information be provided to the entire committee.
082	Pagel	Reports on the elimination of water rights application backlog required by SB 674 (1995 Session).
090	Chair Messerle	Comments and invitation for WRD to return at a later date.
093	Rep. Josi	Comments regarding backlog.

095	Chair Messerle	Announces the continuation of the agency overview and recognizes representative of Oregon Department of Fish and Wildlife.
<u>OREGON DEPARTMENT OF FISH AND WILDLIFE - AGENCY OVERVIEW</u>		
103	Rudy Rosen	Director, Oregon Department of Fish and Wildlife (ODFW), introduces his colleagues Rod Ingram, Deputy Director, ODFW, and Jill Zarnowitz, Assistant Director, Habitat Conservation Division.
115	Rosen	Reviews written testimony on an overview of the department (EXHIBIT E)
118	Rosen	Review - Program overview
168	Rosen	Review - Infrastructure overview
219	Rosen	Review - Programs
259	Rosen	Review - Habitat Conservation Division
304	Rosen	Review - Funding from the General Fund
347	Rosen	Review - Salmon Restoration Initiative
390	Rosen	Review - Coastal habitat restoration program
Tape 5, A		
004	Rep. Josi	Asks about budgetary plans for replacement of damaged fish screens.
008	Rosen	Explains the fish screening program * cost share program (state and landowner) * tax credit * possible use of emergency funds for repair
023	Rosen	Offers to find more information regarding emergency funds allocation.
028	Chair Messerle	Comments regarding taking broader view of conditions affecting development of habitat and fisheries. Asks for additional information on this subject and on prioritization of programs.
041	Rosen	Refers to the Governor's Salmon Restoration Initiative as a possible source of information regarding this subject.
058	Chair Messerle	Asks if there are any additional questions or comments.

062	Chair Messerle	Discusses agenda changes and future agency overviews.
080	Rep. Harper	Asks for a list of bill summaries.
082	Pat Zwick	Informs committee that those will be available on Thursday, January 23, 1997.
085	Chair Messerle	Adjourns meeting at 4:58 p.m.

Submitted By, Reviewed By,

Rebecca M. Nickel, Pat Zwick,

Administrative Support Policy Analyst

EXHIBIT SUMMARY

A - Dept. of Environmental Quality Agency Overview, Written Testimony, Langdon Marsh, 18 pp.

B - Water Resources Department Strategic Plan 1997 - 1999, Martha Pagel, 73 pp.

C - Water Resources Department Legislative Proposals, Martha Pagel, 2 pp.

D - Water Resources Department Agency Overview, Martha Pagel, 20 pp.

E - Oregon Department of Fish and Wildlife Agency Overview, Rudy Rosen, 13 pp.