

HOUSE COMMITTEE ON NATURAL RESOURCES SUBCOMMITTEE ON AGRICULTURE

February 17, 1993 Hearing Room D 3:30 p.m. Tapes 13 - 14

MEMBERS PRESENT: Rep. Liz VanLeeuwen, Chair Rep. Ray Baum Rep. Marilyn Dell Rep. Sam Dominy Rep. Bill Fisher Rep. Tim Josi Rep. Dennis Luke Rep. Chuck Norris

MEMBER EXCUSED: Rep. Bill Markham

STAFF PRESENT: Kathryn Van Natta, Committee Administrator
Catherine Fitch, Committee Administrator Sue Nichol, Committee Clerk

MEASURES CONSIDERED: Information Meeting Only Overview of
State and Federal Threatened and

Endangered Species

WITNESSES: Randy Fisher, Oregon Department of Fish and
Wildlife Rod Ingram, Oregon Department of Fish and Wildlife Penny
Harrison, Attorney General's Office Phil Ward, Oregon Department of
Agriculture Bob Meinke, Phd, Natural Resources Division, Oregon

Department of Agriculture Theresa Nichols, U.S. Department of Fish &
Wildlife Mike Miller, Associated Oregon Loggers Ross Mickey, Northwest
Forestry Association Chuck Burley, Northwest Forestry Association

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These minutes contain materials which paraphrase and/or summarize
statements made during this session. Only text enclosed in
quotation marks report a speaker's exact words. For complete contents
of the proceedings, please refer to the tapes. [--- Unable To Translate
Graphic ---]

TAPE 1, SIDE A

005 CHAIR VanLEEUEWEN: Calls the meeting to order at 3:35.

020 RANDY FISHER, Oregon Department of Fish and Wildlife: Gives
history of, and explains the state threatened and endangered species
regulations as they relate to wildlife. Explains Exhibit A. 050
Explains process for listing species as threatened or endangered.

068 Explains process of delisting species.

080 Explains criteria for listing species as threatened or
endangered.

150 Emphasizes this applies only to state lands.

156 REP. BAUM: Has the spotted owl been listed and has the process
been followed as explained?

160 FISHER: Yes. A public hearing was held by the Commission. It was determined that the scientific information presented gave them reason to list the owl under the state act.

167 REP. BAUM: Was the listing of the spotted owl by the state hastened by the fact that it was federally listed?

173 FISHER: The Federal Government was still in the process of listing it when the state listed it.

180 REP. VanLEEUEWEN: It was listed when Goldschmidt was governor and legislators weren't notified of any hearing as far as I knew.

188 REP. BAUM: What happened regarding the court injunctions that held up logging on the National Forests? Did that happen prior to the formal

listing by the U.S. Fish and Wildlife?

200 ROD INGRAM, Department of Fish and Wildlife: When the state legislature passed the present law, the spotted owl was already on a state list.

The law required by July 1, 1989 that the Commission review the list and determine which species would stay on or be taken off (ORS 496.176 subsection 7B). Only the spotted frog was deleted.

229 REP. BAUM: Was the original listing of the spotted owl made before this? What is the date?

230 INGRAM: I don't know when it was first listed.

233 REP. BAUM: How was the last criteria (public interest balance) fulfilled knowing the economic dislocation this would entail?

247 PENNY HARRISON, Attorney General's Office: Explains more thoroughly the process involved in listing a species and the effects of listing a

species. Listing is a decision based purely on biological data. In working with the effects of listing, state agencies must deal with the public interest balance in determining what, if any, effect listing will have on their actions.

316 REP. BAUM: How is the trade off worth it considering how little land, relatively, is state-owned?

330 REP. VanLEEUEWEN: At the time the spotted owl was listed, state lands didn't include old growth forests.

343 REP. LUKE: What does "natural reproductive potential" mean?

350 INGRAM: Recruitment is not keeping up with population. The population is showing a slow decline and is leaning towards the threatened or

endangered status.

363 REP. LUKE: When were spotted owls first counted?

367 FISHER: Concern about the owl was noted in 1975. Official counts started in 1989.

403 REP. LUKE: Do we have any idea how this relates to how many owls we had in the 1950's?

407 FISHER: Most believe populations are still in decline.

TAPE 14, SIDE B

010 REP. LUKE: What was the decline based on, if counts weren't made until 1989?

014 FISHER: Other scientific information which made a significant record.

021 REP. DOMINY: Requests listing of proceedings in making these decisions.

030 Is there anything on Oregon's list that is not on the federal list?

035 INGRAM: The spotted owl is the only Oregon list species on the federal list.

039 REP. DOMINY: What would be the impact of repealing the Oregon Endangered Species Act?

041 FISHER: I'm not sure if there would be a significant impact on the spotted owl situation.

052 We need to develop a state conservation plan which would revoke the current requirement that any operator must prove that there are no

spotted owls in the area.

058 REP. DOMINY: Would the federal government stop harvest on state lands if the Oregon Endangered Species Act was repealed?

060 FISHER: Yes, because the federal Endangered Species Act covers all public lands.

068 HARRISON: The prohibition against "take" applies against all lands - federal, state and private.

090 REP. JOSI: Would the state conservation plan affect the Tillamook Forest also?

094 FISHER: Yes, it would apply to the whole state. We have wanted our state recovery plan to tie into a federal plan.

100 REP. JOSI: If a recovery plan was developed by the state, would it be of any value until the federal government develops a plan?

105 FISHER: It would be of value, because state management could then

move forward.

115 CHAIR VanLEEuwEN: Are the 70 acre circles drawn by the Oregon Department of Forestry?

120 FISHER: Those are approved by the Department of Forestry based on the Federal Fish and Wildlife Service guidelines.

123 REP. JOSI: State forestry had several sales last year, but then had to stop sales because the Department of Fish and Wildlife didn't have a

recovery plan. It would be beneficial for Oregon to have that plan as quickly as possible.

137 FISHER: We agree. We're working as quickly as possible.

145 REP. JOSI: Under the criteria for listing a species, it says a species may not be listed even if it qualifies, if the species is secure outside the state. The snowy plover is very secure in Canada. What were the

findings when it was evaluated?

162 FISHER: They are different populations.

167 REP. LUKE: Regarding additional counts and information available today, if you had that information when the spotted owl was originally listed, do you think it would still have been listed?

175 FISHER: Yes, because the bulk of the scientific community still would be concerned about the reproductive capacity of the owl. Decline has

been shown at 7-1/2% per year.

193 REP. FISHER: How could it be determined how many owls there were when so much land hasn't been checked?

214 FISHER: All information coming out still says they are continuing to decline.

222 CHAIR VanLEEuwEN: Requests information on reproduction of populations on state lands. Has any recording been done on that?

229 FISHER: Population counts on state lands have been done. We will provide that information to the subcommittee.

245 REP. NORRIS: Who makes a decision that a species is not of cultural, scientific or commercial significance?

253 FISHER: Both criteria must be met: Species must be secure outside the state and species must not be of cultural, scientific or commercial

significance. The Commission has not denied any listing based on the information that has been brought forward.

Other staff member present is Martin Nugent, Department of Fish & Wildlife.

295 PHIL WARD, Oregon Department of Agriculture: Explains what is done in plant conservation under Oregon Endangered Species Act.

320 BOB MEINKE, Phd, Natural Resources Division, Oregon Department of Agriculture: Reads overview on threatened and endangered plant species

regulations (Exhibit B).

355 Explains procedures for listing and delisting plant species.

403 Addresses the effects of listing plants as endangered.

TAPE 13, SIDE B

012 REP. LUKE: How many endangered or threatened species are native to Oregon?

015 MEINKE: All of them that are on the list.

027 Shows slides of endangered species.

090 REP. DELL: Has Nelson's checkermallow gone from threatened to endangered?

100 MEINKE: It is on the state list as threatened. It has just been listed on federal list.

117 REP. FISHER: What is the make-up of the appointed technical committee?

125 MEINKE: Members are not associated with land managing agencies, industry groups or environmental groups to get an unbiased

representation. They are members of university faculty in Oregon, by and large.

129 REP. FISHER: And they have no ties to those other organizations?

130 MEINKE: They are not directly affiliated.

136 REP. FISHER: Questions situation at Lane County landfill.

137 MEINKE: A federally listed species was found on county land at the Lane County landfill where there was some inadvertent destruction of sites

because of communication failure. They need to go back and do some restoration of the site.

162 REP. JOSI: Is the procedure for listing and delisting different for plants than it is for animals? Are you including subspecies also?

168 MEINKE: The Department of Fish and Wildlife deals with populations using genetic considerations. The Department of Agriculture looks at

subspecies (also called varieties). This involves discretion of investigators as to what is a subspecies or species.

200 REP. DOMINY: Calls Theresa Nichols from U.S. Department of Fish and Wildlife and requests shortened presentation to ten minutes.

201 THERESA NICHOLS, U.S. Department of Fish and Wildlife: Provides copies of the Endangered Species Act of 1973 (EXHIBIT C).

232 Purpose is to preserve ecosystems upon which endangered species depend.

250 Defines: endangered species, threatened species and critical habitat.

266 Explains factors considered in listing species.

310 Explains cooperation with states section. Allows for conservation programs to be enacted.

324 Explains consultation process. When a federal agency authorizes funds or carries out an act that may affect an endangered species, they must

consult with the Fish and Wildlife Service.

363 Reasonable and prudent alternatives to the action must be recommended if the Fish and Wildlife Service has determined the action would jeopardize the continued existence of the species.

TAPE 14, SIDE B

005 Explains take process and limitations.

044 MIKE MILLER, Associated Oregon Loggers: Introduces group to briefly discuss the implications of the Federal Endangered Species Act.

061 ROSS MICKEY, Northwest Forestry Association: The basis of determination which is solely on the basis of "best scientific and commercial data

available" may not be very good. It may not be complete, thorough or conclusive. Data on the murrelet is very scanty.

070 There is a double standard on the reliability of the data required to list and the reliability of the data required to delist.

084 "Species" can be defined as a distinct population segment. This is ill-defined.

122 "May affect" - people have too much discretion.

155 REP. VanLEEUEWEN: Requests copy of spotted owl chronology prepared by Mickey.

160 CHUCK BURLEY, Northwest Forestry Association: Expresses concerns about protection measures and the need to take into consideration all factors contributing to the decline of the species. Reviews written testimony

(Exhibit D).

Protection measures must be commensurate with relative contribution to the decline.

259 Concerned that Act is enforced inconsistently.

Meeting Adjourned 5:20

Submitted by:

Reviewed by:

Sue Nichol
Administrator

Catherine Fitch Clerk

EXHIBIT LOG:

A - Testimony and information - Randy Fisher - 14 pages B -
Testimony - Bob Meinke - 5 pages C - Endangered Species Act
of 1973 - Theresa Nichols - 47 pages D - Testimony - Charles
Burley - 6 pages E - Letter - Jill Bowling - 2 pages