

HOUSE COMMITTEE ON WATER POLICY

February 25, 1997 Hearing Room D

3:00 P.M. Tapes 29 - 30

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: Governor's Salmon Recovery Plan and
Healthy Streams Partnership Investment Budget**

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 29, A		
003	Chair Messerle	Calls meeting to order at 3:10 p.m.
<u>GOVERNOR'S SALMON RECOVERY PLAN AND HEALTHY STREAMS PARTNERSHIP INVESTMENT BUDGET</u>		
	Martha	Director, Water Resources Department (WRD), reviews

014	Pagel	Investment Budget Analysis (Exhibit A, February 18, 1997).
024	Pagel	Discusses interagency coordination and the issue of technical assistance as relating to the plan. Points out that technical assistance which each agency provides is intended to be unique to that agency and to the specific roles, responsibilities, and workload measures which are in the plan. WRD role in technical assistance relates to the kinds of technical duties which are different from the technical duties of other responsibilities. The watermasters have specific types of expertise relating to water rights and other related subjects. One of the goals in putting together the plan was to ensure that positions did not overlap. The most current draft gives more specific details regarding the positions.
058	Pagel	Review - Investment Budget Analysis (Exhibit A, 02/18/97)
067	Pagel	Presents and discusses a map indicating placement of WRD's full-time employees (FTE). (EXHIBIT A)
097	Rep. Bowman	Asks if the positions would have been needed regardless of the Salmon Restoration Plan or the Healthy Streams Partnership.
093	Pagel	Yes, these positions were identified several years ago as needed to increase field presence. They can be targeted toward the plan and would contribute collection of additional stream flow data, provision of information about conservation opportunities, promotion of in-stream leasing opportunities, and other duties.
107	Pagel	Major responsibility under Salmon Plan is the gathering of ground water data. It relates to the plan in that as natural stream flows become more stressed or appropriated, the state is looking toward ground water as a supply or as an alternative supply. One component is to allow WRD to pursue comprehensive ground water studies in the Rogue Basin and the South Coast Basin. This relates directly to the Salmon Restoration Plan and indirectly to the Healthy Streams Partnership.
128	Chair Messerle	Asks if this alternative is realistic, time wise.
132	Pagel	In some areas ground water may not serve as a future use of supply. It is important to know how the ground water relates to the surface water in such areas where it is suspected that there is a close hydraulic connection between the ground water and the surface water. When new water right applications are received and evaluated for impact on existing water rights and fish recovery, it is necessary to know what that hydraulic connection is. It may be that surface water storage and other types of supply options are going to be needed. In other areas, it will help identify where there are good available ground water resources or where there are opportunities for aquifer storage and other new

		technology.
150	Rep. Kruse	Asks for an explanation of funding.
161	Pagel	The breakdown of funding is: * \$800,000 for cost sharing of ground water study * may show up in services and supplies * \$870,000 for 11 FTE * \$98,500 for streamwalkers

* seasonal employees to help gather stream flow data

- 168 Rep. Kruse Asks for clarification of the streamwalkers position. Comments that this type of information is gathered by volunteers in the Umpqua Basin.
These positions would be trained in data collection and stream flow measurements.
- 177 Pagel There would be a higher level of training and responsibilities than volunteers. WRD has trained people from irrigation districts and other sources who volunteer their services, but these people bring a level of professional expertise with them.
- 189 Pagel Continues discussion of funding package.
- 199 Rep. Jenson Asks who currently reviews applications for Governor's Watershed Enhancement Board (GWEB) grants.
Program Manager, GWEB. By statute, GWEB has identified a technical advisory committee and an educational advisory committee that review grant applications. The
- 204 Ken Bierly Board makes formal decisions on grant applications. But the advisory committees, which are drawn for agencies and interest groups, assist and provide recommended ranking for funding. The voting members of the Board then make the formal decision.
- 217 Rep. Jenson Asks if HB 2209 (1997 Session) changes the practice in funding grants.
- 221 Bierly No, it is the continuation of an ongoing practice.
- 223 Bierly Review - Investment Budget Analysis (Exhibit A, February 18, 1997)
Chair
- 242 Messerle Asks what is anticipated with the GWEB grants relating to extensions.
There is not specific distribution of funds anticipated. There will be funding that needs to be distributed to watershed councils to continue their efforts. Anticipate that the grant fund would be flexible as needs will change overtime. There is not a specific plan laid out for where each dollar will go. GWEB made a decision in December 1996, to take responsibility for making allocation decisions.
- 252 Bierly
- 280 Chair Messerle Asks if these funds will be used to generate other funds for projects and if there is any projection on what can be expected.

- 285 Bierly Historically, the match that GWEB funds have been able to get in both federal and private moneys is about four or five, to one (every dollar of state investment returns four or five dollars of matching funds). That level of investment may continue, and there is a significant amount of volunteer effort that is invested in these projects.
- 318 Lindsay Ball Captain, Fish and Wildlife Division, Oregon State Police (OSP), discusses the role of the OSP in the Salmon Restoration Plan and the Healthy Streams Partnership. In 97-99 budget, the Fish and Wildlife Division had a \$2.1 million reduction in funds to be transferred from the Oregon Department of Fish and Wildlife (ODFW) to OSP for enforcement services. That \$2.1 million would impact 13 positions with the Fish and Wildlife Division. This amount originated as a result of declining angling license revenues. Since 1931, the Fish and Wildlife Division has been the enforcement arm for ODFW. In the Governor's recommended budget, there are \$2.1 million of General Fund moneys added to OSP Fish and Wildlife Division budget. The 13 positions would direct their efforts toward the Salmon Restoration Plan and the Healthy Streams Partnership. Presents written testimony (section of Exhibit A, February 18, 1997). **(EXHIBIT B)**
- 365 Ball These positions will not be eco-cops, but will be partnering with natural resource agencies. Salmon protection deals with harvest rules, methods, licenses, bag limits, and quotas, both on commercial and recreational sides.
- 377 Ball The 13 positions will be redirected to focus on salmon and healthy streams, and most likely move positions from areas of the state to support salmon restoration on the coast and in the Columbia Basin. Without doing this, we cannot avoid a listing. And if there is a listing, this needs to be done to facilitate de-listing. Oregon needs to show the courts and the National Marine Fisheries Service (NMFS) that there is adequate compliance with existing laws and rules.

**TAPE
30, A**

- 003 Chair Messerle Asks for further discussion on the shifting of positions.
- 010 Ball Will develop a task force group that can respond to a situation on a seasonal basis. This is a year round issue when looking at the full life cycle of salmon. There are seasonal influences which will require additional enforcement emphasis.
- 021 Chair Messerle Comments that the CAFO (Confined Animal Feeding Operation) program is operated on a complaint basis and asks if that is similar to how enforcement will work in the Healthy Streams Partnership and the Salmon Restoration Plan.
- 024 Ball In the Healthy Streams component, the role is to respond to complaints, and to partner with other natural resource agencies to assist in projects specific to watersheds. These projects may be fish screening or water diversion issues. Problem areas are identified, and if voluntary compliance is not obtained, strict enforcement is used.
- 036 Rep. Kruse "Seems to me, that you are predicting a fairly large regulatory piece to make this happen, and I tend to dispute that. Historically, we do have some bad actor cases, but historically in all the watershed work that's been going on, its been voluntary and we haven't needed a regulatory arm to make it happen. So I question the move, we're predisposing that we need regulation and we don't have the history to show that."
- 044 Chair Messerle Comments that this is a subject that needs more discussion.

- Cites an example on the Columbia River and the fish screening problem at irrigation pump stations. It was observed that a pump station was operating without fish screens and that 46,000 fall Chinook smolts were being pumped into the irrigation ditch. This problem was brought to the attention of the OSP by a landowner who called to complain about the large number of seagulls picking up smolts out of the irrigation ditch. Upon investigation, it was determined that the pump station was in violation because the screens had been raised due to the number of smolts and other debris in the river which had plugged the screens. There was an investigation of other pump stations above Bonneville Dam. A report done in 1981, showed that the Army Corps of Engineers, NMFS, and Bonneville Power had surveyed the area and found that 66% of pump stations were not in compliance. In 1993, it was found that 17% were not in compliance. That was 12 years without an enforcement mechanism in that system. Certified letters were sent to each pump station owner requesting that they come into compliance. Voluntary compliance immediately rose to 98%. There were two people who were reluctant to come on board. One of those people came into compliance after a visit from enforcement officers, the other was issued a citation and found guilty on four counts by a jury.
- 047 Ball
- 089 Ball It did not require a great deal of intervention by enforcement officers, but the presence created incentive for voluntary compliance.
- 091 Rep. Harper Asks if package 102 still includes the shift of Eastern Oregon game officers.
- 095 Ball Package 102 directs that General Fund money be added to budget and those positions be directed toward salmon and healthy streams. Could take 13 positions and reassign to the coast and the Columbia Basin, with no enhancement of services in those areas. But that wouldn't improve the situation. Protection must be sufficient to ensure restoration.
- 116 Rep. Harper Asks if this package includes the transfer of games officers from Eastern Oregon.
- 119 Ball The transfer from Eastern Oregon to Western Oregon is a direction that this agency would take, and that has not been done by the Superintendent.
- 122 Rep. Harper Asks if these 13 positions will allow Eastern Oregon game officers to stay in place, or if that is known yet.
- 123 Ball There is no guarantee that Fish and Wildlife officers are going to stay in place.
- 125 Rep. Harper Asks if the issue is still undecided.
- 126 Ball Correct.
- 126 Rep. Harper Comments on proposed use of county child abuse officers for salmon restoration enforcement issues. This proposal did not go very far.
- 136 Ball Not decided. In addition to 13 to be restored to base, there was also a 14 officer package to address salmon and clean streams. This was not recommended, but the 13 to be restored to base to focus on salmon protection and healthy streams was accepted.
- Chair
- 142 Messerle Asks for clarification on positions and move to coastal areas.

148 Ball The budget direction is not specific to the coast, but in order to avoid listing, these efforts need to be redirected from other areas in the state.

155 Rep. Bowman Asks if there were additional Fish and Wildlife staff that would have been deleted if there was not the need for enforcement efforts in these issues in the 1997-99 biennium budget.

164 Ball The 13 positions that are funded under Package 102, would have been lost as a result of revenue shortfall from ODFW.

167 Rep. Bowman Asks if any other positions would have been lost.

168 Ball No.

169 Rep. Bowman Asks for clarification on the difference between a Senior Trooper and a Trooper.

173 Ball A Senior Trooper achieves that rank if performance evaluations are satisfactory and there has been seven years with the department.

176 Rep. Bowman Asks for discussion on capital outlay, and services and supplies budget items.

183 Ball Not familiar with those components of the budget. (Rep. Bowman gives Captain Ball a copy of the budget sheet she is referring to.)

195 Ball The capital outlay for automotive is in regards to the purchase of vehicles, specifically a 4x4 pickup; other services and supplies relates to uniforms, vehicle maintenance, acquisition of office materials, and other items that would help those 13 positions function.

204 Rep. Bowman Asks if those items are already available.

208 Ball Of those 13 positions, five are already vacant. They were eliminated shortly after the biennium began because of revenue shortfalls with ODFW. An additional eight positions were identified. Currently, there are five positions vacant that have been held vacant for the past two years.

220 Rep. Bowman Asks about projected overtime costs.

229 Ball Overtime is prorated out to reflect experience of the past 10 year period. That takes into account each officer and includes holidays, and any time in excess of eight hours per day or 40 hours per week.

238 Rep. Harper Asks how many of the positions will be required for the Salmon Restoration Plan

242 Ball Has made recommendations to Superintendent to place 8 people on coast and other five in Columbia Basin.

250 Rep. Harper Comments that Eastern Oregon would be losing game officers.

Recommendations to the Superintendent on the 5 positions which would be moved:

* 1 from Fossil

* 2 from Bend

254 Ball * 1 from Klamath Falls

* 1 from Special Investigation Unit in Salem

These 5 positions are currently vacant due to the revenue shortfall.

278 Rep. Kruse Asks how many positions are currently in place on the coast and the Columbia Basin.

282 Ball Doesn't have specific numbers for coast and basin, but there are 45 in Eastern Oregon and 67 in Western Oregon. These numbers include administrators, sergeants, lieutenants. If more specific breakdown is required, can provide committee with manpower allocation report.

299 Dick Benner Director, Department of Land Conservation and Development (DLCD), reviews Investment Budget Analysis (Exhibit A, February 18, 1997).

Chair

344 Messerle Asks for projection of the amount of money from GWEB sources that would be used.

350 Benner Made a prediction based upon cost estimates from cities and counties to revise ordinances, then multiplied that number by the number of ordinances DLCD could address in a biennium to come to a statewide total of \$350,000.

Chair

357 Messerle Asks for explanation of the type of ordinances.

369 Benner Riparian corridors - ordinances would regulate the placement of structures in the corridors to ensure they would minimize whatever effect there may be on the waterbody. Those regulations are already in place, but they were changed recently to make them more specific and easier to implement.

384 Rep. Kruse Asks for clarification of what agency was addressing urban non-point pollution.

TAPE 29,B

004 Benner Joint program of a number of agencies, but when the coastal portion was written into an amendment to the Federal Coastal Zone Management Act, DLCD and Department of Environmental Quality (DEQ) jointly managed that part of it. Only a very small part of the total non-point pollution control program.

012 Rep. Josi Asks if the position and the \$350,000 in GWEB funds would be continuing, or would it be deleted if there was no need to protect salmon.

018 Benner It will be ongoing for a while, but not forever because when revisions were made to Goal 5, counties and cities did not think they could get the work completed. Predicted that implementation would take several biennia, it is being implemented through periodic review rather than by target dates. Expect that it will be three or four biennia.

Asks if doing this through the periodic review process is in compliance with the

- 031 Rep. Josi Endangered Species Act.
- 033 Benner This question has been brought up in discussions between state agencies and NMFS. DLCDC thinks that it can be done, but only to the extent that department can find money to pay all of the costs, or most of the costs of cities and counties for making changes to their ordinances. This package probably doesn't have enough money to pay the full cost for every city and county to make revisions to all the ordinances in one biennium.
- 048 Chair
Messerle Asks if the ruling was adopted prior to Measure 30.
- 050 Benner Yes.
- 051 Benner Not expert on how Measure 30 would apply. There is a provision in the rule that says it will be implemented over several biennia. Even if we left requirement alone, but amended rule to accelerate it, it could then be affected by Measure 30.
- 066 Paul
Cleary Director, Division of State Lands, submits and reviews testimony. **(EXHIBIT C)**
- 091 Chair
Messerle Asks if the Senate Bill would have an affect on ability to authorize a general authorization.
- 097 Cleary Can use general authorization within essential habitat and for recreational placer mining and small erosion control projects.
- 100 Cleary Review of written testimony.
- 127 Rep.
Jenson Asks what affect HB 2209 (1997 Session) would have on GWEB grants.
- 139 Pagel Defers to Ken Bierly
- 140 Bierly Not a significant affect on GWEB funds. Have not funded anything that has not had some type of match, either funds or "sweat equity." Intended as a demonstration by the agricultural community that this would be a matched effort and not a government hand-out program.
- 151 Rep.
Jenson Asks why it is part of the bill when there has been no abuse of this in the past.
- 154 Bierly It is not a critical issue.
- 161 Pagel Comments about the specific measures assigned to WRD and water quantity issues. There is an entire chapter in the plan that deals with water quantity and WRD has primary responsibility for that. Offers to return and discuss this with the committee.
- 167 Rep.
Bowman Comments regarding the map submitted by WRD.
- 171 Chair
Messerle Adjourns meeting at 4:20 p.m.

Submitted By, Reviewed By,

Rebecca M. Nickel, Pat Zwick,

Administrative Support Policy Analyst

EXHIBIT SUMMARY

A - Governor's Salmon Recovery Plan and Healthy Streams Partnership Investment Budget, Written Testimony, Martha Pagel, 1 pp.

B - Governor's Salmon Recovery Plan and Healthy Streams Partnership Investment Budget, Written Testimony, Lindsay Ball, 1 pp.

C - Governor's Salmon Recovery Plan and Healthy Streams Partnership Investment Budget, Written Testimony, Paul Cleary, 3 pp.

HOUSE COMMITTEE ON WATER POLICY

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5:00 P.M.

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Rep. Steve Harper

Rep. Jeff Kruse

Rep. Jim Welsh

MEMBER EXCUSED: Rep. Jo Ann Bowman

Rep. Tony Corcoran

VISITING MEMBER: Rep. Bob Jenson

STAFF PRESENT: Pat Zwick, Policy Analyst

**MEASURE/ISSUES HEARD: Oregon Salmon Restoration Initiative and
Healthy Streams Partnership**

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Tape/#	Speaker	Comments
Joint meeting with Senate Committee on Water and Land Use. Please see minutes from Senate Committee on Water and Land Use dated February 25, 1997.		

Submitted By, Reviewed By,

Rebecca M. Nickel, Pat Zwick,

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