

HOUSE COMMITTEE ON WATER POLICY

March 4, 1997 Hearing Room D

3:00 P.M. Tapes 39 - 40

MEMBERS PRESENT: Rep. Ken Messerle, Chair

Rep. Tim Josi, Vice-Chair

Rep. Jo Ann Bowman

Rep. Tony Corcoran

Rep. Steve Harper

Rep. Jeff Kruse

Rep. Jim Welsh

VISITING MEMBER: Rep. Bob Jenson

STAFF PRESENT: Pat Zwick, Policy Analyst

Rebecca M. Nickel, Administrative Support

MEASURE/ISSUES HEARD: HCR 3 - Public Hearing

HB 2409 - Public Hearing

HB 2768 - 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
TAPE 39, A		
002	Chair Messerle	Calls meeting to order at 3:07 p.m.
<u>HB 2768 - PUBLIC HEARING</u>		
004	Chair Messerle	Opens public hearing on HB 2768.
005	Mark	State Representative, District 58, submits and reviews testimony in

	Simmons	support of HB 2768. (EXHIBIT A)
030	Rep. Bowman	Asks if the state is issuing water rights permits for surface water, and if so, how will HB 2768 change this.
034	Ben Westlund	State Representative, District 55, many in-stream water rights have already been issued, but prior to issuance stockmen had been told by Water Resources Department (WRD) that their stock was allowed to used natural running springs and spring water production as a condition of the ownership of the land. Now that in-stream water rights have been issued and riparian areas fenced off, this bill allows, without adjudicated water right, the efficient removal of water from the stream to store for continuing watering of stock.
045	Rep. Bowman	Asks for the opinion of WRD in regards to HB 2768.
048	Rep. Simmons	HB 2768 makes very minor changes to existing law. The sole intent is to allow the piping of water from existing springs into water troughs.
054	Rep. Westlund	This will also protect the riparian zone.
057	Rep. Kruse	Comments on the intent of the bill.
063	Rep. Josi	Asks for definition of "other surface water source."
066	Rep. Simmons	The intent is springs and seeps.
068	Rep. Josi	Asks what else that definition would encompass.
069	Rep. Simmons	Specifically prohibits removal from irrigation ditches and manmade canals.
070	Rep. Simmons	Continues testimony.
080	Martha Pagel	Director, Water Resources Department, submits and reviews testimony in support of HB 2768. (EXHIBIT B)
120	Rep. Josi	Asks if this bill, even by widening allowed use, serves a solid purpose.
126	Pagel	Yes, department thinks the change is consistent with original intent which was riparian protection.
133	Jan Lee	Executive Director, Oregon Water Resources Congress provides testimony regarding HB 2768. Basically support the bill, but want to ensure that it doesn't impact water rights that is stored for other people. There is still a problem with the language, and will bring written changes at a later date.
147	Chair Messerle	Asks that Ms. Pagel and Ms. Lee confer on language changes and return to committee at a later date.
151	Chair Messerle	Closes public hearing on HB 2768.
HB 2409 -		

<u>PUBLIC HEARING</u>		
153	Chair Messerle	Opens public hearing on HB 2409.
190	Bill Markham	State Representative, District 46, sponsor of HB 2409, discusses changes which should be made to the bill. Would like to have the sunset eliminated. Requests that it be extended several years.
202	Jim Welsh	State Representative, District 43, speaks in support of HB 2409.
213	Rep. Markham	Comments on direct bearing this bill would have in his district.
216	Sue Hallett	Executive Director, Oregon Independent Miners, submits and reviews testimony in support of HB 2409. (EXHIBIT C)
266	Hallett	Continues testimony.
316	Hallett	Continues testimony.
329	Rep. Jenson	Asks for repeat of testimony regarding correction to the original bill.
333	Hallett	On the last page, Sections 2 and 3 should not be in bold print.
345	Paul Cleary	Director, Division of State Lands (DSL), submits and reviews testimony regarding concerns about HB 2409. (EXHIBIT D)
405	Chair Messerle	Asks Rep. Welsh and Ms. Hallett if they have any objections to the combining of HB 2409 and SB 343 (1997 Session).
TAPE 40, A		
003	Hallett	Would be willing to consider this, if the condition was put on it that was put on SB 343. The committee instructed the Independent Miners to return with changes within 10 days. Concerned that there will not be enough time to combine these bills. Also, perceptually, there is a difference between people who will sign onto panning, but who also do not approve of dredging. If it could be addressed within 10 days, would be willing to try.
013	Cleary	May decide that the two cannot be combined, but can at least make provisions and language consistent.
011	Rep. Bowman	Asks for explanation of the study regarding mining activity in scenic waterways.
020	Hallett	The study was going to be an overall study of all the uses of scenic waterways.
023	Rep. Bowman	Asks for clarification of why the sunset clause should be removed.
025	Hallett	Remove sunset, and then once study is completed, then changes could come to the next session.
030	Rep. Bowman	Asks about a four year sunset. Concerns about the impact on the environment and the need for the study to be completed.
036	Hallett	Can't speak for all of them, but they may consider this.
	Chair	

039	Messerle	Asks Mr. Cleary when DSL plans on completing this study.
040	Cleary	Defers to Mr. Robinhold.
042	Curtis Robinhold	Governor's Office, the intent last session with the sunset was to give the Governor's Office and the Department of Parks and Recreation time to complete a broad study of the scenic waterways system. This was not completed, but the attempt was to look at not only recreational mining, but also boating. There are several other issues, including land use. The intent with the sunset was to allow an activity to continue until the entire system could be examined. Submits written testimony for review by the committee. (EXHIBIT E)
063	Rep. Kruse	Asks if it is found that there needs to be changes in mining practices, or any other uses on scenic waterways, if these can be done regardless of the sunset.
066	Robinhold	It could be done regardless of sunset, but the intent of the sunset was to ensure that everyone returned to the table after the study. It takes more effort to change something, than to allow something to continue. Wants to avoid a default setting.
074	Rep. Corcoran	Asks if the Governor's Office can give the miners any assurances that the study would be completed before the millennium.
077	Robinhold	It is our intent, but there was an issue of resource and availability of staff time. Suggests the formation of a task force.
089	Rep. Harper	Comments on the cancellation of sunset clause until study is completed.
094	Robinhold	The Governor's belief was that the law placed by voters was to have no placer mining in scenic waterways. It would be against the will of the voters to allow mining to continue until there is a study. It may be more prudent to acknowledge a problem with motorized recreational mining in the waterways.
106	Rep. Harper	Comments that there is currently a law that says recreational mining is allowable.
108	Robinhold	The law now says there is sunset in December of 1997.
111	Rep. Harper	Comments that this sunset should be removed from the law, and that the study needs to be completed.
112	Chair Messerle	Asks if the Governor has a problem with extending the sunset for two more years.
114	Robinhold	Not with current language. There are amendments that could be made within the sunset that would make it agreeable to the Governor. There are still concerns about removing some of the restrictions.
126	Rep. Bowman	Asks Ms. Hallett to explain why the provision for the 10 horsepower (hp) motor is being deleted.
129	Hallett	This issue was discussed during essential habitat rule making, the miners provided documentation that showed that the 10 hp was inadequate for operating breathing equipment. It is the size of the hose that makes a difference in the volume of material, not the horsepower. DSL agreed and the provision was deleted from the permanent rules.

145	Robinhold	There are two issues at stake: fish habitat and the aesthetic value of scenic waterways.
159	Jill Zarnotwitz	Assistant Director, Habitat Conservation Division, Department of Fish and Wildlife (ODFW), submits testimony regarding HB 2409. (EXHIBIT F)
175	Chair Messerle	Closes public hearing on HB 2409.
HCR 3 - PUBLIC HEARING		
180	Chair Messerle	Opens public hearing on HCR 3.
193	Liz VanLeeuwen	State Representative, District 37, submits and reviews testimony in support of HCR 3. (EXHIBIT G)
243	Rep. VanLeeuwen	Continues testimony.
293	Rep. VanLeeuwen	Continues testimony.
331	Chair Messerle	Announces that HCR 3 will not be going to work session today because of the amount of interest.
335	Rep. Corcoran	Discussion with Rep. VanLeeuwen regarding the Gates Creek area.
354	Rep. VanLeeuwen	Additional discussion regarding water storage.
368	Rep. Bowman	Asks about the possible impact on salmon populations and on the environment.
384	Rep. VanLeeuwen	Information on the subject is not very scientific. Refers to testimony on the Botkin's study and the effect of ocean conditions on salmon, presented on 2/11/97 before the House Water Policy Committee.
TAPE 39, B		
013	Rep. VanLeeuwen	Continues discussion regarding the Botkin's study.
027	Rep. Bowman	Comments on the inability of fish to return to streams.
031	Rep. VanLeeuwen	If the water storage is handled properly, there will be cooler water in the streams. There are places where fish spawn and places where they don't. There are scientists who have accurate information on this subject.
049	Rep. Kruse	Comments on the concept of a dam and water storage.
056	Rep. Corcoran	Comments on the possibility of increased salinization.
		Comments that water impoundment projects will serve beneficial uses in

063	Rep. Welsh	streams, some of the flow can be curtailed to augment fisheries, irrigation and other uses. The argument is over the geographical placement of the dams.
079	Vernie Jo Johnson	Submits and reads testimony in opposition to HCR 3. (EXHIBIT H)
129	Johnson	Continues testimony.
186	Bill Goodpasture	Submits and reads testimony in opposition to HCR 3. (EXHIBIT I)
236	Goodpasture	Continues testimony.
256	Janet Quinn Nelsen	Cascadia resident, testifies in opposition to HCR 3. There are other options for storing water. There are questions as to the timing because of the increase in property value and population over the last 30 or 40 years. The building of a dam in this area would have an impact on transportation, commerce, farming, and property values.
306	Nelson	Additional impact would be on historical landmarks of the area.
325	Chair Messerle	Notes submission of letter and petition from Kevin Burger and the citizens of Cascadia in opposition to HCR 3. (EXHIBIT J)
340	Leatha Crenshaw	Representing the Confederated Tribes of Grande Ronde. There are caves near Cascadia which would be flooded if a dam were built. These caves have archaeological and cultural significance. The Confederated Tribes of Grande Ronde stand with the local residents of Cascadia in opposing HCR 3
354	Rep. Corcoran	Asks if the federal government has been notified regarding the caves.
361	Crenshaw	Not sure if federal authorities have been notified. Will look into the situation.
370	Chair Messerle	Comments on the time notification and the number of interested parties.
380	Chair Messerle	Adjourns meeting at 4:30

Submitted By, Reviewed By,

Rebecca M. Nickel, Pat Zwick,

Administrative Support Policy Analyst

EXHIBIT SUMMARY

A - HB 2768, Written Testimony, Rep. Mark Simmons, 1 pp.

B - HB 2768, Written Testimony, Martha Pagel, 3 pp.

C - HB 2409, Written Testimony, Sue Hallett, 2 pp.

D - HB 2409, Written Testimony, Paul Cleary, 4 pp.

E - HB 2409, Written Testimony, Curtis Robinhold, 1 pp.

F - HB 2409, Written Testimony, Jill Zarnowitz, 2 pp.

G - HCR 3, Written Testimony, Rep. Liz VanLeeuwen, 6 pp.

H - HCR 3, Written Testimony, Vernie Jo Johnson, 8 pp.

I - HCR 3, Written Testimony, Bill Goodpasture, 7 pp.

J - HCR 3, Letter and Petition, Kevin Burger, 6 pp.

HOUSE COMMITTEE ON WATER POLICY

March 4, 1997 Hearing Room A

5:00 P.M. Tapes 41 - 44

HOUSE WATER POLICY

SENATE WATER & LAND USE

MEMBERS PRESENT:

Rep. Ken Messerle, Co-Chair

Rep. Tim Josi

Rep. Jo Ann Bowman

Rep. Steve Harper

Rep. Jeff Kruse

Rep. Jim Welsh

Sen. Veral Tarno, Co-Chair

Sen. Bob Kintigh

Sen. Ginny Burdick

Sen. Ted Ferrioli

Sen. Bill Fisher

Sen. David Nelson

Sen. Thomas Wilde

MEMBERS EXCUSED:

Rep. Tony Corcoran

VISITING MEMBERS:

Rep. Bob Jenson

Rep. Terry Thompson

STAFF PRESENT:

Pat Zwick, Policy Analyst

Rebecca M. Nickel, Admin. Support

Mark Volmert, Committee Administrator

MEASURE HEARD: Committee Review of the Oregon Coastal Salmon Restoration Initiative and Healthy Streams Partnership

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Tape/#	Speaker	Comments
TAPE 41, A		
003	Co-Chair Messerle	Calls meeting to order at 5:07 p.m.
<u>OREGON COASTAL SALMON RESTORATION INITIATIVE AND HEALTHY STREAMS PARTNERSHIP</u>		
015	Joe Rohleder	Opening comments regarding the presentation.
021	Jay Nicholas	Oregon Department of Fish and Wildlife, assigned to assist in the development of the Oregon Coastal Salmon Restoration Initiative (OCSRI).
030	Co-Chair Messerle	Asks Mr. Nicholas to discuss changes made in the plan since October.
032	Sen. Kintigh	Asks for an overall picture of how the plan will be implemented.
036	Nicholas	<u>Basic Elements</u> * supported by basic set of state, federal, and local agency programs

* agencies try to conserve and restore natural resources

* coordination will be improved through the plan

* community based action

* the work that needs to be done will have to be done by local communities

* monitoring

- * mechanisms for change
- * plan not set for all time, can be altered
- * starting point

The plan will be not entirely top-down, nor will it be bottom-up entirely. There has to be a constant interplay of decision making and taking actions at all levels. There will be leadership provided by the state and federal agencies. At the same time there will be a close working relationship with the local organizations.

084 Nicholas **Changes made to OCSRI**

- * proposal for an independent scientific review group
- * Introduction
- * key changes were made and highlighted in the introduction, such as current information on status of Coho and a detailed, technical, and scientific model

- * Monitoring program
- * in the past, different agencies have been involved in collecting information
- 101 Nicholas * there have been inconsistencies in reporting this information
- * developing a strong comprehensive monitoring system.
- * Coordinating Enforcement Programs
- * the issue of enforcement is sensitive
- 118 Nicholas * the spirit of the plan is to improve compliance with existing laws
- * increased enforcement efforts, if needed, should be prioritized geographically on specific rules which would be most effective to the recovery
- * Outreach and Education
- * the salmon issue is not entirely a scientific or legal matter, it is also a social matter or a policy choice
- 136 Nicholas * if people understand what the needs of salmon are, they can make informed choices
- * scientific and technical things will affect salmon the most, but societal choices will determine the long-term recovery
- * Watershed Councils

- 153 Nicholas * these are the people who will be doing the work on the ground
 * State Agency Measures
 * 200 specific measures that state agencies are doing now
 * some represent reprioritization in budgets and staff workloads to do things differently
- 176 Nicholas * the coordinated program will enable people to get answers from other agencies
 * working on coordinated program with federal agencies
 * go towards improving ability to recover salmon
 * Work Plans
- 201 Nicholas * explicitly detail what the agencies are going to do
 * accountability
 * Port Measures
- 215 Nicholas * represent involvement of a broad representation of interests
 The plan is more detailed and anyone who reads it will be able to find something to hate. Discusses Goal 6(d) and the responsibilities. Management actions will be conducted in a manner consistent with recognition of the roles of natural cyclical variations in ocean, weather, and geology.
- 225 Rohleder Supports the scientific review group. Discusses Section 6 and analysis and monitoring based on the potential for production, rather than an escapement goal.
- 269 Rohleder Discusses agency work plans. This section discusses coordination of agencies and monitoring.
- 280 Co-Chair Tarno Asks what can be expected from the scientists.
 The group is not set up yet. There has been discussion on who is required. It would be best to have people who are good thinkers and who have broad perspectives.
- 285 Nicholas These people would not be number crunchers, nor be required to provide detailed analysis. They would basically be referees.
- 310 Co-Chair Tarno Asks how scientists will provide information for guiding the state.
- 318 Nicholas It is important that they be able to function, and have integrity. They need to have the freedom to provide input publicly, without being in service to an agency or an industry.
- 338 Co-Chair Tarno Comments that they need to be provided with a charge. Suggests that the charge be focused toward recovering salmon.
- 353 Rohleder This is adaptive management, and the members of the group need to open-minded and have the freedom to say the plan is not working if that is the case.
 Sen.

362 Nelson Asks for discussion on enforcement.

**TAPE
42, A**

007 Nicholas There has been a tendency to fix on the details and miss the intent. The intent is not to write tickets or citations. The intent is to live up to the laws that are already in place. This can be achieved through a combination of education and selective enforcement. People don't want government interfering with their lives, but they need ground rules. The rules could be modified, but they shouldn't be. This would distract from intent of plan. National Marine Fisheries Service (NMFS) would be made very comfortable with new regulations because they understand enforcement. Oregon can improve compliance with existing rules.

049 Sen. Nelson Refers to Rep. Thompson and his experience with NMFS as a commercial fisherman. Asks if the Oregon State Police will be doing the enforcement.

055 Rohleder The enforcement section discusses cooperative enforcement.

065 Sen. Nelson Asks if there are enough enforcement people for the plan.

067 Rohleder Concerned about redirection of some game enforcement people from general enforcement to salmon specific enforcement.

075 Nicholas Refers Sen. Nelson to Captain Lindsay Ball of the Oregon State Police.

079 Sen. Kintigh Asks if NMFS views the plan as modifiable.

084 Nicholas On the issue of modifying plan, thinks they are pleased. They don't understand the significance of the Legislature as involvement in the plan. They could look adversely on actions taken which could be seen as weakening the ability of the plan to recover the species.

097 Sen. Ferrioli Comments on the Work Plans. Asks for discussion on a memorandum of agreement between state and federal agencies and asks what the basis of federal agency work plans will be.

115 Nicholas Haven't seen the memorandum of agreement, but it has taken a year to get the federal agencies to participate more actively in the development of the plan. The attitude was, "We're managing our lands, you're managing your lands. Everything's okay." That attitude is changing to, "How can we help? Do we have resources the state can use?" The memorandum of agreement may be an effort to more formalize a working relationship of cooperation.

130 Sen. Ferrioli Requests a copy of the memorandum of agreement.

135 Sen. Nelson Asks for current status of the Coho.

138 Nicholas It's not great, but it could be worse. There was an escapement of about 80,000 fish in Northern ESU (evolutionarily significant unit). A few years ago it was less than 40,000 fish. There is a modest increasing trend.

147 Co-Chair Tarno Asks where those fish are.

150 Nicholas The fish are strong in the Coquille, Coos, Umpqua, and Suislaw. The Rogue wild run was 4,000-6,000. The South Coast was better than the North Coast.

160 Rep. Thompson Asks how NMFS will perceive this increase.

167 Nicholas This question has not been raised by NMFS. The data for individual river basins is not showing a trend like that. May see a weak brood year, but then it elevates. There doesn't seem to be a pattern of consistent increase overtime. There have been moderate increases in escapement, and relative stability between brood years.

184 Rep. Thompson Comments that there needs to be an agreement with NMFS.

189 Nicholas NMFS is reluctant to make agreements, but this will be pursued.

195 Co-Chair Messerle Comments on the increased amount of interest in the OCSRI.

200 Co-Chair Tarno Begins review of LC 2836-1 (SB 924).

202 Co-Chair Tarno Comments on the short time frame for getting information to the Governor and his staff for review.

220 Co-Chair Tarno Senate Water and Land Use Committee will try to hold a public hearing on Friday, March 7, 1997, at 1:00 p.m. on SB 924. The House has an appropriation bill and a revenue bill which goes with SB 924. The time frame for making adjustments is short, would like to have changes made by Wednesday, or Thursday at the very latest.

236 Jeanette Holman Legislative Counsel, SB 924 will be printed March 5, 1997, and the first reading will be on the same date.

242 Co-Chair Tarno Need to have any amendments as soon as possible.

256 Co-Chair Tarno Will go through bill section by section. Asks that the committee be allowed to go through the bill first, then suggestions will be taken from the public.

268 Co-Chair Tarno Begins reviews.

318 Co-Chair Tarno Continues review.

368 Co-Chair Tarno Continues review.

**TAPE
41, B**

003 Co-Chair Tarno Continues review.

007 Co-Chair Tarno Asks if there are any points of discussion on page 1.

008 Rep. Thompson Suggests the insertion of "water" into lines 12 and 16 so the statement will include land and water management. Also suggests making the statement on lines 17 and 18 more broad based.

041 Rep. Bowman Doesn't agree with statement that the natural resources industry is taking a lead for the people of Oregon to preserve the environment.

051 Co-Chair Tarno Asks for discussion on page 2.

- 052 Rep. Thompson Suggests the deletion of lines 5 and 6 because of repetition.
- 071 Co-Chair Tarno Suggests deletion of the term "environmentalists" and the use of "Oregonians" to make it more inclusive.
- 078 Rep. Bowman Suggests changing "private lands" to "private landowners". (line 26)
- 086 Rep. Kruse Disagrees because the private lands are the focus and not the people who own them.
- 093 Co-Chair Tarno Asks for discussion on page 3.
- 094 Rep. Thompson Line 7, suggests deleting "agriculture" because it seems to single out the agricultural industry.
- 104 Co-Chair Tarno Asks for discussion on Section 1.
- 105 Rep. Thompson Suggests changing the wording on line 15, changing "framework" to "adaptive plan".
- 112 Co-Chair Tarno Disagrees because it is implied that it s a framework, or a basis, for the carrying out of all the functions. The plan is the guide.
- 130 Rep. Bowman Makes suggestions for changing lines 17-19 to remove redundancy.
- 136 Sen. Ferrioli In this context, there is no redundancy, the wording makes it recognizable that the framework is subject to modification and that it also creates an oversight right for the Legislative Assembly.
- 145 Rep. Josi Oversight will be exclusively by the Legislative Assembly.
- 155 Sen. Ferrioli Points out that all of Section 2 relates to oversight. Suggest referencing of oversight as delineated in Section 2.
- 158 Co-Chair Tarno Leads discussion about this matter.
- 164 Holman Suggests referencing Sections 2 and 3.
- 172 Co-Chair Tarno Asks for discussion on Section 2.
- 181 Rep. Bowman In Section 1, page 3, lines 19 - 21. Comments that there needs to be more clarification regarding the independent group of Oregonians.
- 189 Co-Chair Tarno Comments on the developers of the plan and the diverse background.
- 191 Rep. Bowman Asks what this group would be independent of.
- 194 Co-Chair Tarno Suggests the removal of the word "independent".
- 210 Sen. Fisher Section 1, page 3, lines 22 and 23. Asks what the emphasis of this legislation is. Rehabilitating the Coho, or water quality in streams.
- 228 Co-Chair Tarno The bill will address the 303(d) issue, as well as the Healthy Streams and Coho. Comments that the wording seems to establish that every drop of water in the state

231 Sen. Fisher of Oregon needs improving.

233 Co-Chair Tarno Comments that there are over 870 listings in the state. The phrase is meant to be a general statement that the state is looking to improve streams. If the stream doesn't need improvement, then there is no need to worry.

236 Co-Chair Tarno Asks for discussion of Sections 2, 3, and 4.

237 Rep. Thompson Comments on concerns over creating five overview groups. Suggests the combination of the Salmon Task Force with the Healthy Streams, and removing the stakeholders. Comments that this will require more discussion.

249 Co-Chair Tarno Comments that this was discussed, but the intent behind creating the Salmon and Stream Partners Group was to allow individuals, who have a stake in this, to have a say in what is going on. That group doesn't necessarily have any legislative responsibilities or authority to make changes. But they have the ability to make suggestions for change.

259 Rep. Thompson Comments on concerns regarding funding.

275 Co-Chair Tarno Comments that there have been many groups involved in the development of this plan, and the funding will provide some compensation for those that continue to work on it.

287 Paula Burgess Governor's Natural Resource Advisor, suggests to keep the same numbers, but divide the bodies into two groups. The federal laws are different, and it may be advisable to have some overlap between groups.

306 Rep. Josi Comments that people would be involved where they have expertise.

308 Rep. Kruse There does seem to be some duplication with the current diagram.

312 Co-Chair Tarno The Salmon Restoration Task Force has been around for a number of years, and they focus entirely on fish issues. Comments on using stakeholder group for other areas besides fish issues.

323 Burgess The initial concept of a stakeholder group came forward before it was realized that it was intended to maintain the Healthy Streams Partnership.

333 Holman Suggest that it could be indicated that they could have joint meetings.

343 Co-Chair Tarno Suggests language change in Section 4 to indicate a Healthy Streams Group.

347 Burgess Comments that they are not created by statute.

351 Co-Chair Tarno Suggests that the language be changed to be encompassing.

358 Rep. Thompson Suggests that membership of group be on voluntary basis.

367 Co-Chair Tarno Discussion on the formation of a voluntary group.

372 Co-Chair Tarno Suggests changing "Salmon and Streams Partners Group" to the "Health Streams Group". Suggests the number of 11 for group membership.

380 Rep. Thompson Asks for clarification on the total number of membership for the different groups.

386 Burgess Comments that there are currently 13 members of the Healthy Streams Partnership Group, and suggests the membership be changed to 15 to ensure the group is balanced.

**TAPE
42, B**

014 Co-Chair Tarno Agrees to the increase of membership to 15.

017 Rep. Thompson Suggests simplifying the language in Section 5, page 6, to simply state what the expertise would be. Language would limit the people that have to be on the board.

031 Co-Chair Tarno Comments on the hatch box program.

033 Sen. Ferrioli Comments that he is comfortable with habitat requirements because it brings in the element of forestry. There are significant issues involved in stream side ecology.

046 Nicholas If people really have expertise in salmon and stream ecology, then they should have understanding of all the other aspects. These are subsets to understanding salmon and stream ecology. There is no problem with leaving them in.

059 Rep. Jenson In the Oregon Plan there is substantial reference to a monitoring group, but it is not mentioned in the LC draft.

065 Holman Comments about putting references to statutory law to the plan. If that ever needed to be changed it would require a special session.

071 Rep. Bowman Suggests that the Governor appoint the science team with confirmation through the Senate.

079 Rep. Kruse Comments on gubernatorial appointments. The current language ensures that the Science Team would not become political.

082 Rep. Kruse Comments on the Science Team and suggests that current language creates "number crunchers." Suggests the removal of lines 15 and 16 on page 6.

096 Sen. Ferrioli Disagrees with Rep. Kruse. The purpose is that State agencies would be able to turn documentation over to the group and ask for review and analysis. That function has been lacking in all the other salmon restoration plans. This team would be able to provide immediate peer review on specific issues.

110 Jim Myron Representing Oregon Trout. Recommendation wasn't that science team get into this level of minutiae. The team could review criteria by which projects are judged. As far as reviewing each individual project, that is not necessarily the role of the team.

120 Co-Chair Tarno Comments on the role of the science team.

128 Sen. Kintigh Comments on the role of the science team.

129 Co-Chair Tarno Continued discussion.

131 Rep. Kruse Continued discussion.

135 Rep. Josi Continued discussion.

139 Myron The subsection tracks the recommendation in the report in the Salmon Recovery Initiative. There is a concern with subsection a.

148 Rep. Kruse Discusses the focus of attention on the riparian zone, and the need to focus on broader aspects of the watershed.

161 Tarno Leads discussion on the focus of the plan. Comments that the bulk of the plan is targeted toward coastal salmon restoration. Recognizing that, it is still planned to address the 303(d) issue. This can be altered later.

178 Rep. Kruse Comments that it is unknown how many other species will be in the same predicament as the salmon.

180 Burgess Suggests adding landscape ecologist to the list, to be inclusive.

184 Rep. Bowman Suggests adding language that would cover recognizing expertise that is not limited, and therefore would be inclusive.

196 Co-Chair Tarno Discusses with Sen. Wilde that the members will not be compensated.

200 Co-Chair Tarno Discusses extending sunset date of the task force to 2001.

207 Rep. Thompson Comments that these need to be reviewed and new goals examined.

210 Co-Chair Tarno The task force members can look at the language and see what the charge is.

220 Burgess Suggests that someone who served on the Task Force could determine which tasks had already been accomplished.

224 Co-Chair Tarno There is a final report, that is not quite finished.

228 Rep. Thompson Can get a copy of this report for review.

230 Co-Chair Tarno Asks if this can be reviewed at a later date, and the list be changed then.

236 Holman It could be done in another bill, and could be amended later.

238 Co-Chair Tarno Puts this issue aside for later discussion.

240 Co-Chair Tarno Discusses Section 8 and the relationship to Governor's Watershed Enhancement Board (GWEB).

250 Co-Chair Tarno Discussion of Section 9, regarding additional functions of GWEB.

265 Rep. Kruse Section 9(e) lines 20 through 26. Asks about the necessity of the involvement of Fish and Wildlife Commission.

275 Co-Chair Tarno Comments that this is in regards to DEQ and the 303(d) issue. Then in Section 10, it gets into Fish and Wildlife.

280 Rep. Kruse Comments that the two agencies are being asked to do the same things. Questions why Legislative Counsel required this.

284 Holman Comments that Fish and Wildlife has no specific rule making. Its rule making is to look at salmon, and EQC's is to look at water quality issues. They are related, but the two agencies have authority over two different things.

293 Rep. Kruse Accepts this explanation, but still has concerns with EQC and Fish and Wildlife Commission setting up the rules by which projects can be done.

303 Co-Chair Tarno DEQ has responsibility for establishing TMDLs (total maximum daily loads), and if they have problem with what GWEB is funding, they should be able to develop standards.

311 Burgess Recommends the elimination of subsection (e) and Section 10, because those functions can be handled by establishing criteria within GWEB.

321 Co-Chair Tarno Asks if that would satisfy NMFS.

323 Burgess Yes.

324 Rep. Kruse Comments that there has been this type of input into the GWEB process, and this adds more steps that aren't really needed.

330 Co-Chair Tarno Discusses the possibility of removing Section 9(e) and Section 10.

345 Burgess Comments that if those changes were made, it would be important to remove lines 15 and 16 on previous page to eliminate reference to Section 10.

354 Co-Chair Tarno Discussion on Section 11.

378 Co-Chair Tarno Discussion of Section 12.

380 Co-Chair Tarno Discussion of Section 12 (5).

**TAPE
43, A**

008 Holman Comments that the Department of Agriculture had some difficulty with the wording in this section.

013 Bruce Andrews Director, Department of Agriculture, comments that the department is not sure what the language is supposed to mean.

016 Co-Chair Tarno Explains that SB 1010 has a 10 year ruling, but the department was only given four years, and there have been concerns that there would not be enough time.

019 Andrews Planning processes will have to precede development of TMDLs, and the timeline for the adoption of the plan and the timeline for attainment of water quality are two different things.

023 Co-Chair Tarno Asks if department will also be doing TMDLs.

027 Andrews Agriculture will be doing the agriculture side, but the actual TMDL will be done on the entire basin or subbasin.

029 Co-Chair Tarno Asks if the work done by department will be applied towards the TMDL.

030 Andrews It will go into the total compilation of the TMDL.

031 Co-Chair Messerle Comments of concerns regarding the timeline timber is on and whether or not there may be conflict or overlap.

037 Andrews Does not believe there will be overlap. Concerned right now with planning. Implementation is a future step. Comments that the department may not be able to comply with the four year timeline, but they are trying to comply with court judgments.

045 Co-Chair Tarno Comments that this is a concern.

046 Rep. Josi Asks what stretching the time to 10 years will do in terms of a listing.

048 Andrews Unknown, but under Clean Water Act and the court cases which are pending, it may put the state in jeopardy.
This is very important to NMFS and if we extend timeframes on SB 1010 plans, there will certainly be a listing. Important that landowners meet the 1010 requirements as soon as possible so they can get off the list. It is important that

051 Burgess these get in place as soon as possible, which is why there is the shorter time frame of four years. It may be a good idea to change the language slightly, so as to avoid having to hurry the process at a later date. Urges that the four year time limit not be extended.

068 Rep. Kruse Asks if urban component is considered when looking at the water quality issue.

078 Andrews The department is initiating planning progress, water quality attainment will not be achieved in four years. But it is necessary to have the plans in place. The courts and NMFS want these plans completed sooner than in 10 years. They feel that too much time has already been wasted.

091 Rep. Josi Asks what happened to Idaho when they "wasted time."

094 Andrews The Environmental Protection Agency (EPA) is doing their water quality management plan.

096 Rep. Josi Asks if Section 12(5) could be considered as wasting time.

099 Andrews Declines comment.

100 Co-Chair Tarno Asks how long it will take for the department to develop rules.
This is a staged in, rolling plan development. The four years is based on having six people doing three basins at a time. This would take nine months, and the total time required would be four years. As soon as the planing is completed, implementation can start. It will take at least four years for Agriculture to work through the 91 basins. It may take longer to complete the TMDL, but the agriculture component will be started.

102 Andrews

113 Co-Chair Tarno Asks if the department thinks Section 12(5) is unnecessary.

114 Andrews Believe that department doesn't need this section.

116 Co-Chair Tarno Notes the possibility of deleting Section 12(5).

120 Rep. Josi Asks regarding Section 13.

124 Rep. Bowman Suggests changing Section 13 (page 15, line 3) from "Each state agency" to "A state agency". Comments that each agency would not be setting up their own process, and this change would indicate that there was not a lead agency.
Comments that they each have authority under statute referenced, but we are focusing this as the appeals route for people with private property rights issues.

131 Burgess Suggests adding language that would establish dispute resolution funds.

139 Rep. Josi Asks how much would be appropriated.
Currently, there is a biennial appropriation of \$200,000 for all natural resource

140 Burgess issues for dispute resolution. Because of this new program, there may be significant interest. Suggests starting with \$400,000 or \$500,000.

147 Co-Chair Tarno Discusses changing the phrase to indicate "any state agency".

153 Rep. Bowman Discusses Section 14. Comments on the conditions regarding listing and the funds contributed by the timber industry.

158 Co-Chair Tarno Clarifies that it would only be if the entire coastline were listed.

162 Rep. Bowman Comments that if the goal is to build a partnership with the federal government, the language seems very direct.

167 Rep. Kruse Comments that it says "any coastal salmonid", not the entire coastline.

170 Co-Chair Tarno Reads Section 14(2), which contains a "notwithstanding" clause.

174 Rep. Bowman Stresses her position that there is too much unconditional language.

177 Rep. Thompson Comments that with this section in there, it would give the environmental groups the situation that they would feel NMFS was blackmailed, and could lead to litigation.

184 Burgess Reiterates her position on the contingent language and suggests that it be removed. Comments that a representative, Dr. Jacqueline Wyland, is in audience, and may comment on this issue.

192 Co-Chair Tarno Comments that he believes that the State of Oregon has been blackmailed by NMFS. And wants to show NMFS that Oregon is willing to contribute \$15 million of General Fund moneys, but how can private considerations be asked to contribute \$15 million without there being assurances that there won't be a listing.

199 Sen. Ferrioli Comments that one of the commitments made is the HSP, and this commitment is made irregardless of the listing situation. There are a number of natural resource producers add funding to this measure. Part of this comes from a voluntary increase in taxes. There are also other potential participants. It is reasonable that there be a suspension of those voluntary tax increases if there is a listing.

234 Rep. Josi Comments that it is needed to send a message to the federal government. Asks that the representative from NMFS explain by this could cause a listing.

252 Burgess Agrees with Sen. Ferrioli that the money coming from the industries should come with strings. Suggests that the State come up with \$30 million from General Fund, and then when the listing decision is known, the taxes can be used to back fill the General Fund.

262 Sen. Ferrioli NMFS must make their decision based on the adequacy of the plan, Mr. Stelle made an issue of the adequacy of the plan. The cooperative nature of the funding system, with firm underpinning from the Legislature and as many natural resource producers as will go to the table, merely broadens the support and shows a greater depth of commitment. Suggests that comments from someone in NMFS with no decisionary power would not be adequate.

288 Co-Chair Tarno Asks if representative from NMFS would be willing to comment.

290 Jacqueline Wyland Representing NMFS, urges the deletion of Section 14.

300 Sen. Ferrioli Makes a point of order. Asks if anything that may be discussed would be binding on NMFS. Asks if Dr. Wyland will be making decision on the listing of the coho.

306 Wyland That decision will be made by Rollie Schmitt in Washington, DC, upon the recommendation of William Stelle.

312 Sen. Ferrioli Comments that the committee has heard that there is opposition to this issue, and that the committee has discussed the issue, and that is the only germane information that is required from Dr. Wyland at this time.

314 Co-Chair Tarno Excuses Dr. Wyland.

338 Co-Chair Tarno Notes that there will be continued discussion on this issue on Friday.

364 Sen. Fisher Comments on Section 14. Suggests that it not be deleted.

**TAPE
44, A**

004 Co-Chair Tarno Asks for suggestions on wording that will retain the intent, and yet, be less aggressive.

007 Burgess Suggests that Section 14 could provide funds from other sources which could go back to the General Fund under conditions.

022 Rep. Josi Asks for clarification that NMFS could view it as half a funding package.

026 Burgess There is \$15 million of certain funding and \$15 million of "perhaps" funding.

032 Rep. Josi Comments that it would only be "perhaps" funding if they listed.

035 Burgess The \$15 million would be money that is intended to try to force NMFS to take the direction the State wants them to go. And it is dangerous to try to force the federal agency to make the decision in state's favor.

041 Sen. Ferrioli Comments that this is not intended to be an appropriations bill, this is a binding contract of a tax increase on specific sectors of the natural resource production communities. In fact, there will be more than \$30 million, there will be millions of in kind contributions from natural resource producers. This is an issue of credibility. The Endangered Species Act is specific about directing the agency to cooperate to every extent possible with state agencies. The question is whether or not the State is committed to a restoration plan. Suggests looking at Section 15, which discusses additional funding mechanisms.

081 Co-Chair Tarno Comments on the discussion of Section 14. If there are suggested changes for making the wording "softer," please take to respective committees.

088 Rep. Josi Discusses with Sen. Tarno that there has been no discussion of what would happen if the private natural resource agencies withdrew.

104 Rep. Thompson Requests discussion of Section 16.

108 Burgess Section 16 is a step backward , it softens the enforcement component.

114 Co-Chair Tarno Disagrees, Mr. Stelle specifically referred to enforcement.

- 119 Burgess Mr. Stelle may have been saying that enforcement is an integral component of a successful salmon recovery plan. Does not believe that it needs to be called out in statute, it does need to be a funded, integrated program.
- 126 Sen. Ferrioli Comments that issue revolves around enforcement provisions within SB 1010. This section could be eliminated, because SB 1010 addresses enforcement.
- 145 Co-Chair Tarno Asks if SB 1010 addresses the coastal Coho.
- 146 Sen. Ferrioli That is, in fact, one of the cornerstones of the Coastal Coho Salmon Recovery program.
- 149 Rep. Thompson Comments that there are understandings with enforcement officers, and does not feel that there needs to be legislation.
- 153 Burgess Under this language, enforcement officers would need to send a violator a letter before writing ticket for fishing for Coho.
- 164 Co-Chair Tarno Notes the suggestion to remove Section 16.
- 168 Holman Will provide a set of amendments for the Senate Water and Land Use Committee meeting on Friday, March 7, 1997.
- 174 Co-Chair Tarno Adjourns meeting at 7:30 p.m.

Submitted By, Reviewed By,

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