

HOUSE COMMITTEE ON NATURAL RESOURCES SUBCOMMITTEE ON AGRICULTURE AND FORESTRY

April 14, 1993      Hearing Room D 3:30 p.m.      Tapes 58 - 59

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

MEMBER EXCUSED:              Rep. Bill Fisher Rep. Tim Josi

STAFF PRESENT:              Catherine Fitch, Committee Administrator Sue Nichol, Committee Clerk

MEASURES CONSIDERED:

HB 2927 - Work Session HB 2980 - Work Session HB 2924 - Work Session HJM9 - Work Session

WITNESSES:                      Rod Ingram, Oregon Department of Fish and Wildlife Mike Miller, Association of Oregon Loggers

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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 58, SIDE A

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

WORK SESSION ON HB 2927, HB 2980, HB 2924, HJM9

020 CATHERINE FITCH:      HB 2927 has been engrossed with 12 components which have been discerned to be of interest to the committee (Exhibit A).

Summarizes components delineated in Exhibit B.

099 REP. NORRIS:      Would the provision in component 8 apply to those species already listed federally that the state has to add to the list?

005 FITCH:      No, it would not. It would only apply to state listing and evaluation.

107 CHAIR VanLEEUEWEN:      The state does not have to list a species because it's listed federally, but you do have to abide by the regulations for

that species, correct?

108 ROD INGRAM, Oregon Department of Fish and Wildlife: That is correct, with the exception that when the state legislation went into effect it

had the state adopt those species already federally listed.

116 REP. NORRIS: What would be the situation of anything listed on the federal level in the future that is not listed on the state level?

121 INGRAM: Anything federally listed would have to go through the process of the Commission to be listed by the state. It would not be

automatically be done.

126 CHAIR VanLEEuwEN: We do not have to list a species on the state list just because the federal government listed it?

127 INGRAM: That's correct.

128 REP. MARKHAM: Is that according to the present law?

134 INGRAM: Since May 15, 1987, the state does not automatically have to list a species just because it's listed by the federal government.

158 For an example, the marbled murrelet that was listed by the feds does not automatically have to be listed by the state. The guidelines for

recovery have to be followed, however.

195 REP. DELL: Is there a process that would automatically be used that makes this determination that the failure of natural reproductive

potential has been caused by man-made factors only?

200 REP. DOMINY: How would you interpret whether it was a man-caused or natural-caused problem?

206 INGRAM: The only possible instance I can think of that did not have man-made factor in its listing would possibly be the spotted frog. Even for that example, it probably has decreased because of predation by the bullfrog. However, the bullfrog was introduced into the state by man.

So even that would be a man-caused factor.

237 REP. DOMINY: You would look at something we are listing and see if there was something man did to cause the species to decline?

249 INGRAM: We would try to determine the primary cause in the decline of the species.

257 MIKE MILLER, Association of Oregon Loggers: The thought behind this was, if it's because of natural causes, what action could a state agency do for recovery?

290 REP. DELL: How can we determine the cause?

314 MIKE MILLER: In all the examples we can think of, anything can be related to man. We question that if it is naturally caused, man does

not have the capability to step in and reverse the process.

330 CHAIR VanLEEUEWEN: Would you prefer "primarily" caused?

336 REP. DELL: What I am hearing is that if it is clearly a natural evolutionary process, then it will not be listed. The difficulty is

determining whether it is caused by man-caused factors. We need a workable process.

358 MIKE MILLER: The question we have is, if this is a natural process, do we want to use the state's resources to try to stop it?

381 MOTION: REP. DOMINY: Moves the hand-engrossed amendments HB 292 7-2 dated 4/14/93, LC 2015.

TAPE 59, SIDE A

001 CHAIR VanLEEUEWEN: Repeats motion. Hearing no objection, the AMENDMENTS are ADOPTED.

020 REP. DELL: I am aware of the problems. There are parts of the bill that trouble me. I think what we want is good science, and changing the words doesn't change the process. I think the evidentiary hearing is a

good step.

031 Regarding the section on page 3a, on the line following 37, I think the listing should be on a pure scientific process. The other factors

should be regarded before it becomes threatened and in the recovery plan. On the one hand we say, this process has to be good, sound science to decide if a species is truly endangered. Now we go back into the same process and say in that verifiable, scientific approach, we will also include social and economic impacts on people. That doesn't fit in that process. I want that process of listing to be a pure, scientific process, but I sure want the emphasis on people and social impacts, both before it's listed, and in the recovery plan.

051 REP. DOMINY: We have to address the economics before we make a decision about listing. We should know what the consequences of the decision are before we make the decision. This doesn't say they have to change their mind whether to list or not, it just says they have to

know what the

cost will be.

076 REP. NORRIS: I philosophically agree with what Rep. Dominy just pointed out. For consistency with the federal act, there is no provision in the federal act to account for social or economic impacts until the recovery plan phase. If we impose these factors to be included in listing, we

will be inconsistent with the federal act. Maybe we don't care about that inconsistency, but I think we should be aware of it.

095 REP. DELL: I would have preferred these 12 components be separate. 100 CHAIR VanLEEUEWEN: After putting these out in individual bills, I was strongly advised by most of the others on the committee to put it

together.

108 MOTION: REP. DOMINY: Moves HB 2927, AS AMENDED, to the full Natural Resource Committee with a DO PASS recommendation.

118 CHAIR VanLEEUEWEN: We've been discussing whether it had to go to appropriations or not, and that we will know by the time it gets to full committee.

120 REP. BAUM: Does the public hearing procedure we put in here, is it taken from the same procedure used by the Environmental Protection

Agency in their rule-making?

124 FITCH: No, the procedure is an amalgamation of what is used in the State of Oregon.

128 VOTE: On a roll call vote, REPS. BAUM, DOMINY, LUKE, MARKHAM, NORRIS, AND CHAIR VanLEEUEWEN vote AYE. REP. DELL votes NAY. REPS. FISHER

and JOSI are EXCUSED.

140 CHAIR VanLEEUEWEN: HB 2927, as amended, is passed to full committee.

145 REP. DOMINY will carry the bill.

150 FITCH: Gives summary of work done on HJM9 which memorializes the Director of the United States Fish and Wildlife Service to make no

further additions to the list of federal threatened and endangered species, without giving at least equal consideration to human and fiscal impacts to their actions.

159 MOTION: REP. DOMINY: Moves HJM9 to the full Natural Resources with a DO PASS recommendation.

169 REP. NORRIS: I agree with the concept; however, we'd be asking the Director of the U.S. Fish and Wildlife Service to violate the Endangered Species Act of 1973. So I could not vote for it even though

philosophically I agree with it.

180 CHAIR VanLEEuwEN: Would you be agreeable if it was a memorial to Congress?

181 REP. NORRIS: Yes.

190 REP. DOMINY: I believe that's an oversight on my part. I think because the relating clause says to the Director of the U.S. Fish and Wildlife

Service, I don't think we can amend a relating clause. I would like to withdraw my motion.

198 REP. NORRIS: I respect what Rep. Dominy and others have done.

200 CHAIR VanLEEuwEN: The intent was a congressional memorial.

202 REP. NORRIS: The relating clause may tie our hands. 208 CHAIR VanLEEuwEN: Isn't the only time we can't amend the relating clause is when it relates to a statute?

212 REP. BAUM: I think it's in the subject matter. I'm not sure this has a relating clause. I think you could amend that to the Congress of the

United States.

223 REP. DOMINY: Suggests a five minute break.

230 CHAIR VanLEEuwEN: Committee recessed at 4:20 until 4:30.

234 CHAIR VanLEEuwEN: Meeting brought reconvened at 4:31.

241 REP. DOMINY: I've prepared an amendment. Line 2 will be revised to say "to the President and Congress of the United States and the Director of Fish and Wildlife Service." The second revision is on lines 16 - 20.

Delete the language and substitute "memorializes Congress to take action to amend Federal Endangered Species Act of 1973 to give equal

consideration to human and fiscal impacts in making further additions to the list of threatened or endangered species under Federal ESA.

263 REP. NORRIS: Suggests we substitute the word "economic" for "fiscal".

273 REP. DOMINY: The final revision is on line 22. Delete "Oregon Congressional Delegation" and put in its place "to each member of

Congress."

283 REP. NORRIS: I suggest in this case we eliminate any reference to the U.S. Fish and Wildlife Service, which is a part of the Department of

Interior, because we have equal concern with the National Marine Fisheries Service, which is a part of the Department of Commerce, when it comes to the salmon issue.

293 REP. BAUM: All those people work for the President.

300 REP. DOMINY: The amendment Rep. Norris made is that after the word "Congress" in the new language on line 22, put a period.

302 REP. NORRIS: And that in that line, too, that we eliminate any reference to the United States Fish and Wildlife Service.

306 REP. BAUM: My suggestion is that we have an opportunity to have those amendments put together in LC fashion before we vote on it.

310 MOTION: REP. DOMINY: Moves the proposed amendments to HJM-9.

326 CHAIR VanLEEuwEN: Repeats the motion. Hearing no objections, the amendments are ADOPTED.

349 CHAIR VanLEEuwEN: Closes work session.

Meeting is adjourned at 4:20.

Submitted by:

Reviewed by:

Sue Nichol  
Administrator

Catherine Fitch Clerk

EXHIBIT LOG:

A - HB 2927 - Hand-engrossed amendments - Staff - 9 pages B  
- HB 2927 - Information - Staff - 1 page