

HOUSE COMMITTEE ON WATER POLICY

February 11, 1997 Hearing Room F

3:00 P.M. Tape 21 - 23

MEMBERS PRESENT:

House Water Policy

Rep. Ken Messerle, Co-Chair

Rep. Tim Josi

Rep. Jo Ann Bowman

Rep. Tony Corcoran

Rep. Steve Harper

Rep. Jeff Kruse

Rep. Jim Welsh

House Agriculture & Natural Resources

Rep. Charles Starr

Rep. Terry Thompson

Rep. Ken Messerle

Rep. Kurt Schrader

Senate Water & Land Use

Sen. Veral Tarno

Sen. Bob Kintigh, Co-Chair

Sen. Ginny Burdick

Sen. Ted Ferrioli

Sen. Bill Fisher

Sen. David Nelson

Sen. Thomas Wilde

Senate Agriculture & Natural Resources

Sen. Bob Kintigh

Sen. Bill Fisher

Sen. Bill Dwyer

Sen. Ted Ferrioli

Sen. Gary George

Sen. Veral Tarno

Sen. Thomas Wilde

VISITING MEMBERS: Rep. Bob Jenson

Rep. Larry Sowa

Rep. Liz VanLeeuwen

Rep. Bob Repine

STAFF PRESENT:

House Water Policy

Pat Zwick, Policy Analyst

Rebecca Nickel, Administrative Support

House Agriculture & Natural Resources

Judith Gruber, Committee Administrator

Senate Water & Land Use

Mark Volmert, Committee Administrator

Senate Agriculture & Natural Resources

Glen Stonebrink, Committee Administrator

Christin Smith, Committee Administrator

Paul Zolezzi, Administrative Support

Brad Harper, Administrative Support

MEASURE/ISSUES HEARD: Salmon Issues from the Federal Perspective

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 21, A		
002	Co-Chair Messerle	Calls the meeting to order at 3:10 p.m. As a joint meeting of the House Water Policy, Senate Water and Land Use, Senate Agriculture, and Natural Resources and House Agriculture and Natural Resources Committees. Comments on the commitment of the legislative body to resolving the salmon recovery problem.
012	Co-Chair Kintigh	Comments on the joint committee meeting and the appearance of William Stelle.
<u>NATIONAL MARINE FISHERIES SERVICE</u>		
016	William Stelle	Regional Administrator of the National Marine Fisheries Service (NMFS) for the Pacific Northwest. Submits a written statement. (EXHIBIT A)
029		<u>Key Points</u> * Pacific Northwest is facing a salmon challenge of historic proportions * economic issue * social issue "The way in which we meet these challenges in the coming weeks and months and years, will demonstrate who we are, and what we care about. It is, in fact, a wonderful opportunity for all of us."
041	Stelle	<u>Listing Process</u> * Federal Endangered Species Act authorizes NMFS to list salmon when it is judged that they are at risk of extinction * proposed in July 1995, to list three of six evolutionarily significant units (ESU) or clusters of coho runs off the west coast:

* Central Oregon

* Southern Oregon and Northern California (1/3 in Oregon; 2/3 in California)

* Central California

* final listing decision on Central California cluster in October of 1996

* at that time, announced a listing decision extension for the two Oregon clusters until April, 1997

* obliged, under federal law, to make a final decision on the listings for the Oregon clusters

* the proceeding is in federal district court

Makes several additional points:

* "...we have not made up our mind on this listing issue. And the reason is very simple, because we don't have all the facts in, particularly we don't have the next generation of the Governor's salmon plan and that is highly relevant to a listing decision."

* "...the work that Oregon is putting into this salmon plan is unprecedented, and we completely support it. It is across the board, sweeping, a very serious effort, a good faith 066 Stelle effort and it is well grounded in science. We applaud this effort and we support it and we believe it is the right way to go."

* April 25th is the time when the decision on listing must be published in the Federal Register. As this is in federal court, it is not foreseen that any extensions would be available. "April 25th is pretty firm." The decision needs to be made by the end of March to ensure that the documents are processed and submitted to the federal register.

* the listing decision due on April 25th includes the Central Oregon ESU and the Southern Oregon/Northern California (Shared) ESU

* separate and distinct decisions are due for each of those ESU

Restoration plans currently under way

* obliged under law to take into account federal, foreign and state actions to conserve salmon

090 Stelle * the degree to which those actions may affect a listing decision is based on what the likely effects of those plans will be on the fish

* "The more likely, the more probable that those things are going to happen, the more influence they have on the listing decision. The less probable, the more questionable it is that they may happen, the less influence they will have on a listing decision."

Water Quality

109 Stelle Not just a salmon issue, but also an issue of water quality. Further implementation of SB 1010 (1993 Session) will be essential to the restoration effort.

- 112 Stelle The key issue is whether or not the state has a strong, reliable, and implementable plan in place. If the state chooses to develop and implement a plan which is funded and reliable, then it will have a major impact on endangered species management in the state. "If it does so choose, the Endangered Species Act provides us with the flexibility to allow that credible, scientifically grounded salmon plan to serve as the road map for salmon recovery here in Oregon."
Reads from a Statesman Journal article: "There is a big `if,' however: Oregon has to show the fisheries service that it has the money to activate Kitzhaber's largely voluntary coho recovery plan."
- 129 Rep. Repine Asks for clarification of the Governor's plan and whether or not it is primarily his plan or something that can be built within the legislative body around the framework proposed by the Governor.
That is principally a judgment for the legislative body and the Governor. A plan must be real in order to affect any species listing. "It cannot simply be a paper plan." One of the essential features of it being real on the ground is that it gets funded and implemented. The judgments about authority for implementation is ultimately the responsibility of the Legislature. It must be a joint effort of the Legislature and the Governor.
- 147 Stelle Reads from same article: "If the Legislature can't supply a stable source of money, then the fisheries service will take charge." Refers to the proposed source of funding in the Governor's plan. Asks if funding through the general fund process would be acceptable as a stable source of revenue.
- 169 Rep. Repine "The source of the funding is not the key issue. The question is whether or not the wherewithal will be there to do what we are promising to do."
- 170 Stelle Asks if funding through the general fund process would be considered a stable source of revenue.
- 173 Rep. Repine Yes.
- 175 Stelle Asks how closely NMFS staff has been working with the Governor's Office in the development of the plan.
- 179 Rep. Josi There has been a very close working relationship. There has been involvement on several different levels in the development of the plan. Has not seen the latest iteration of the plan, but expects it to be available within the next two weeks.
- 180 Stelle Asks if the final product will meet the needs in order to forego a listing.
"I have a high degree of confidence that this plan, if implemented, is going to make a major stride in conserving and recovering wild salmon populations in this state. I have not seen the details of what the next iteration is, and I will not express an opinion about whether or not the next iteration could lead us to a no-list decision." No-list decision is an option. Regardless of what the decision is, it will have to be dependable to a federal judge that the decision was based on sound science.
- 194 Rep. Josi Comments on possible funding sources. Asks if biennial funding would have an impact on the decision to list.
- 204 Stelle Yes, the reliability of the funding source is relative to the reliability of implementation.
- 224 Rep. Josi
- 234 Stelle
- Co-Chair

- 242 Messerle Asks for further discussion on the separate listings in the two ESUs.
- 244 Stelle There would be two separate decisions.
- 245 Messerle Comments on not being aware of the two listings on the south coast. Asks for discussion and for clarification on the types of listings for the two areas. Asks if there needs to be two plans in place or would one salmon recovery plan be required.
- Shared ESU
- Assuming that the plan is strong and will be implemented, there are two theoretical options:
- * not to list based on the Oregon plan
 - * difficulty with this option is that two-thirds of the ESU is not covered by the plan and would be difficult to defend in federal court
 - * list and utilize Oregon plan as the road map for recovery in Oregon
- 257 Stelle
- * would apply in only Oregon (unless California decided to adopt the plan) and may keep out the federal agencies
 - * California to make a state-led conservation effort for salmon
 - * not very likely to occur
- For the shared ESU, the no-listing decision would be a tough decision because of the lack of action in California. The key issue is whether or not the state of Oregon has a good, scientifically sound recovery plan in place for coho. If it can be implemented, "...then the Endangered Species Act gives us the flexibility to embrace it as the home-grown Oregon road map for recovery."
- 305 Co-Chair
Messerle Asks if one Oregon plan could cover both listings.
- 307 Stelle It could.
- 308 Rep.
Corcoran Asks if the proposed changes to the Governor's plan is the result of NMFS concern about the plan. Asks if the current iteration of the plan included the monitoring requirements would it be more acceptable, and what would be the consequences of a listing in terms of California's refusal to cooperate with NMFS.
- The Endangered Species Program has two components
- * applicable to federal agencies and activities
 - * when something is listed, then federal agencies are obligated to ensure that what is being done does not jeopardize salmon and will contribute to the recovery of salmon.
 - * federal agencies must communicate intent to NMFS to determine effects on

salmon

* applicable to non-federal agencies and activities

* people should not "take" ("...harm, harass, or other activities that are highly likely to result in the death...") endangered species

344 Stelle * has no self-enforcement mechanism and people violating this face federal prosecution

Cites the proposed conservation agreement with Weyerhaeuser for the Willamette tree farm. The purpose of this multi-decade agreement is to provide long-term business planning predictability for all endangered species, whether currently listed or not. The other side of this gets a long-term, stable, predictable improvement in the habitat base to help contribute to the improvement of salmon and other species.

**TAPE
22, A**

006 Stelle This agreement will eliminate the company's exposure to lawsuits involving "take." If the Oregon plan is acceptable and implemented, then the Endangered Species Act will allow the flexibility for not applying "take" regulations. Therefore, if the plan is successful it may provide safe harbor and provide a road map for recovery for activities covered by the plan.

030 Rep. Thompson Voices his concerns regarding the possible enforcement mechanism which will be imposed on the people of Oregon.

042 Stelle Every effort will be made to reinforce the work done. An Oregon plan properly laid out, implemented and funded will be the road map. The landowners will be working on that plan. The Endangered Species Act can incorporate that.

054 Rep. Thompson Asks what would be necessary to allow the state to assume the enforcement role.

058 Stelle It goes back to the issue of reliability. "Paper plans are not good enough and paper rules are not good enough."

065 Co-Chair Kintigh Asks if the funding over the biennium, and the fact that funds could not be committed beyond that, would be considered a drawback.

070 Stelle It would need to be demonstrated to a federal court that a reliance on the Oregon plan was well founded. A dedicated revenue source for funding a plan over time would be a very strong indicator of success. Biennial appropriation is less of an indicator of stability to the courts.

087 Co-Chair Kintigh Comments on a dedicated fund. Asks if NMFS has the power and/or personnel to enforce a federal plan on private landowners.

097 Stelle No, the geographic scope of these listings is significant.

106 Sen. Kintigh Asks about accuracy of a statement regarding the inability of the Oregon Forest Practices Act to adequately protect salmon.

110 Stelle Accurate statement.

Refers to statements made by Mr. Stelle regarding reliability of funding and action. Asks for discussion on why there is no statutory support for statements,

- 112 Sen. Ferrioli and also on Section 6 of the Endangered Species Act, which states that 75% of funding will be borne by federal agencies and when two states are involved, up to 90%.
- It is in the listing criteria under Section 4 of the Endangered Species Act that the reliability of the state program has an important role in the decision. Other important criteria which must be considered are:
- * the adequacy of existing regulatory mechanisms
 - * specifically directed to take into account in the listing process, current state and foreign efforts at conservation
- 143 Stelle These factors are interpreted by several federal district and circuit court opinions. These opinions look at "the degree of reliance on a program may or may not, or should or should not, affect a listing decision."
- Section 6, Cooperative Agreements with States, Endangered Species Act, authorizes the federal government to enter into cooperative agreements with states for management of a state endangered species program. Authorizes cost-sharing funds to assist financing the state endangered species program. It is not species or listing specific. Unsure if there is currently an agreement with the state of Oregon.
- 181 Sen. Ferrioli There is a signed agreement with NMFS and other federal agencies called the Oregon Option. It was signed in connection with other natural resources management issues.
- 189 Sen. Ferrioli Disagrees with the idea that NMFS has the authority under the statute to decide the dollar amount for Oregon to spend for management of its own resources.
- "My role here is not to define for the Legislature or the Governor what the individual details of the plan are, or what the appropriate funding levels are for it. I think the Governor himself and his departments and agencies are working very hard at coming up with a proposal that they believe is warranted and justified. My main message here is if we are to take into account this homegrown Oregon plan, the more reliable it is, the more we're able to take it into account, and have it affect either the listing decision or the way in which we implement an endangered species program here in the state."
- 205 Stelle
- 223 Sen. Ferrioli Asks for clarification of his role in this process and the lack of a cooperative relationship.
- 233 Stelle The Oregon effort is extraordinary and very productive. Role is as a cooperator with the state in making this a reality.
- 243 Sen. Dwyer Asks if there is any precedence for NMFS to adopt a state plan and allow the state to manage that plan. Refers to cooperative agreement federal agency has with Weyerhaeuser.
- 260 Stelle Yes, there is. Refers to an agreement with the state of California. In Southern California, several large counties developed a conservation plan for the gnatcatcher and it's habitat under state law. It was submitted to the Fish and Wildlife Service which embraced it under the Endangered Species Act. The practical affect on the ground was the detailing of commitments between several

- agencies.
- 277 Sen. Dwyer Asks if his intention is to chose certain aspects of the plan, or the plan in entirety, for application of take restriction rules.
- 283 Stelle It would be simpler to consider the entire plan, however it would depend on the details contained in each section.
- 290 Sen. Dwyer Asks for the number of successful recovery plans and what species have been recovered.
- 294 Stelle Since first listing of salmon in the late 1980's, recovery or draft recovery plans have been adopted for two or three of the salmon runs. None have been de-listed; nor is de-listing foreseen in the near future.
- 302 Sen. Dwyer Asks why, if there has been limited success by federal agencies, there would not be an opportunity for Oregon to put forth its plan, even if it is not funded.
- 311 Stelle The state should be given a chance to put forth its plan and it has the opportunity under federal law. The work done by federal agencies with state agencies in the development of a plan has been towards a state plan for recovery in lieu of a federal plan for recovery.
- 323 Sen. Fisher Comments on the amount of work done by Oregonians in regards to the cutthroat trout and the lack of cooperation from NMFS and other federal agencies. Asks if that will be the case for a coho listing.
- 343 Stelle Hopes that the answer is no. President Clinton's 1998 budget doubles the salmon budget for NMFS. There has been a great deal of down sizing, but there have been negotiations to get more field offices and full-time employees.
- 365 Sen. Fisher Comments on the multiple jurisdictions of habitat, and asks if there will be a decision regarding species protection that will enable the protection of all species.
- Absolutely. There are two dominant trends:
- * the Endangered Species Act is here to stay
 - * there is a movement away from species by species approach
 - * multi-species agreements with landowners and governments covering over 100,000 million acres, including aquatic and terrestrial, listed or not listed

**TAPE
21, B**

- 010 Sen. Fisher Comments on the lack of pinnepedes being considered. Also comments on the funding.
- 020 Rep. Bowman Asks about the need for dedicated funding attached and the possibility that the legislative body would not have a decision made prior to the end of March.
- 034 Stelle The Court ordered the schedule. The judge has demonstrated lack of sympathy regarding time extensions. The conflict of timing issues and legislative decisions is a potential problem. Regardless of the April 25 listing date, the clock does not stop on April 25. Encourages the continuation of development.
- 054 Rep. Bowman Comments on the frustration of Oregonians and asks what the monetary match from the federal government would be and when will that process be completed.

- 066 Stelle The Governor made a judgment regarding the extinction risk of salmon and over the last year has worked very hard in developing a recovery plan for salmon. The subject of federal matching funds has not been discussed with the Governor's office or with the Office of Management and Budget. Several people from federal agencies have been assigned to work with the Governor to identify goods and services that the federal government can make available to watershed groups. Does not know of any specific appropriated fund that is being proposed.
Comments that it appears that the legislature are being asked to make one of two choices:
- 092 Co-Chair
Messerle * how fast the plan can be adopted
* see how good a plan can be adopted and have the time to bring the landowners into the decision making process
- 103 Rep. Welsh It seems dangerous to take the fast track at this time. It is most important that a good and workable plan is developed.
Comments on private property issues and private timber issues and the development of the Forest Practices Act and why NMFS finds that the Forest Practices Act is inadequate for protecting salmon.
- 123 Stelle Forest lands constitute 90% of coho habitat in Oregon (75% is non-federal), therefore the issue of what happens on the ground for forest practices is significant for the long-term recovery of coho. The question of the adequacy of forest practices rules is judged on what will be determined necessary over the long-term to provide adequate spawning and rearing habitat. The determination is based on what kind of degradation and rebuilding can be expected in the short-term and what improvements can be made in the long-term. The rules adopted in 1994 are an improvement over previous rules. Several aspects of those rules were found lacking because of steep-slope sites and mass wasting. Have not tried to parse answer or judgment and the question of take/no-take. If that situation develops, it will be worked out with the other agencies. There is a constructive collaboration with the Department of Forestry to determine where the plan is lacking. There have been technical papers sent out to independent groups of reviewers, but there has been no response at this time.
- 167 Rep. Welsh Comments on the Oregon Department of Fish and Wildlife (ODFW) development of a model of coho populations. Asks if NMFS believes there is a risk of extinction based on the 400,000 annual number of returning coho to freshwater habitat.
NMFS has not had the opportunity to complete a review of the ODFW model.
- 172 Stelle The question of whether or not runs will survive over time must be examined on a cluster by cluster basis. First it must be identified within the clusters where the strong runs are, then look at the habitat that connects the strong runs together. Look at connectivity issues in the habitats in order to build up core areas that are connected to the estuaries and the ocean.
- 203 Welsh Was not referring to habitat area, but to the number of fish.
- 206 Stelle Comments on de-listing objectives for the Snake Basin recovery plan. Looks at the establishment of stable recovery of these runs and the minimum number of

return runs needed. If Coho in Oregon is listed, criteria may be similar. Cannot say if 400,000 coho are enough.

- 222 Rep. Welsh Asks if NMFS is using the Endangered Species Act to force the state to actions beyond what is necessary to prevent extinction.
- 226 Stelle No.
- 228 Co-Chair Messerle Comments on the past assumption that the concern NMFS had with the forestry industry was in regards to riparian zones. Asks for clarification of this.
- 235 Stelle It is mass wasting above the riparian zones which is the main concern of NMFS. These can cause slides which can seriously deteriorate a stream habitat.
- 247 Sen. Nelson Comments that Oregonians are committed to saving the salmon as evidenced by the number of programs throughout state. There is need to recognize the fact that the state is making huge commitments. Fears that if federal enforcement is imposed it would be "clumsy at best, heavy handed at worse." Comments on the lack of study on the effect of ocean conditions and drought conditions on the salmon populations.
- 273 Stelle Fundamentally, the best hope for long-term salmon recovery is the commitment of the local landowner.
- 283 Rep. VanLeeuwen Comments on the lack of inclusion of studies on ocean conditions in the consideration of salmon population declines. Scientists have presented evidence in the past that about 50% of the demise of salmon is from bad ocean conditions. There was a study several years ago (the Botkin Study) which was supposed to take ocean conditions into account, however, the study was very inadequate in this area of ocean conditions. There needs to be more consideration of ocean conditions. Refers to a part of the study on a drainage system and the results.
- 339 Stelle The point is well taken that the ocean conditions play a large role in salmonid life cycles. Look at all the major factors in the decline and make a plan to cover all of them. Ocean conditions are not within our ability to control, but they are within our ability to understand. There needs to be more investment in research on ocean and estuarine productivity and its affect on salmonid conservation.
- 363 Rep. VanLeeuwen NMFS needs "back off" until ocean conditions can be studied. Refers to a report by NMFS that there has been an upswing in return in some areas, including the south coast. Suggests that this may relate more directly to El Nino than to farmers and loggers.
- 383 Sen. Tarno Comments on the Watershed Health Program of 1993, which laid out the groundwork for watershed councils around the state. It is a proven plan and one that should be built upon. Concerns regarding the establishment of permanent funding source and possibility of de-listing in the future. Ask to what degree these processes need to be continued and suggests that funding through the General Fund on a biennial basis would be the easiest method. Comments regarding enforcement and voluntary compliance.

**TAPE
22, B**

- 028 Stelle Agrees with comments and the real issue is compliance and having things happen on the ground.
- 033 Rep. Sowa Stresses that if the bill for funding is written "right," it becomes part of the base budget for the program. Makes additional comments on funding.

- 054 Stelle Comments on his lack of knowledge on budget (dedicated vs. appropriated). The issue is reliability of implementation.
- 061 Rep. Sowa Comments on the Governor's plan.
Comments on the work of the state in this area. There has been broad-based success in various areas. Federal agencies do not have the power to affect constructive measures on private lands other than through regulation. In order to achieve results, it needs to be done at the local level. There is a lack of
- 068 Rep. Kruse understanding by the state on what the federal agencies will accept. If NMFS is the agency that is going to be doing the listing, then it follows that that agency would know what levels would need to be achieved to satisfy the federal government. Asks when the state will get the numbers and the data sets that are needed in order to incorporated them into a plan.
- 111 Stelle Asks for clarification on the types of numbers.
- 113 Rep. Kruse Comments on the development of models and data sets that can give indication of the health of a watershed which will satisfy state requirements, asks what numbers would satisfy the federal requirements.
There are three components:
- * harvest - changes in rates and management and quantification of changes
 - * close with ODFW in development of new paradigm in how to manage salmon off the coast of Oregon
 - * hatcheries - the role they play
 - * trying to be quantitative with state on kind of production levels, types of brood stock, acceptable stray rates, and risk to wild stock
- 119 Stelle
- * physical fresh water habitat
 - * provided to the Governor a matrix of important habitat parameters
 - * boundaries on temperature, large woody debris, sedimentation levels, and pool frequencies
- These are parameters that can not be rolled into regulation as they do not make any sense since conditions will vary from watershed to watershed. They do represent an accumulation of the best scientific data available on what represents healthy bounds. This information would be available to watershed councils in order for them to be worked around local conditions.
- 167 Stelle In the development of objectives for rebuilding runs, NMFS is trying to quantify how many fish over what scale represents good rebuilding schedule.
- 174 Rep. Kruse Comments that science has changed in the last 30 years and that there is a holistic approach to the watershed.
- 189 Stelle The Federal Forest Plan is a fairly comprehensive aquatic conservation program. The conservation efficiencies from a healthy aquatic system on the landscape level is well demonstrated. Can achieve a multi-species approach more efficiently

through a healthy riparian system. The healthy riparian system is the backbone of the entire conservation strategy, both aquatic and terrestrial.

- 207 Co-Chair Kintigh Comments on the need to control marine mammals which are increasing in population and having an affect on the fish population. Asks if it is an option for NMFS to allow a two year trial of Oregon's plan, even if they had doubts about it.
- 218 Stelle A decision must be made by April, but the decision could be to not list the coho and set up a schedule of implementation for the Oregon plan. If there were no improvements, the coho could still be listed.
- 229 Co-Chair Kintigh Comments on depressed salmon prices and the increase in farm raised salmon. Asks if there should be a limit to the amount of work that a landowner would be expected to perform to produce an increased surplus of salmon.
- 245 Stelle It is an economic issue as well as environmental issue. Over the long-term, there will be powerful growth opportunities for coastal economies. In the future, there will be bigger cities and higher densities of people, tourism, and fishing and healthy landscapes will become a powerful engine of economic productivity.
- 264 Rep. Schrader Comments that the court system is in control of the situation. It is necessary for the plan to be strong enough to stand up to court challenge. Asks if NMFS is assisting with the development of a plan that can withstand legal challenge so that Oregon can be in control of its own destiny.
- 284 Stelle Agrees. Any decision which is a good decision will be implementable. Believes that this subject will end up in court.
- 297 Sen. George Comments on the willingness of Oregonians to work together. Asks if NMFS can develop, fund, and implement a plan that will work as well as the cooperative effort currently in place.
- 314 Stelle "I think the Oregon plan can do better things for fish on private lands than the feds can do. I want to work with Oregon to make it happen."
- 320 Sen. George Asks for clarification on mass wasting and comments on the geologic history of Oregon. Asks if the standard will be altered after progress is made.
- 330 Stelle No, the issue of mass wasting has been identified. It is a serious issue and is out for technical review. It is where the catastrophic, avoidable events occur that have long-term affects on salmon habitat. .
- 350 Rep. Thompson Asks if the marine mammal budget is being reduced.
- 359 Stelle Yes.
- 362 Rep. Thompson Asks for discussion on the expansion of the budget for salmon recovery efforts.
- 370 Stelle The line item for west coast salmon has grown from \$2 million to approximately \$16 million. The reason for this increase is the prospect of the west coast listings and the need to be able to provide for programs.
- 388 Rep. Thompson "If you were to grant us the right to be the controllers of our own destiny, would you feel comfortable taking that money and putting it into another state that has not cooperated as much as we have?"
- 391 Stelle Would not feel comfortable.
- 397 Rep. Josi Comments on landslides and alluvial plains in the area. There are many different

causes of landslides.

**TAPE
23, A**

- 012 Rep. Josi A comprehensive study is being done to determine some of the causes. It is known that clear-cuts are a factor, but it is not known to what degrees. Refers to Upstream Salmon and Society in the Pacific Northwest, the National Research Scientists (copyrighted by the National Academy of Scientists), page 15. Reads that watershed level organizations are being used in a preemptive effort to avoid listing. Comments on the use of watershed councils in this effort.
- 059 Rep. Welsh Asks if there is a listing does NMFS assume that the state will continue with the plan and the funding of that plan.
- 065 Stelle "I hope so."
- 066 Rep. Welsh Asks what is the likelihood of a listing of steelhead in July.
- 075 Stelle There will be a listing of steelhead as either threatened or endangered. Last July, it was proposed that steelhead would be listed in Washington, Oregon, and California as threatened or endangered under the Endangered Species Act and a final listing decision is required in July of 1997.
- 078 Co-Chair Messerle Asks for court decisions which were mentioned previously.
- 080 Rep. Bowman Asks what a listing would mean to Oregon and what kind of assistance could be expected from the federal government.
- * there is an obligation on the part of federal agencies to contribute to the recovery of salmon.
 - * obliged to appoint a recovery team to develop recovery plan
- 085 Stelle * ample opportunity for the state to take the lead in the development of federal recovery plan
- Would "take" prohibitions be applied in Oregon? In over the last 15 years, "take" has always been applied. The suspension of "take" and allowing the Oregon plan to work is being considered. There is no doubt that this will be challenged in court.
- 114 Rep. Bowman Asks about the change of focus of the federal agencies and what does that specifically mean.
- 120 Stelle That would mean that the aquatic conservation strategy and the federal forest plan on the west side is going to be sufficient for salmon and steelhead recovery.
- 134 Sen. Ferrioli Comments on past federal intervention in the state of Oregon. Asks if there is a number (representing returning salmon) which will satisfy NMFS.
- 182 Stelle Will provide the committee a rough estimate of the way in which recovery will be calculated using the Snake Basin Recovery Plan as a prototype.
- 186 Co-Chair Messerle Comments on the importance of this data.
- Offers clarification on several points which he feels may have been misunderstood:

- * not here to denigrate the commitments of Oregonians
- * promises to be the most successful strategy seen in a long time

- 189 Stelle
 - * "homegrown" is used as a positive term
 - * "We have an obligation to base listing judgments and all of our judgments under the Endangered Species Act on the best scientific information available. That criterion is rigorously enforced. We are cut no slack by the courts on that issue, and we will continue to make those judgments based upon good science. This is not simply about habitat control at all."
- 209 Co-Chair Messerle
 - Asks if it is possible to divide the listing at the California border.
- 213 Stelle
 - That possibility has been studied and it would be difficult to defend a decision to break the cluster apart because of political borders. It is based on biological clusters and not political clusters.
- 220 Co-Chair Messerle
 - Comments on the meeting and thanks Mr. Stelle for his cooperation.
- 237 Co-Chair Messerle
 - Adjourns meeting at 5:18 p.m.

Submitted By, Reviewed By,

Rebecca M. Nickel, Pat Zwick,

Administrative Support Policy Analyst

EXHIBIT SUMMARY

A - National Marine Fisheries Service, Written Testimony, William Stelle, 7 pp.