

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.

HOUSE COMMITTEE ON WATER POLICY

February 19, 1991Hearing Room D 1:30 p.m.Tapes 19 - 20

MEMBERS PRESENT:Rep. Chuck Norris, Chair Rep. Bill Dwyer, Vice-Chair Rep. Bill Markham Rep. Walt Schroeder Rep. Larry Sowa

STAFF PRESENT: Beth Patrino, Committee Administrator Pat Zwick, Committee Assistant

WITNESSES:Dale Pearson Rep. Dave McTeague Jeff Curtis, Oregon Department of Fish and Wildlife Jill Zarnowitz, Oregon Department of Fish and Wildlife Rep. Jackie Taylor Jim Harris, Salmon For All Sen. Joan Dukes Rep. Bob Shiprack Jim Myron, Oregon Trout Bev Hayes, Water Resources Department

MEASURE CONSIDERED:HB 2606 - Changes statute reference to scientific name for steelhead trout. - Public Hearing and Work Session

HJM5 - Memorializes Congress to provide funding and direction for construction of fish ladders at certain dams on upper Willamette River.- Public Hearing

HJM9 - Urges Pacific Northwest Electric Power and Conservation Planning Council to obtain funding for purchase of limited entry permits for commercial fishing in lower Columbia River. - Public Hearing

HB 2190 - Modifies water right permit cancellation procedure. - Public Hearing and Work Session

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TAPE 19, SIDE A

010 CHAIR NORRIS: Calls the meeting to order at 1:32 p.m.

Reviews the day's agenda.

Opens public hearing on HB 2606.

PUBLIC HEARING HB 2606

020 REP. McTEAGUE: Reads written testimony in support of HB 2606 and submits "Classification and Scientific Names of Rainbow and Cutthroat Trout" Vol. 14, No. 1, Fisheries publication (EXHIBIT A).

047 DALE PEARSON: Explains how fish are classified.

058 CHAIR NORRIS: Who recommended the change?

060 PEARSON: The American Fisheries Society has the jurisdiction to make the change.

080 JEFF CURTIS, OREGON DEPARTMENT OF FISH & WILDLIFE: Testifies in support of HB 2606 and reads written testimony (EXHIBIT B).

090 CHAIR NORRIS: Will this bill change the way you regulate?

095 CURTIS: No.

125 REP. MARKHAM: Are steelhead and rainbows the same fish?

128 CURTIS: The steelhead is a sea run rainbow trout. Not all rainbows go to the ocean.

130 REP. TAYLOR: Introduces Jim Harris of Salmon for All.

Does HB 2606 simply change the name for rainbow and steelhead trout with the goal of defining them as game fish and not food fish?

Does not oppose the bill.

145 JIM HARRIS, SALMON FOR ALL: Believes that the reason for HB 2606 is the perception that if steelhead are being officially named a salmon, this could mean that non-treaty commercial fishermen could seek a way to harvest them.

Salmon For All is opposed to efforts to change (tape inaudible) steelhead from a game fish to a food fish.

Neither of the fishermen groups on the Columbia River has endorsed any effort to do that.

The commercial fishing industry intends to live up to the bargain it struck years ago with the sport fishing community that says if you give us the steelhead as a game fish, we'll let you have the salmon as a food fish.

We believe that steelhead by any other name is still a steelhead, and its status as a game fish should remain.

173 REP. SOWA: Some parties violently opposed the change of steelhead from a commercial to a sport fish. Knows of no such agreement as stated by Mr. Harris.

What is the relationship between Salmon For All and "The Columbia River Gillnetter" publication?

180 MR. HARRIS: The publication is a Columbia River Fisherman's Protection Union paper published quarterly.

The union is a member of Salmon For All, but the publication is a union publication.

Salmon For All does not support the position taken by an article in that publication which stated that steelhead should become a food fish.

180 REP. SCHROEDER: Proposes that research be done to determine the actual agreement stated by Mr. Harris.

185 CHAIR NORRIS: Salmon for All recognizes steelhead as a game fish.

Closes public hearing on HB 2606 and opens work session on HB 2606.

WORK SESSION HB 2606

214 MOTION: REP. SCHROEDER: Moves amendments proposed by Jeff Curtis of Oregon Department of Fish and Wildlife to change "Oncorhynchus Mykiss" to *Oncorhynchus mykiss* in line with the established classification system.

219 VOTE: There being no objection, Chair Norris declares the amendment adopted.

220 MOTION: REP. DWYER: Moves HB 2606 as amended to the floor with a do pass recommendation.

225 VOTE: On a roll call vote, motion passes unanimously. All members are present.

230 CHAIR NORRIS: Rep. McTeague will carry the bill.

Closes work session on HB 2606.

Opens public hearing on HJM9.

PUBLIC HEARING HJM9

240 SEN. JOAN DUKES: HJM9 makes me very nervous.

If we are setting about creating state policy that says it is appropriate to buy out gillnetting permits, voluntary or involuntary, we have started down a road that we have talked about before, but the legislature has never been willing to head down that road.

You are saying that there is a small business category in Oregon that we may want to begin putting an end to.

270 REP. DWYER: Congress, at least fisheries management and people dealing with endangered species, plan to prohibit nonspecific means of harvesting.

If they decide in recovery plans that the nonspecific means of fisheries are no longer acceptable and prohibit it, would you rather have compensation for those people, in terms of recognition that we are taking something away, or just say, this is the way it is?

288 SEN. DUKES: Unlike the loggers and the spotted owl, the folks involved in gillnetting in Oregon and Washington have been allowed entry into this discussion prior to it reaching a threatened or endangered species arena. We have been given that through our representation in

Congress and because no one wants to reach the spotted owl point if it can be avoided.

I would prefer to take those fights, discussions, and mediations one arena at a time. I would prefer that if we need to protect the wild salmon and other species of wild fish on the Columbia River we look at the river as an entity. There are a lot of issues and my concern is that HJM 9 begins to set the precedent that we have singled out one area and are saying that that one area may need to be eliminated.

Recommends that committee not pursue this course. If the committee wants to consider the issue, it should get into the endangered and threatened possibilities on the Columbia River, or any other river in the state that is involved, and make recommendations on what should happen.

To begin categorizing certain areas is an inappropriate position for the State of Oregon to take.

300 REP. SOWA: Is your objection to the bill that you don't want someone to start purchasing gillnet licenses?

335 SEN. DUKES: No. I am looking at a state policy that I believe this bill will set to say that it may be appropriate to begin eliminating gillnetting on the Columbia River.

340 REP. SOWA: Are you aware that in the 1983 - 1986 timeframe the federal government made several hundred thousand dollars available to the Oregon Department of Fish and Wildlife to purchase gillnet permits?

SEN. DUKES: Yes.

345 REP. SOWA: Do you think that set a state policy?

347 DUKES: The federal government does not set state policy, so that would not have been an issue. I can't influence too heavily what the federal government does. I think at that time a lot of people would have said there were too many permits out there. I don't think both sides of the issue would agree on that now.

I can't change what happened then, but can try to impact what is happening now.

359 REP. SOWA: Do you agree that ODF&W by purchasing some permits at that time, set a state policy?

345 DUKES: No. At that time they worked with the industry and individual fishermen.

Only the legislature and the Governor can set state policy.

355 REP. DWYER: On how many other rivers in the United States is gillnetting allowed?

360 DUKES: Can't give you an answer to that.

380 REP. BOB SHIPRACK: HJM9 memorializes a Commission with Oregon representation through the Northwest Power Planning Council. The intent of the memorial is to ask that council to deal with the Bonneville Power Administration to set aside certain amounts of dollars for a voluntary

buy-back program of lower Columbia River gillnet licenses.

HJM9 is in response to the potential listing of certain species of salmon on the Columbia River as endangered. Should this listing occur, it will have tremendous impacts on irrigation, power supply, power generation, recreation, and the economy.

BPA spends about \$50 million per year on the Columbia system for fish related activities.

TAPE 20, SIDE A

SHIPRACK: Continues his testimony.

A number of marginal gillnetters would like to take advantage of a program similar to the expired federal program that the committee discussed.

HJM9 is a small step we can take to force a resolution to the salmon problem on the Columbia River.

027 CHAIR NORRIS: Is surrender of the license voluntary?

030 SHIPRACK: Yes. It would not be a taking, but provide the monies so that people could voluntarily surrender their license, perhaps even negotiate with Bonneville to buy out their licenses.

033 REP. SCHROEDER: Asks for list of people willing to surrender their license.

035 SHIPRACK: Does not have a list. The last time I checked there were about 400 licensed gillnetters. When comparing season and poundage figures, it is evident that people are not getting rich gillnetting on the lower Columbia River.

047 REP. SCHROEDER: Are gillnetting permits transferable?

050 SHIPRACK: Gillnetting on the Columbia River is a unique situation. These licenses have been handed down from father to son. We also found actual drift rights which are unique to Oregon.

If I owned a gillnet license, I don't believe I could sell it to you.

060 REP. SOWA: Ten citations were issued in the first two days of the Spring gillnet season. If the court decided, as a penalty, that those people would not be allowed to fish, would it be your intention in HJM9 to compensate them for their licenses even though it had been prohibited by the state?

070 SHIPRACK: Had not thought of that. Enforcement is lax and I am not aware of anyone losing his license.

075 REP. SOWA: One of the individuals cited had just re-obtained his license after being prohibited from fishing for years. Would not be interested in seeing a person such as that being able to sell his permit.

080 SHIPRACK: Would philosophically oppose that.

082 REP. MARKHAM: Asks Sen. Dukes to restate her objection to HJM9.

085 DUKES: I believe the bill would set a state policy that it may be appropriate to remove a business from Oregon. We need to get at the fish problems. If the committee wants to get into that, they need to look at the whole picture, and not just set a state policy that it is appropriate to address one portion of the issue.

Yes, there are drift rights on the Columbia River. There are distribution rights among many businesses that exist in Oregon and other states. There are businesses who work out among themselves who gets which territory. Sometimes the parent corporation gets involved and says "This is your territory". Sometimes it is worked out among people who sell similar merchandise in a given area. Drift rights on the Columbia River are not unique to that particular industry. It is no different than saying who works what territory.

I don't understand why the State of Oregon would be interested in giving large government payments to what was referred to as marginal gillnetters.

130 CHAIR NORRIS: Are you any more comfortable with the program because it is voluntary program?

132 DUKES: No. We are not forcing them out, but what bothers me the most is the state public policy that we would be setting by this. By Rep. Shiprack's testimony, it is clear that he feels that the gillnetters are one of the more major causes of the problems we are having in terms of the possible threatened or endangered status on the Columbia River. That is an issue this legislature has never debated and doing it de facto is not fair to the process.

136 REP. DWYER: We continue to buy things and they continue to come back.

148 DUKES: More damage has been done to the Columbia River by the creation of dams than by any fishing group.

155 CHAIR NORRIS: Is there opportunity for compromise?

162 SHIPRACK: Can not rebut Sen. Duke's statement that we are setting state policy.

It was my intent to provide something for the Council and our Congressmen to consider.

180 CHAIR NORRIS: Will not have work session on HJM9 today to give Sen. Dukes and Rep. Shiprack an opportunity to talk.

185 REP. TAYLOR: Adds her concerns to those of Senator Dukes.

Is opposed to the effort to eliminate or curtail commercial gillnetting on the lower Columbia River.

Believes that if a resource problem exists, all interests involved in the harvesting of the resource should share equally in preserving and enhancing it.

Is convinced that it is improper to manage a resource in a manner that favors one user group over another and opposes HJM9. HJM9 makes

assumptions that I can not accept, i.e., that the commercial gillnet industry is phasing out and an enormous economic system including fisherman, buyers, processors, boat builders, suppliers, and markets is due to come to an end.

Oregon's taxpayers also have an investment in the lower Columbia gillnet fishery. The fish are a public resource paid for by state and federal taxes and commercial fishing provides public access to that public resource.

The limited entry permits referred to in the bill are required to be used by the holder. They must catch fish and sell them commercially each year in order to renew their permit.

Urges committee to table the bill.

228 HARRIS: Reads written testimony in opposition to HJM9 (EXHIBIT C).

300 REP. SOWA: Did you clear the wording of the proposed Joint Memorial in your testimony with Sen. Dukes?

305 HARRIS: No.

307 REP. SOWA: Asks for examples of runs of other anadromous fish that Mr. Harris says are increasing.

325 HARRIS: Will send a list.

340 JEFF CURTIS, OREGON DEPT. OF FISH AND WILDLIFE: Reads written testimony in support of HJM9 (EXHIBIT D).

Agrees with previous witnesses that it would be unfair to characterize any kind of harvest as the sole cause or predominant cause of the decline of a lot of the runs.

Feels it is appropriate for the memorial to go forward to provide an opportunity to buy back some permits.

Sees no problem with amendment to include ocean troll permits.

If there are harvest restrictions, they will have to be across the board and include recreational and commercial fishermen and both ocean and gillnetters if it is going to work.

385 REP. DWYER: If there are harvest restrictions, why should we buy anything?

390 CURTIS: That is a question of social policy, not biology.

405 REP. DWYER: How would you ascertain the value of the permit?

TAPE 19, SIDE B

CURTIS: Permits are transferable, so there is a market.

005 REP. DWYER: If threatened species can not be fished, what would be the value of a permit that can not be used?

008 CURTIS: If commercial fishing is shut down, the market value of the permit will not be great.

If there are restrictions, rather than a total ban on fishing, as the opportunity to exercise the permit decreases, the value of the permit also decreases.

018 REP. MARKHAM: How many permits are there?

020 CURTIS: 300 to 400 in Oregon.

030 REP. MARKHAM: What do you charge for yearly drift permit licenses?

035 CURTIS: Not sure. Will get that information.

036 REP. SOWA: How much did ODF&W pay for permits purchased in the past?

040 CURTIS: A certain amount was offered under the Salmon and Steelhead Protection Act of 1980. An amount was offered to see how many people offered to sell their permits.

047 REP. SOWA: Remembers it was \$5,000 to start with and went up to \$6,000.

How many dollars did ODF&W return unused to the federal government from that. Believes it was about \$300,000.

050 CHAIR NORRIS: Check with Washington and see how they feel about this. No point in our buying back Oregon licenses if Washington is not interested in a joint venture.

Feels more homework is needed.

060 JIM MYRON, OREGON TROUT: Reads written testimony in support of HJM9 (EXHIBIT E).

072 REP. SCHROEDER: Does your thinking go beyond commercial nets in the river to commercial trolling in the ocean?

075 MYRON: Not for this particular situation. The Salmon Summit may change that opinion, but HJM9 is specific to the Columbia Basin.

Not sure if Power Planning Council funds or BPA funds could be utilized outside of the Columbia Basin.

080 REP. SCHROEDER: Is it the goal of your organization to eventually eliminate commercial fishing in the ocean?

086 MYRON: No.

087 REP. SOWA: How widespread is the feeling that the Summit would recommend in the next few months that gillnet fishing be phased out or eliminated?

090 MYRON: Not sure what the feeling will be, but gillnetting will not be targeted as the only solution to the problem. If there are future restrictions on gillnetting it will be in combination with other remedies to the same problem.

100 CHAIR NORRIS: Reviews threatened and endangered species listing process.

105 REP. SOWA: Wants to explore possibility that there are people who will lose their livelihood and HJM9 will compensate them to some extent.

115 MYRON: There is not consensus among all parties.

120 CHAIR NORRIS: Closes public hearing on HJM9.

Opens public hearing on HJM5.

PUBLIC HEARING HJM5

130 REP. DWYER: Reviews provisions of HJM5 and states reasons the memorial is needed.

The memorial is well intentioned, and I think we should make the statement.

205 JILL ZARNOWITZ, OREGON DEPARTMENT OF FISH AND WILDLIFE: Testifies in support of HJM5 and recommending that it be expanded to include investigation of upstream and downstream fish passage at all the Willamette River dams, reading written testimony (EXHIBIT F).

Would like to see something added to address problem of moving juveniles downstream.

225 REP. SCHROEDER: How many miles of spawning area would be opened up by Dexter and Lookout and how much more by going up through Hills Creek?

237 ZARNOWITZ: Do not have that information. Can provide later.

240 REP. DWYER: Talks about creeks in the area. Unbelievable amount of spawning grounds by getting above Lookout Dam.

250 REP. SCHROEDER: Are there power houses on dams around Dexter and Lookout?

254 REP. DWYER: Yes, but they are not large generators.

300 REP. SCHROEDER: Not sure whether more should be added to the Memorial.

315 JIM MYRON, OREGON TROUT: Reads written testimony in support of HJM5 (EXHIBIT G).

Would support ODF&W's recommendation for inclusion of other dams.

335 REP. SCHROEDER: Would it be helpful to list all the dams then prioritize them?

337 MYRON: Might be appropriate.

340 CHAIR NORRIS: Asks ODF&W to do more homework and coordinate with Beth.

The closer to practicability we can get, the better our chances.

Closes public hearing on HJM5.

Opens work session on HB 2190.

WORK SESSION HB 2190

365 BETH PATRINO, COMMITTEE ADMINISTRATOR: Reviews HB 2190-1 amendment (EXHIBIT H).

400 BEV HAYES, WATER RESOURCES DEPARTMENT: The Department supports the amendment.

TAPE 20, SIDE B

012 REP. SOWA: Does this make any provision that captured water will be used for public or instream use or will it be claimed by the next junior water right holder?

015 HAYES: We are talking about a situation in which the person has not constructed their system and has not used the water in accordance with the one year requirement.

We want to cancel the permit at that point instead of waiting until the certificate phase.

025 REP. SOWA: Will this affect instream uses?

026 HAYES: No.

028 REP. MARKHAM: Can you also extend the permit if warranted?

035 CHAIR NORRIS: Closes public hearing on HB 2190.

Opens work session on HB 2190.

WORK SESSION HB 2190

037 MOTION: REP. DWYER: Moves adoption of amendment 2190-1, identified as LC 608.

VOTE: There being no objection, Chair Norris declares the amendment adopted.

040 MOTION: REP. DWYER: Moves HB 2190, as amended, to the floor with a do pass recommendation.

042 VOTE: On a roll call vote, motion passes unanimously. All members are present.

046 CHAIR NORRIS: Rep. Dwyer will carry the bill.

Closes work session on HB 2190 and adjourns meeting at 3:00 p.m.

Submitted by: Reviewed by:

Pat Zwick, Beth Patrino, Assistant Administrator

EXHIBIT LOG:

A - HB 2606 Testimony and Exhibit - Rep. McTeague - 7 pages

B - HB 2606 Testimony - ODF&W - 1 pages C - HJM9 Testimony -
Jim Harris - 3 pages D-HJM9 Testimony - ODF&W - 1 page E-HJM9 Testimony
- Jim Myron - 1 page F-HJM5 Testimony - ODF&W - 1 page G-HJM5 Testimony
- Jim Myron - 1 page H-HB 2190-1 Amendment - Staff - 1 page