

From: [BROWNSCOMBE Brett * GOV](#)
To: [SEN Ferrioli](#)
Subject: Catch up?
Date: Friday, October 30, 2015 4:23:00 PM

Hi Senator—

Do you have any time early next week to catch up in person or by phone?

- F&W Commission reappointments
- Canyon Meadows Dam update
- Water Storage
- Wolf de-list
- Anything else you want to cover

Brett Brownscombe

Natural Resource Policy Advisor
Office of Oregon Governor Kate Brown

255 Capitol Street NE, Suite 126
Salem, OR 97310
Phone#: 503-986-6536

From: [REP Barreto](#)
To: [BROWNSCOMBE Brett * GOV](#); [MELCHER Curt](#)
Cc: [BARRETO Chris](#); [REDACTED]
Subject: FW: YOUR LEGISLATIVE COUNSEL REQUEST - LC0277
Date: Wednesday, December 09, 2015 12:06:42 PM
Attachments: [LC0277_DRAFT_2016_Regular_Session.pdf](#)

Hello,

Rep Barreto would like to get your opinion on the wording for the wolf bill LC draft. Take a look at LC 277 and let us know what your thoughts and suggestions are on this. Thanks for your help!

Best regards,

Derry Breeden, Chief of Staff
Office of Rep. Barreto HD58
(503)986-1458

D R A F T

SUMMARY

Ratifies decision of State Fish and Wildlife Commission to remove *Canis lupus* from state list of endangered species.

Prohibits commission from including *Canis lupus* on lists of threatened species or endangered species unless certain criteria met.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to *Canis lupus*; creating new provisions; amending ORS 496.176; and
3 declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. The vote taken by the State Fish and Wildlife Com-**
6 **mission on November 9, 2015, to remove *Canis lupus*, commonly known**
7 **as the gray wolf, from the list of threatened species or endangered**
8 **species established pursuant to ORS 496.172 (2) is ratified and approved.**

9 **SECTION 2.** ORS 496.176 is amended to read:

10 496.176. (1) The lists of threatened species or endangered species estab-
11 lished pursuant to ORS 496.172 (2) shall include:

12 (a) Those species of wildlife listed as of May 15, 1987, as a threatened
13 species or an endangered species pursuant to the federal Endangered Species
14 Act of 1973 (P.L. 93-205, 16 U.S.C. 1531), as amended; and

15 (b) Those species determined as of May 15, 1987, by the State Fish and
16 Wildlife Commission to be threatened species or endangered species.

17 (2) The commission, by rule, may add or remove any wildlife species from
18 either list, or change the status of any species on the lists, upon a determi-
19 nation that the species is or is not a threatened species or an endangered

1 species.

2 (3) A determination that a species is a threatened species or an endan-
3 gered species shall be based on documented and verifiable scientific infor-
4 mation about the species' biological status. To list a species as a threatened
5 species or an endangered species under ORS 496.004 and 496.171 to 496.182,
6 the commission shall determine that the natural reproductive potential of the
7 species is in danger of failure due to limited population numbers, disease,
8 predation or other natural or human actions affecting its continued existence
9 and, to the extent possible, assess the relative impact of human actions. In
10 addition, the commission shall determine that one or more of the following
11 factors exists:

12 (a) That most populations are undergoing imminent or active deteri-
13 oration of their range or primary habitat;

14 (b) That overutilization for commercial, recreational, scientific or educa-
15 tional purposes is occurring or is likely to occur; or

16 (c) That existing state or federal programs or regulations are inadequate
17 to protect the species or its habitat.

18 (4) Determinations required by subsection (3) of this section shall be made
19 by the commission on the basis of verifiable scientific and other data after
20 consultation with federal agencies, other interested state agencies, private
21 landowners, affected cities, affected counties, affected local service districts
22 as defined in ORS 174.116, other states having a common interest in the
23 species and interested persons and organizations.

24 (5)(a) Any person may petition the commission to, by rule, add, remove
25 or change the status of a species on the list.

26 (b) A petition shall clearly indicate the action sought and shall include
27 documented scientific information about the species' biological status to
28 justify the requested action.

29 (c) Within 90 days of receipt of a petition, the commission shall respond
30 in writing to the petitioner indicating whether the petition presents sub-
31 stantial scientific information to warrant the action requested.

1 (d) If the petition is found to present such information, the commission
2 shall commence rulemaking.

3 (e) A final determination by the commission concerning the action re-
4 quested in a petition shall be provided within one year from the date of re-
5 ceipt of the petition, with the option for an additional 12-month extension
6 of time to complete the listing if the commission determines that limited
7 information or other appropriate considerations require the extension.

8 (f) If the petition is denied, the petitioner may seek judicial review as
9 provided in ORS 183.484.

10 (6) The commission may determine not to list a species as a threatened
11 species or an endangered species in any of the following cases:

12 (a) If the species has been listed pursuant to the federal Endangered
13 Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531), as amended.

14 (b) If the species is currently on the list as a sensitive species, or is a
15 candidate species or has been petitioned for listing pursuant to the federal
16 Endangered Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531), as amended.

17 (c) If the species has been determined, pursuant to the federal Endangered
18 Species Act of 1973 (P.L. 93-205, 16 U.S.C. 1531), as amended, to not qualify
19 as a threatened species or an endangered species.

20 (7)(a) Notwithstanding subsections (1) to (5) of this section, the commis-
21 sion shall take emergency action to add a species to the list of threatened
22 species or endangered species if it determines there is a significant threat
23 to the continued existence of the species within the state.

24 (b) The commission shall publish notice of such addition in the Secretary
25 of State's bulletin and shall mail notice to affected or interested persons
26 whose names are included on the commission's mailing list for such purposes.

27 (c) Such emergency addition shall take effect immediately upon publica-
28 tion in the Secretary of State's bulletin and shall remain valid for a period
29 no longer than one year, unless during the period the commission completes
30 rulemaking procedures as provided in subsection (5) of this section.

31 (8) The commission shall periodically review the status of all threatened

1 species and endangered species listed under ORS 496.171 to 496.192. Each
2 species shall be reviewed at least once every five years to determine whether
3 verifiable scientific information exists to justify its reclassification or re-
4 moval from the list, according to the criteria listed under subsections (3) and
5 (4) of this section. If a determination is made to reclassify a species or re-
6 move it from the list, the commission, within 90 days, shall commence
7 rulemaking to change the status of the species.

8 (9) Notwithstanding the provisions of this section, the commission:

9 (a) May decide not to list a species that otherwise qualifies as a threat-
10 ened or endangered species within this state if the commission determines
11 that the species is secure outside this state or the species is not of cultural,
12 scientific or commercial significance to the people of this state.

13 (b) May not include *Branta canadensis leucopareia*, commonly known as
14 the Aleutian Canada goose, on the lists of threatened species or endangered
15 species.

16 (c) **May not include *Canis lupus*, commonly known as the gray wolf,**
17 **on the lists of threatened species or endangered species unless *Canis***
18 ***lupus* populations in both the east and the west wolf management**
19 **zones described in the Oregon Wolf Conservation and Management**
20 **Plan adopted by the commission decline to below the population status**
21 **necessary for implementation of Phase II management activities under**
22 **the plan.**

23 **SECTION 3. This 2016 Act being necessary for the immediate pres-**
24 **ervation of the public peace, health and safety, an emergency is de-**
25 **clared to exist, and this 2016 Act takes effect on its passage.**

26

From: [MELCHER Curt](#)
To: [REP Barreto](#); [BROWNSCOMBE Brett * GOV](#); [MELCHER Curt](#)
Cc: [BARRETO Chris](#); [REDACTED]
Subject: RE: YOUR LEGISLATIVE COUNSEL REQUEST - LC0277
Date: Wednesday, December 09, 2015 4:19:21 PM

Hi Derry,

We will take a look and get back to you. Thanks for the opportunity to review.

CM

Curt Melcher
ODFW Director
503 947-6044

From: REP Barreto
Sent: Wednesday, December 09, 2015 12:06 PM
To: BROWNSCOMBE Brett * GOV; MELCHER Curt
Cc: BARRETO Chris; [REDACTED]
Subject: FW: YOUR LEGISLATIVE COUNSEL REQUEST - LC0277

Hello,

Rep Barreto would like to get your opinion on the wording for the wolf bill LC draft. Take a look at LC 277 and let us know what your thoughts and suggestions are on this. Thanks for your help!

Best regards,

Derry Breeden, Chief of Staff
Office of Rep. Barreto HD58
(503)986-1458

From: [BROWNSCOMBE Brett * GOV](#)
To: [Jerome Rosa](#); [AUNAN Lauri * GOV](#)
Cc: [rocky.dallum@tonkon.com](#); [Katy McDowell](#)
Subject: RE: Mtg: Rocky Dallum / Jerome Rosa / Brett Brownscombe / Lauri Aunan re: OCA
Date: Thursday, January 28, 2016 5:12:27 PM

And, we can add wolf legislation to the list / agenda. I know we've been trading messages on this. Rocky, thanks for the cb today.

-----Original Message-----

From: Jerome Rosa [<mailto:jerome.rosa@orcattle.com>]
Sent: Thursday, January 28, 2016 12:59 PM
To: AUNAN Lauri * GOV <Lauri.AUNAN@oregon.gov>
Cc: rocky.dallum@tonkon.com; BROWNSCOMBE Brett * GOV <Brett.BROWNSCOMBE@oregon.gov>; Katy McDowell <katy.mcdowell@tonkon.com>
Subject: Re: Mtg: Rocky Dallum / Jerome Rosa / Brett Brownscombe / Lauri Aunan re: OCA

Sounds good I will be there.

Thanks

JR

Sent from my iPhone

> On Jan 28, 2016, at 12:14 PM, AUNAN Lauri * GOV <Lauri.AUNAN@oregon.gov> wrote:
>
> 1/28/16: Confirmed for 2/5/16; 11:30am. Meeting location is in the
> Capitol Bldg, Room #160 Thanks, Julie
>
> From: Rocky Dallum
> <rocky.dallum@tonkon.com<<mailto:rocky.dallum@tonkon.com>>>
> Date: Thursday, January 21, 2016 at 2:18 PM
> To: AUNAN Lauri * GOV
> <Lauri.AUNAN@oregon.gov<<mailto:Lauri.AUNAN@oregon.gov>>>
> Cc: BROWNSCOMBE Brett * GOV
> <Brett.BROWNSCOMBE@oregon.gov<<mailto:Brett.BROWNSCOMBE@oregon.gov>>>,
> Katy McDowell
> <katy.mcdowell@tonkon.com<<mailto:katy.mcdowell@tonkon.com>>>, Jerome
> Rosa <jerome.rosa@orcattle.com<<mailto:jerome.rosa@orcattle.com>>>
> Subject: Re: Setting up OCA meeting
>
> Thanks for the info and the time today Lauri.
>
> Iâ€™m copying Jerome, and Katy in our office will reach out to schedule. Really look forward to working with
> you and Brett on ranching issues!
>
> Rocky
>
>
> Rocky Dallum | Tonkon Torp LLP
>
> 1600 Pioneer Tower | 888 SW Fifth Avenue
>
> Portland, Oregon 97204
>
> Mobile. 503.830.5098 | Office. 503.802.2175 | FAX 503.972.3875

>
> rocky.dallum@tonkon.com<<mailto:rocky.dallum@tonkon.com>> |
> www.tonkon.com<<http://www.tonkon.com/>>
>
> From: AUNAN Lauri * GOV
> <Lauri.AUNAN@oregon.gov<<mailto:Lauri.AUNAN@oregon.gov>>>
> Date: Thursday, January 21, 2016 at 12:52 PM
> To: Rocky Dallum
> <rocky.dallum@tonkon.com<<mailto:rocky.dallum@tonkon.com>>>
> Cc: BROWNSCOMBE Brett * GOV
> <Brett.BROWNSCOMBE@oregon.gov<<mailto:Brett.BROWNSCOMBE@oregon.gov>>>
> Subject: Setting up OCA meeting
>
> Rocky, thanks for the shout out today! When we schedule with Jerome, Brett should also attend.
>
> Attaching for your info:
> * GNRO policy advisor assignments list
> * Working Farms and Ranches Work Group 1-pager
> * 2016 drought proposals fact sheet.
>
> Thanks
> Lauri
>
> Lauri Aunan, Natural Resources Policy Advisor Office of Governor Kate
> Brown, State of Oregon
> 503-400-5426 (cell) or 503-373-1680 (office)
> Lauri.aunan@oregon.gov<<mailto:Lauri.aunan@oregon.gov>>
> For Scheduling Requests: â€Julie Tasnady
> julie.tasnady@oregon.gov<<mailto:julie.tasnady@oregon.gov>>,
> 503-986-6535 <meeting.ics>

From: [BROWNSCOMBE Brett * GOV](#)
To: [SEN Hansell](#); [REP Barreto](#); [SEN Edwards C](#); [REP Witt](#)
Cc: [HURN Shannon M](#)
Subject: Fwd: HB4040 and SB1557
Date: Sunday, January 31, 2016 12:00:04 PM
Attachments: [Oregon Wild HB4040 SB1557 Concerns.pdf](#)
[ATT00001.htm](#)

Happy to discuss this letter next week if you wish.

Sent from my iPhone

Begin forwarded message:

From: Sean Stevens <ss@oregonwild.org>
Date: January 28, 2016 at 4:23:50 PM MST
To: <Rep.BradWitt@state.or.us>, <Sen.ChrisEdwards@state.or.us>
Cc: Crawford Adam <adam.crawford@state.or.us>, Patrino Beth <beth.patrino@state.or.us>, <Beth.Reiley@state.or.us>, "BROWNSCOMBE Brett * GOV" <brett.brownscombe@oregon.gov>, Rep VegaPederson <Rep.JessicaVegaPederson@state.or.us>, <Rep.JimWeidner@state.or.us>, "Rep Reardon" <Rep.JeffReardon@state.or.us>, <Rep.MarkJohnson@state.or.us>, <Rep.PaulHolvey@state.or.us>, <rep.kenhelm@state.or.us>, <rep.dallasheard@state.or.us>, <Rep.DeborahBoone@state.or.us>, RepBentz <Rep.CliffBentz@state.or.us>, <rep.gregbarreto@state.or.us>, Rep Esquivel <Rep.SalEsquivel@state.or.us>, "Rep. Lew Frederick" <Rep.LewFrederick@state.or.us>, <Rep.ChrisGorsek@state.or.us>, <Rep.WayneKrieger@state.or.us>, <Rep.CaddyMcKeown@state.or.us>, <rep.susanmclain@state.or.us>, <Rep.GailWhitsett@state.or.us>, <Sen.MichaelDembrow@state.or.us>, <Sen.AlanOlsen@state.or.us>, Sen Prozanski <Sen.FloydProzanski@state.or.us>, <Sen.DougWhitsett@state.or.us>
Subject: RE: HB4040 and SB1557

Dear Chairs Edwards and Witt,

Please find the attached letter pertaining to wolf recovery, wildlife policy, and the upcoming short session. This letter answers some questions posed during the Jan. 14 House Committee on Agriculture and Natural Resources Hearing, clears up some misinformation, and further outlines Oregon Wild's position on HB4040 and SB1557.

Please don't hesitate to be in touch with any questions.

Sincerely,
Sean

Cc:
House Committee on Agriculture and Natural Resources
House Committee on Energy and Environment

Senate Committee on Environment and Natural Resources
Governor Kate Brown

--

Sean Stevens
Executive Director
Oregon Wild | www.oregonwild.org
(503) 283.6343 ext 211 | ss@oregonwild.org

Protecting and restoring Oregon's wildlands, wildlife, and waters as an enduring
legacy for future generations since 1974.



From: [REP Barreto](#)
To: [BROWNSCOMBE Brett * GOV](#)
Subject: RE: HB4040 and SB1557
Date: Sunday, January 31, 2016 2:59:30 PM

Thanks Brett, I think that would be good.

Greg

From: BROWNSCOMBE Brett * GOV [mailto:Brett.BROWNSCOMBE@oregon.gov]
Sent: Sunday, January 31, 2016 12:00 PM
To: Sen Hansell <HanselB@leg.state.or.us>; Rep Barreto <BarretG@leg.state.or.us>; Sen Edwards C <EdwardC@leg.state.or.us>; Rep Witt <WittB@leg.state.or.us>
Cc: HURN Shannon M <Shannon.M.Hurn@state.or.us>
Subject: Fwd: HB4040 and SB1557

Happy to discuss this letter next week if you wish.

Sent from my iPhone

Begin forwarded message:

From: Sean Stevens <ss@oregonwild.org>
Date: January 28, 2016 at 4:23:50 PM MST
To: <Rep.BradWitt@state.or.us>, <Sen.ChrisEdwards@state.or.us>
Cc: Crawford Adam <adam.crawford@state.or.us>, Patrino Beth <beth.patrin@state.or.us>, <Beth.Reiley@state.or.us>, "BROWNSCOMBE Brett * GOV" <brett.brownscombe@oregon.gov>, Rep VegaPederson <Rep.JessicaVegaPederson@state.or.us>, <Rep.JimWeidner@state.or.us>, "Rep Reardon" <Rep.JeffReardon@state.or.us>, <Rep.MarkJohnson@state.or.us>, <Rep.PaulHolvey@state.or.us>, <rep.kenhelm@state.or.us>, <rep.dallasheard@state.or.us>, <Rep.DeborahBoone@state.or.us>, RepBentz <Rep.CliffBentz@state.or.us>, <rep.gregbarreto@state.or.us>, Rep Esquivel <Rep.SalEsquivel@state.or.us>, "Rep. Lew Frederick" <Rep.LewFrederick@state.or.us>, <Rep.ChrisGorsek@state.or.us>, <Rep.WayneKrieger@state.or.us>, <Rep.CaddyMcKeown@state.or.us>, <rep.susanmclain@state.or.us>, <Rep.GailWhitsett@state.or.us>, <Sen.MichaelDembrow@state.or.us>, <Sen.AlanOlsen@state.or.us>, Sen Prozanski <Sen.FloydProzanski@state.or.us>, <Sen.DougWhitsett@state.or.us>
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Please don't hesitate to be in touch with any questions.

Sincerely,
Sean

Cc:
House Committee on Agriculture and Natural Resources
House Committee on Energy and Environment
Senate Committee on Environment and Natural Resources
Governor Kate Brown

--

Sean Stevens
Executive Director
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Protecting and restoring Oregon's wildlands, wildlife, and waters as an enduring legacy for future generations since 1974.



From: [Jerome Rosa](#)
To: [AUNAN Lauri * GOV](#)
Cc: [Rocky Dallum](#); [John O"Keeffe](#); [BROWNSCOMBE Brett * GOV](#); [RANCIER Racquel R](#)
Subject: Re: Drought package and GNRO assignments
Date: Sunday, February 07, 2016 1:59:39 PM

Thank you for the information Lauri. I appreciate all hard work you do. OCA really appreciates you and Bret.

Sincerely,
JR

Sent from my iPhone

On Feb 7, 2016, at 1:48 PM, AUNAN Lauri * GOV <Lauri.AUNAN@oregon.gov> wrote:

John, Jerome and Rocky, it was great talking with you last week. Here is information I promised to email you. If you have questions on drought proposals please let Racquel with WRD know.

Lauri

Lauri Aunan
Policy Advisor
Governor's Natural Resources Office
503-373-1680
503-400-5426 (cell)
Lauri.aunan@oregon.gov

<Drought Resiliency in Rural Communities Proposal 1 13 2015.pdf>

<NR Governor's Office Advisors Agency Issue Assignments Jan_2016.pdf>

From: [BROWNSCOMBE Brett * GOV](#)
To: rocky.dallum@tonkon.com; [Jerome Rosa](#); [Mary Anne Nash](#); alvinelkins@yahoo.com
Cc: [ANGLIN Ronald E](#); [HURN Shannon M](#)
Subject: FW: Heads up
Date: Thursday, February 18, 2016 8:42:11 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[Letter to Oregon Senate on HB 4040.pdf](#)

FYI—seems the Representative continues to feel strongly about this issue and is focused on the non-farm, ranch, other portions / interests in his district. He also weighed in like this at the F&W Commission level.

From: JOHNSTON Drew * GOV
Sent: Tuesday, February 16, 2016 2:23 PM
To: BROWNSCOMBE Brett * GOV <Brett.BROWNSCOMBE@oregon.gov>
Cc: FORE Karmen * GOV <Karmen.FORE@oregon.gov>
Subject: FW: Heads up

FYI on DeFazio letter critical of ODFW decision.

From: Batz, Nick [Nick.Batz@mail.house.gov]
Sent: Tuesday, February 16, 2016 5:18 PM
To: JOHNSTON Drew * GOV
Subject: Heads up

Hey Drew,

I wanted to give you a heads up that Congressman DeFazio recently submitted the attached comments to the Oregon Senate Environment and Natural Resources committee. Chair Edwards was mailed a copy, as well.

Cheers,

Nick

Nick Batz
District Director
Congressman Peter DeFazio (OR-4)
405 E. 8th Ave., Suite 2030
Eugene, OR 97401
541.465.6732
541.465.6458 (fax)

www.defazio.house.gov



PETER A. DeFAZIO
4TH DISTRICT, OREGON

TRANSPORTATION AND
INFRASTRUCTURE
RANKING MEMBER



Congress of the United States House of Representatives

PLEASE RESPOND TO:

- 2134 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-3704
(202) 225-6416
- 405 EAST 8TH AVENUE, #2030
EUGENE, OR 97401
(541) 465-6732
1-800-944-9603
- 125 CENTRAL AVENUE, #350
COOS BAY, OR 97420
(541) 269-2609
- 612 SE JACKSON STREET, #9
ROSEBURG, OR 97470
(541) 440-3523
- defazio.house.gov

February 16, 2016

Senate Committee on Environment and Natural Resources
900 Court Street N.E.
Room 347
Salem, Oregon 97301

Dear Chairman Edwards and Members of the Committee,

I understand you are considering legislation, HB 4040, that would ratify the extremely misguided decision by the Oregon Fish and Wildlife Commission (Commission) to remove the gray wolf from the state Endangered Species Act. The Oregon Department of Fish and Wildlife's (Department) recommendation to delist the gray wolf was premature and not supported by the best available science. I urged the Commission to reject the Department's recommendation and was shocked when they voted to delist the wolf in November. I immediately called on the Governor and Oregon legislature to reverse this outrageous decision.

Instead, the Oregon House is moving forward with legislation that would ratify the Commission's action to delist the wolf in order to preempt judicial review of the flawed decision. I find this to be an extraordinary abuse of power and I urge you to reject HB 4040 and any other legislation that would undermine wolf recovery.

Through my extensive experience with federal wolf delisting efforts, I know it is critically important that wildlife management, especially management of an iconic predator species like the gray wolf, is based upon sound scientific findings and analysis. The fact that the Department decided not to conduct an external, independent peer-review panel as required by state law is both alarming and telling, especially since the pending federal proposal to delist the gray wolf has been mired in controversy over both the science used to justify the delisting as well as improper influence by the U.S. Fish and Wildlife Service on the independent peer-review panel.

Oregon should take a cautious, scientifically informed approach and avoid grave risks to species recovery. While I am encouraged by the hard work the Department put into the wolf status review, the Department moved forward with a proposal that is not scientifically defensible and is inconsistent with Oregon's Endangered Species Act.

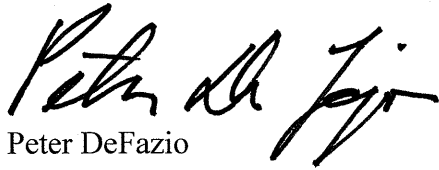
Wolves have just begun to recover in Oregon and still only inhabit small portions of their historical range. Despite some of the successes we have had in Oregon, wolf recovery is still at a very fragile, early stage. Wolves have just moved out of the first recovery phase in the state's

eastern recovery zone, and have populated just 11 percent of suitable habitat in the state. Population numbers are simply not high enough and distribution not wide enough to warrant a state delisting.

Caution needs to be exercised and delisting could signal to some that it is “open season” on wolves. The experiences of other states such as Idaho and Wyoming provide evidence of this. It is critical we avoid any increase in wolf mortality during this early recovery period. We cannot simply hunt wolves back down to their lowest sustainable population levels. This should not be tolerable in Oregon.

The extensive non-lethal efforts and stakeholder outreach by the state have made Oregon the model for wolf conservation in the nation. Ratifying the delisting decision will signal a sharp departure from these efforts that have made wolf recovery a success so far in our state. Instead, the committee should reverse the Commission’s decision and demand an external scientific peer review of the Department’s proposal to delist the wolf to ensure its recommendation is legally and scientifically sound. I urge you to reject this legislation that would harm wolf recovery efforts in Oregon. Thank you for your consideration of this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter DeFazio". The signature is written in a cursive, flowing style with some loops and flourishes.

Peter DeFazio

From: [Jerome Rosa](#)
To: [BROWNSCOMBE Brett * GOV](#); rocky.dallum@tonkon.com; [Mary Anne Nash](#); alvinelkins@yahoo.com
Cc: [ANGLIN Ronald E](#); [HURN Shannon M](#); [John OKeefe \(johnhok@hotmail.com\)](mailto:John OKeefe (johnhok@hotmail.com))
Subject: RE: Heads up
Date: Thursday, February 18, 2016 11:24:52 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)

Thanks for the heads up Brett.

Jerome Rosa

Executive Director
Oregon Cattlemen's Association
1320 Capitol Street NE, Suite 150
Salem, Oregon 97301
Jerome.rosa@orcattle.com
503-361-8941

From: BROWNSCOMBE Brett * GOV [mailto:Brett.BROWNSCOMBE@oregon.gov]
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To: rocky.dallum@tonkon.com; Jerome Rosa <jerome.rosa@orcattle.com>; Mary Anne Nash <maryannenash@oregonfb.org>; alvinelkins@yahoo.com
Cc: ANGLIN Ronald E <Ronald.e.Anglin@state.or.us>; HURN Shannon M <Shannon.M.Hurn@state.or.us>
Subject: FW: Heads up

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Nick Batz
District Director
Congressman Peter DeFazio (OR-4)
405 E. 8th Ave., Suite 2030
Eugene, OR 97401
541.465.6732
541.465.6458 (fax)

www.defazio.house.gov



From: [BROWNSCOMBE Brett * GOV](#)
To: [Rob Klavins](#); [SEN Edwards C](#); [SEN Courtney](#); [REILEY Beth](#)
Cc: [REP Kotek](#); [EXHIBITS SENR](#); [SEN Dembrow](#); [SEN Olsen](#); [SEN Prozanski](#); [SEN Whitsett](#)
Subject: RE: HB4040 - addressing questions from 02/18 public hearing
Date: Sunday, February 21, 2016 3:52:00 PM

Rob—thanks for copying me on this email.

While I would characterize the letter attachment to Gov. Brown as more of an advocacy piece (with the ask of “Pressure the Commission to reconsider continuing protection for wolves in our state ...” and “If HB4040 is passed by the House and Senate, veto the bill when it lands on your desk ...”) than simply science input from a peer review expert, I remain willing to talk about some of the statements made in your letter. I know we did not agree on a variety of points when we met a week or so ago, but I also know that your organization and others are valued stakeholders that will play a meaningful role in the Wolf Plan Revision process on the near horizon. As for statements made in your attached letter about communications regarding settlement, anything related to the potential for settlement discussions should, at this point, likely be between attorneys given the ongoing litigation filed by Oregon Wild and the two other organizations.

Senators and Speaker Kotek, I am open to talking with you about this matter if desired.

Regards,
-Brett

Brett Brownscombe

Natural Resource Policy Advisor
Office of Oregon Governor Kate Brown

255 Capitol Street NE, Suite 126
Salem, OR 97310
Phone#: 503-986-6536

From: Rob Klavins [mailto:rk@oregonwild.org]
Sent: Sunday, February 21, 2016 11:36 AM
To: SEN Edwards C <Sen.ChrisEdwards@state.or.us>; SEN Courtney <Sen.PeterCourtney@state.or.us>; REILEY Beth <Beth.Reiley@state.or.us>
Cc: BROWNSCOMBE Brett * GOV <Brett.BROWNSCOMBE@oregon.gov>; REP Kotek <Rep.TinaKotek@state.or.us>; EXHIBITS SENR <SENR.Exhibits@state.or.us>; SEN Dembrow <Sen.MichaelDembrow@state.or.us>; SEN Olsen <Sen.AlanOlsen@state.or.us>; SEN Prozanski <Sen.FloydProzanski@state.or.us>; SEN Whitsett <Sen.DougWhitsett@state.or.us>
Subject: HB4040 - addressing questions from 02/18 public hearing

Senator Edwards,

Attached please find information following up on unanswered questions and continued misunderstandings/misrepresentations from the most recent public hearing on HB4040. Given that it is a direct follow up to the public hearing, I hope it may be included on the public record for HB4040 and will get appropriate consideration before any future action on the bill, specifically:

- Input from a peer review expert that addresses a concern raised by Senator Olsen.
- Clarification about underlying wildlife policy.
- A response to a question regarding our position on the Wolf Plan.
- Clarification addressing concerns raised by the livestock industry regarding the ramifications of independent judicial review.

As ever, please feel free to be in touch if you have any lingering questions or concerns we can address.

Thank you,

Rob

--

Robert Klavins

Northeast Oregon Field Coordinator

Oregon Wild | www.oregonwild.org

541.886.0212 | rk@oregonwild.org

Protecting and restoring Oregon's wildlands, wildlife, and waters as an enduring legacy for future generations since 1974.



From: [SEN Edwards C](#)
To: [BROWNSCOMBE Brett * GOV](#)
Subject: Fwd: DeFazio Memo on HB 4040.docx
Date: Monday, February 22, 2016 11:19:10 AM
Attachments: [DeFazio Memo on HB 4040.docx](#)
[ATT00001.htm](#)

FYI.

Begin forwarded message:

From: "Batz, Nick" <Nick.Batz@mail.house.gov>
Date: February 20, 2016 at 3:21:59 PM PST
To: Sen Edwards C <EdwardC@leg.state.or.us>
Subject: **DeFazio Memo on HB 4040.docx**

Dear Senator Edwards,
Congressman DeFazio asked me to share the attached document with you.
Please let me know if there's anything else I can get you.
Regards,
Nick

Memorandum

To: Senator Chris Edwards

CC: Senator Floyd Prozanski

From: Peter DeFazio

Date: 2/19/2015

Re: HB 4040

Summary: In advance of your committee's work session scheduled for Tuesday where you will consider and vote on HB 4040, I wanted to send you some additional information as a follow up to conversations we have had. Specifically, I want to address the claims that the science supporting the delisting was strong and that the delisting was necessary in order to honor an agreement made to the cattlemen.

Sound Science: The claim that the science ODFW used to justify the delisting decision was good science and that the scientists who publicly questioned their study are all "social scientists" or "environmentalists" is false and misleading. At least four nationally renowned scientists with expertise in viability of wolf populations (Dr. Derek E. Lee, Dartmouth, Dr. Carlos Carroll, Dr. Robert L. Beschta, and Dr. William Ripple, Oregon State University) reviewed ODFW's study and found it fundamentally flawed and stated that delisting was not warranted by the findings. ODFW did not consider this analysis (even though it was submitted during the public comment process) in their final summary.

Additionally, the state Endangered Species Act (ESA) requires an independent peer-review of the science used to justify a species delisting. Instead, ODFW decided against a formal peer review and moved forward with a scientific review process that was simply based on a "peer review model." This process included self-selecting three scientists (two from Idaho Fish and Game) a few weeks before the final study was released to get their edits to the actual document. This is reflected in ODFW's scientific review summary where reviewers suggested wording changes, organizational changes, text edits, and areas where additional data and clarification was needed.

ODFW's editing process vastly differs from a true peer review where the final product is reviewed to determine whether it meets the necessary scientific standards and there is scientific consensus on the findings. Judicial review is an essential step in this process. If ODFW did in fact do a proper scientific review to warrant the delisting, then the courts will uphold the Commission's decision to delist.

Honoring “the agreement”: The claim that it is necessary to delist wolves to honor “the agreement” set forth in the Wolf Management Plan is also false. Whether or not a wolf is listed under the state ESA has nothing to do with the Wolf Plan. The Wolf Plan is a political agreement that sets forth how the state manages its wolf population, regardless of whether the species is listed as endangered.

The Wolf Plan states that the minimum requirements for the Commission to consider initiating a delisting process, if it is warranted under the state ESA, is 4 breeding pairs within 3 consecutive years, otherwise known as “Phase II”. In other words, it is merely a population threshold that needs to be crossed before the Commission can consider delisting the species. It is not a trigger or commitment.

While it is likely true that wolves will ultimately be delisted, that can only occur after the Commission scientifically establishes that the population is not in danger of failure as required under the state ESA. The state ESA also requires that the population cannot be in danger of extinction in any significant portion of its range. Since wolves just recently returned to Western Oregon (there are likely less than 10) it is important that the rigorous scientific review process set forth by the state ESA is adhered to if a statewide delisting is being considered.

Ultimately, the ESA is driven by science, not politics. Making a decision to delist a species based on a political agreement is not how the law is intended to work and will set a dangerous precedent.

From: [SEN Edwards C](#)
To: [BROWNSCOMBE Brett * GOV](#)
Subject: Fwd: HB 4040AMR4
Date: Wednesday, February 24, 2016 5:07:07 PM
Attachments: [HB4040 AMR4 2016 Regular Session.pdf](#)
[ATT00001.htm](#)

FYI, this is the minority report language that has been submitted.

Chris

Begin forwarded message:

From: Reiley Beth <ReileyB@leg.state.or.us>
Date: February 24, 2016 at 4:44:18 PM PST
To: Sen Edwards C <EdwardC@leg.state.or.us>
Subject: HB 4040AMR4

Beth Reiley, Committee Administrator
Oregon State Legislature
[House Rural Communities, Land Use and Water Committee](#)
[Senate Environment and Natural Resources Committee](#)
Direct Line: 503.986.1755
Fax: 503.986.1814
Beth.Reiley@state.or.us

HB 4040-AMR4
(LC 277)
2/24/16 (MAM/ps)

Requested by Senator PROZANSKI

**PROPOSED MINORITY REPORT AMENDMENTS TO
A-ENGROSSED HOUSE BILL 4040**

1 On page 1 of the printed A-engrossed bill, delete lines 3 through 26 and
2 insert:

3 “Whereas the management and protection of this state’s wildlife and na-
4 tural resources requires policymakers, agencies and various stakeholder
5 representatives to grapple with making complicated choices that can have
6 pervasive impacts on their constituencies; and

7 “Whereas the finest solutions to this state’s most complex wildlife and
8 natural resource disputes are the products of collaborative decision-making
9 processes that include representation from all concerned parties; now,
10 therefore,”.

11 On page 2, delete lines 1 and 2.

12 Delete lines 4 through 7 and insert:

13 **“SECTION 1. (1) The State Fish and Wildlife Commission and the**
14 **State Department of Fish and Wildlife may not, during the pendency**
15 **of any action, suit or proceeding to which the commission or the de-**
16 **partment is a party, modify in any manner the Oregon Wolf Conser-**
17 **vation and Management Plan adopted by the commission or any**
18 **related rules adopted by the commission, if the action, suit or pro-**
19 **ceeding challenges a portion of the plan, or a decision made by the**
20 **commission or the department pursuant to the plan or associated**
21 **statutes or rules, including but not limited to a decision by the com-**

1 mission to remove the gray wolf from the state lists of threatened
2 species or endangered species established pursuant to ORS 496.172 (2).

3 “(2) The commission and the department may not enter into any
4 settlement agreement related to an action, suit or proceeding chal-
5 lenging a portion of the Oregon Wolf Conservation and Management
6 Plan, or a decision made by the commission or the department pur-
7 suant to the plan or associated statutes or rules, including but not
8 limited to a decision by the commission to remove the gray wolf from
9 the state lists of threatened species or endangered species established
10 pursuant to ORS 496.172 (2), unless any intervenors in the action, suit
11 or proceeding had an opportunity to participate in the settlement
12 process and either failed to participate or agreed to the terms of the
13 settlement agreement.”.

14

From: [John O'Keeffe](#)
To: [BROWNSCOMBE Brett * GOV](#)
Cc: [Jerome Rosa](#)
Subject: Message for the Governor
Date: Friday, March 04, 2016 9:25:18 PM

Brett would you pass on these thoughts to the Governor for me. Thanks

The Oregon Cattlemen's Association has just recently been involved in a west wide effort to prevent the ESA listing of the Greater Sage Grouse. A successful effort in collaborative conservation. Also, The Oregon Wolf Plan, another collaborative, working effort in conservation. Collaboration starting to be accepted as a way to get things done.

Even more recently the Oregon Cattlemen's Association commented to the press that the OCA did not support the occupation of the Malheur Wildlife Refuge.

We are at a fork in the road, the clear path forward is to diligently advance our interests through all lawful means. That is what OCA intends to do. However everyone does not view this the same way. Many would choose to go down an anti-government path, leading to solutions promised by those that interpret the US constitution in ways that would benefit a local planning interest. This is not new, but the question is, could this effort be pushed to critical mass by issues perhaps best termed as the urban-rural divide.

We now have HB4040, clearly wolves are doing well, ODFW's delisting is based on valid peer reviewed science, you can always call for more science, that is the nature of science. But it is clear to those out in the country that wolves are here to stay, litigation focused on the listing decision is viewed as an attempt to open a new place to move forward the wolf advocacy agenda at the expense of what has already been done in the Oregon Wolf Plan as well as the ODFW delisting decision. We have seen this before, Just a short time ago. Senator Edwards states it appears that is happening now.

Litigation is a safeguard to our checks and balances, it is also a tool that can be abused by well funded advocacy groups to delay or alter the collaborative process.

Wolves are a controversial species that tends to rise above the day to day management of wildlife species, the passage of a bipartisan bill is not a low bar, this cannot be done everytime someone is not happy with a plan. It takes a huge effort with buy in from many parties, it is truly done on a case by case basis.

Litigation does undermine the collaborative process. Litigation takes funding away from the collaborative process, litigation takes money away from our already strapped agencies, litigation places settlement in the hands of a few behind closed doors, the settlement process is affected by who has something to lose out on the ground and who doesn't. These are all reasons why it is appropriate for the legislature to weigh in and say let's get on with the next

steps in managing our growing wolf population.

John O'Keeffe

President

Oregon Cattlemen's Association

541-947-2590 Home

541-219-1111 Cell

From: [Jerome Rosa](#)
To: [John O'Keeffe](#)
Cc: [BROWNSCOMBE Brett * GOV](#)
Subject: Re: Message for the Governor
Date: Friday, March 04, 2016 9:30:16 PM

Well said John, thank you very much.
JR

Sent from my iPhone

On Mar 4, 2016, at 9:25 PM, John O'Keeffe <johnhok@hotmail.com> wrote:

Brett would you pass on these thoughts to the Governor for me. Thanks

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John O'Keeffe
President
Oregon Cattlemen's Association
541-947-2590 Home
541-219-1111 Cell

From: [BROWNSCOMBE Brett * GOV](#)
To: [BAKER Lindsay](#)
Cc: [SEN Edwards C](#); [MELCHER Curt](#); [ANGLIN Ronald E](#)
Subject: FW: HB4040 - addressing questions from 02/18 public hearing
Date: Monday, February 22, 2016 9:46:10 AM
Attachments: [AF Peer Review to Gov Kate Brown.pdf](#)
[02_21_2016_HB4040_RK_Oregon_Wild.pdf](#)

FYI attached—and additional FYI from me below based on my experience with this issue (I am not speaking for the Governor directly here):

- I spent a good bit of time on the phone w/ Congressman DeFazio's staff last Friday. I think it helped them to talk through and better understand the context. I can talk more about that if desired.
- As to the input in the attached letters, as well as past and likely future correspondence, here is what I would say re. what's going on:
 - The litigant groups have asserted a legal duty upon the State to perform a peer review on the scientific basis of underlying the F&W Commission's de-listing decision. A couple important points:
 - While it is clear that de-listing decisions need to be based on documented and verifiable scientific information, DOJ does not necessarily agree w/ the plaintiffs conclusion that this means a peer review process must be done on the various elements of scientific analyses that ODFW did. Their argument asserts that state agency decisions like this must go through a formal peer review process, and if accepted as true / fact as the groups assert, this kind of allegation has significant precedential legal, policy, and fiscal implications for a variety of agency decisions (likely not just ODFW).
 - The notion that ODFW based its scientific analysis on bunk science, ignored relevant science, or the botched the scientific process does not ring true to me. This is an issue of certain groups trying to substitute their science and scientists for that of the body of work relied upon by the agency and Commission. The Population Viability Analysis the agency did use / relied upon a model that went through a peer review process (and this fact is something the advocacy groups are choosing to overlook / leave unmentioned). The agency's additional analysis was professionally done by scientists, including in communication with experts in the field of wolf science.
 - The scientists the groups are relying upon are from a cadre of scientists these groups commonly rely upon in advocacy settings related to not just wolves but other predator and other issues on which they work in the policy arena.
 - Many of the arguments related to this bill—including those of the scientists the advocacy groups are relying upon—are premised on one thing: de-listing equals a loss of or a significant reduction in protection for gray wolves in Oregon. While it seems somewhat misplaced to me for "scientists" to stating legal and policy conclusions (e.g., from recent CBD letter to Chair Edwards of Feb. 22, 2016: "*two dozen scientists who wrote to the Commission and advised that the legally-required, scientifically-based five delisting criteria have not been met.*"), this premise misses a couple very important things:
 1. Those making these arguments seem to be conflating the federal and state ESA—or maybe more specifically, conflating a federal "delisting" (which is the context with which most are familiar) w/ the state delisting here in Oregon. We are not ID, MT, or WY. We have done and continue to do things differently here, and the Wolf Plans and legal rules / OAR's tied to it bear this out.
 2. Even with the removal of the ESA "listed" label, very protective Oregon laws remain and will in place for wolves here. Specifically, even with delisting, Oregon law / OAR's require the equivalent of ESA-listed protections in Western

Oregon, and this law will remain in place until wolf numbers increase to the 4 breeding pair for 3 consecutive year threshold on the West side. And even once this threshold has been met in the West, as it has currently in Eastern Oregon, the next phase of legal protection applicable to both Eastern and Western Oregon still requires (and imposes protections to ensure) wolf populations continue to recover to the 7 breeding pair threshold (on both sides of the State). And even after that, the next phase of legal protections prohibits trophy hunting, poaching, and other things related to killing wolves for other than livestock, human, or wildlife protection. All said, don't get so hung up on what's in the label of "listed" vs. "de-listed"; the OAR scheme Oregon has adopted via the Wolf Plan ensures strong protections without such strong reliance upon an ESA-listed label.

- The advocates are implying that the legislature weighing in on this subject is improper (e.g., CBD letter of Feb. 22, 2016: *"However, having legislators make scientific decisions about whether an endangered species is recovered is like allowing scientists to pass laws – it simply defies reason."*).
 - First off, legislators are not making scientific decisions about whether wolves have recovered. Last session, OCA advanced a bill that would have put the legislature in this position—would have legislatively de-listed wolves (as the legislature did for the Aleutian goose, and as Congress did federally for wolves in the N. Rockies). The bill died in committee. Oregon has done fairly well compared to other states and Congress in letting biologists, the state wildlife agency and its Commission make these decisions.
 - Second, these kind of decisions involve a mix of science and policy. To claim the Commission's decision lacked scientific underpinning or was wholly political ignores the blend of science and policy that is the ESA. That said, the decision was and is science-based, publicly vetted in an open / transparent way over extensive time, and made by Commissioners that the Oregon Senate confirmed to serve in this role. For the legislature to then say—in the face of ongoing litigation by the same groups who have often brought litigation in order to leverage outcomes on this and other matters—that this decision meets with the intent of the state ESA provisions referenced in HB 4040 does not seem to me like anything other than the legislature expressing its own position on whether the statute it passed in 1973 (the state ESA), and over which it maintains ownership, is something it believes the Commission has met. Yes, such a vote has meaning and is more than a proverbial pat on the back, and whether to weigh in is a policy matter for the legislature to decide / debate. But the legislature has long been involved in state ESA matters, wolf matters, Commission appointments, etc.—so to say legislative action is misplaced seems odd to me. In the end, the Exec. Branch has acted, the Judicial Branch will act (based on the litigation that has been filed), so in some ways, perhaps staying silent in this context may be more strange.
- Further Background: There is a paper trail of litigation threats from OR Wild and other current litigants dating back to 2015, trying to leverage or re-negotiate terms of the Oregon Wolf Plan prior to the administrative process for revising it (which begins this Spring). The ODFW / Commission decision process / timeline was to consider the wolf biological status / de-listing question first, and then open the process for Wolf Plan revision soon thereafter. There are various reasons for this ordering, and advocate groups didn't like it. In trying to leverage a different approach, they threatened to sue if ODFW did not advance a process to make the Wolf Plan changes they want first, prior to or as part of acting on the state ESA de-listing question they've feared. Essentially, they wanted to force a quasi-settlement negotiation over an administrative rulemaking / review process (Wolf Plan revision) that had not yet begun by threatening litigation over the potential outcome of a Commission decision that had not yet been made (de-listing). ODFW and the Commission declined to be put in this position and moved ahead

with the process of biological status review / de-listing consideration. When the Commission decided to de-list, the groups decided to sue. So, now we are here (and it's as much about the advocates' strategy as anything). In my mind, while couched in concerns over best science / battle of the science or process, this is what's really underpinning the debate (i.e., trying to undo the de-listing decision in order to gain leverage during the Wolf Plan revision process). Again, there is some paper trail on this.

- The focus on precluding access to the courts or cutting off judicial review remains another main line of argument against this bill. Litigation has been filed, so this is really not a matter of precluding litigation (it has already been filed). The question is whether the language in HB 4040 might moot certain claims that plaintiffs may raise but have not yet briefed. As to claims related to substantive compliance with the state ESA provisions cited in the bill, I would say there is a good possibility a court would look to the legislature's direction in HB 4040 on those specific types of claims. But how a court chooses to read the legislature's action and the implications on the entirety of the ongoing lawsuit (which, as stated, plaintiffs have not briefed in detail yet re. their specific claims) is a matter of open question. It is something the court would need to review / resolve as part of the judicial review process—which is not a preclusion or avoidance of the judicial review process. Further, the bill's language is discrete as to its applicability to certain (not all) state ESA provisions. I would imagine lawyers would look to a variety of other avenues and statutes. For example, I don't read the bill's language as speaking to process-based claims and arguments under statutes such as the Administrative Procedures Act, and many of the advocacy groups complaints seem process-based (i.e., the ODFW public comment timelines, what science and comments it considered, etc.).

Feel free to call me as desired. Given all the recent emails to legislators on which I've been directly copied, I thought I would share my thoughts.

Regards,
-Brett

From: Rob Klavins [mailto:rk@oregonwild.org]

Sent: Sunday, February 21, 2016 11:36 AM

To: SEN Edwards C <Sen.ChrisEdwards@state.or.us>; SEN Courtney <Sen.PeterCourtney@state.or.us>; REILEY Beth <Beth.Reiley@state.or.us>

Cc: BROWNSCOMBE Brett * GOV <Brett.BROWNSCOMBE@oregon.gov>; REP Kotek <Rep.TinaKotek@state.or.us>; EXHIBITS SENR <SENR.Exhibits@state.or.us>; SEN Dembrow <Sen.MichaelDembrow@state.or.us>; SEN Olsen <Sen.AlanOlsen@state.or.us>; SEN Prozanski <Sen.FloydProzanski@state.or.us>; SEN Whitsett <Sen.DougWhitsett@state.or.us>

Subject: HB4040 - addressing questions from 02/18 public hearing

Senator Edwards,

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- Input from a peer review expert that addresses a concern raised by Senator Olsen.
- Clarification about underlying wildlife policy.

- A response to a question regarding our position on the Wolf Plan.
- Clarification addressing concerns raised by the livestock industry regarding the ramifications of independent judicial review.

As ever, please feel free to be in touch if you have any lingering questions or concerns we can address.

Thank you,

Rob

--

Robert Klavins

Northeast Oregon Field Coordinator

Oregon Wild | www.oregonwild.org

541.886.0212 | rk@oregonwild.org

Protecting and restoring Oregon's wildlands, wildlife, and waters as an enduring legacy for future generations since 1974.



Re: ODFW's Delisting of Wolves from OESA
February 12, 2016
Governor Brown,

The ODFW's scientific process to justify delisting of wolves was incomplete and flawed. Proposed legislation to "ratify" the decision (HB4040) will further enforce the flaws in this public process and undermine public trust in Oregon's leaders.

For 13 years, I have been managing peer-review processes for scientific journals. As Associate Director of Scientific Journals for a nonprofit scientific society, I am well versed in scientific publishing ethics and peer-review best practices. I am a committee chair and past board member of the Council of Science Editors, and a member of the Committee on Publication Ethics (COPE). I currently serve on a Code of Professional Conduct and Conflict of Interest Policy task force for the Institute of Food Technologists. I've lived in Portland for over 9 years, and this year I attended three ODFW public comment hearings, testifying in support of continued wolf protections at two of them.

I am concerned that ODFW used a deeply flawed and last-minute peer-review that was merely done to minimally satisfy a requirement for an independent review of the science on which the delisting decision was based.

I am also very concerned that HB4040, which is scheduled for vote in the House this week, sets a dangerous precedent for the legislature to legislatively delist wolves, undermining the ODFW's authority as well as the public process and potential for judicial review of the ODFW's decision. The wolf plan is in place; we do not need the legislature to step over the agency's head to try to set ESA policy.

Why, when Russ Morgan's report, "Biological Status Review for the Gray Wolf (*Canis lupus*) in Oregon", was presented in April at the ODFW Commission meeting in Bend, did the Commission wait until October—six months—to *begin* to seek independent review? The report recommended that the Commission begin the delisting process, and according to the rules of the Wolf Plan, such a report must be independently peer-reviewed before delisting can be considered. A typical and appropriate peer-review process takes up to several months. The Commission seems to have done nothing to pursue independent review for months, rushing a review process to completion just days before the rulemaking meeting in November. Worse, the reviews the Commission received were not posted where the public could access them until after the delisting rulemaking meeting began.

The 5 determinations which must be met for delisting to occur, as stated in the Wolf Plan, "must be based upon verifiable scientific information." As defined in the ODFW Administrative Rules, '*Verifiable*' means scientific information reviewed by a scientific peer review panel of outside experts who do not otherwise have a vested interest in the process. (<http://www.dfw.state.or.us/OARs/100.pdf>)

In the world of scientific journals, and, I would argue, according to the state's definition of "verifiable" above, the reviewers and process used by ODFW staff to obtain "independent" review does not pass muster. According to the Committee on Publication Ethics' guide, "Code of Conduct and Best Practice Guidelines for Journal Editors" (http://publicationethics.org/files/Code%20of%20Conduct_2.pdf), peer-review should include:

- ensuring that appropriate reviewers are selected for submissions (i.e. individuals who are able to judge the work and are free from disqualifying competing interests);

- providing a description of peer review processes, with justification provided if there were any important deviation from the described processes;
- requiring reviewers to disclose any potential competing interests before agreeing to review a submission.
- having systems to ensure that peer reviewers' identities are protected unless they use an open review system that is declared to authors and reviewers.
- managing conflicts of interest of staff, authors, reviewers, and editorial board members

In contrast, the ODFW's process consisted of the scientists themselves asking past colleagues and persons in similar positions in nearby states to conduct the reviews and send comments back directly to ODFW staff. This presents a bias where reviewers are less likely to be critical because not only are their identities known to the report's authors, but their responses are directly sent to the authors.

Meanwhile, many independent scientists *did* review the report and submitted their critiques, which were included in the public comment for the delisting meeting but summarily ignored by the Commission.

In closing, Governor Brown, I ask that you restore public faith in the Commission's work and process. Pressure the Commission to reconsider continuing protection for wolves in our state until a more appropriate review process can be completed and the science can be independently verified or revised to where independent scientists come to a consensus that can then be considered by the ODFW Commission. If HB4040 is passed by the House and Senate, veto the bill when it lands on your desk and allow the Commission's authority and the public's right to legal review stand.

Sincerely,

Amanda Ferguson
1945 NE 113th Ave.
Portland, OR 97220
afergu@gmail.com

February 21st, 2016

RE: HB4040 SENR Public Hearing

Chair Edwards,

I appreciate that your Committee (SENR) has put HB4040 under appropriate scrutiny. I agree with your statement that things have “not been above board”. Please accept these comments for the record as they directly address the public hearing that took place on Thursday, February 18th.

Your statement about the above board nature of this bill applies equally to HB4040 proponents this session as to ODFW’s delisting process that the bill seeks to “shore up”. By “ratifying” that decision, and - as a practical matter - insulating it from independent judicial review, HB4040 could also set a precedent that the requirements of the state Endangered Species Act and associated rules are not standards that need to be met for all wildlife. Especially with its weighted whereas language, the bill also rebuts input from dozens of independent scientists, thousands of citizens, and stakeholders who have played by the rules.

I hope you have given – or will give - serious consideration to the letter we submitted on February 18th before determining how, or if, to proceed. Passage of HB4040 would only satisfy a desire to weigh in on one side of a controversial issue and further deepen divisions between stakeholders. Given the misinformation and misrepresentations upon which the bill has moved thus far, it would also send a troubling message at a time that Oregonians are keenly sensitive to ethical concerns.

Below please find some specific follow up to unanswered questions posed and misrepresentations made at the hearing on February 18th.

- Senator Olsen asked for a professional opinion on the state’s peer review:
 - Attached please find a letter submitted to Governor Brown earlier this month from constituent with professional peer-review credentials.
 - On several occasions during the status review process, ODFW staff explicitly told conservation stakeholders that even the “science review” and “scientific review summary” documents were not meant to satisfy a peer review requirement.
- During the public hearing on February 18th, the peer review was called a “red herring.” It is a legal requirement:
 - The Farm Bureau questioned the need for a peer review by reading the requirements of ORS 496.176 for “verifiable” science. The relevant rule (OAR 635-100-0010(16)) defines “verifiable” as meaning “scientific information reviewed by a scientific peer review panel of outside experts who do not otherwise have a vested interest in the process.” Starting in April of 2015, we publicly and repeatedly asked for an independent peer review and followed up with several legal analyses highlighting the requirement.

- Senators asked stakeholders for their position on the Wolf Plan:
 - Oregon Wild has consistently supported the Plan since its promulgation despite making many concessions to gain the support of the Oregon Cattlemen's Association and other stakeholders who immediately opposed it. We recognize the Plan is not perfect, but have lived up to our commitments. We stand by its overarching framework, celebrate its success so far, and have continued to work with the state and stakeholders to improve it within that framework.
 - Our consistent support includes campaigning for full funding, defending it against no less than 7 proposed pieces of legislation since 2011 that would have undermined it and ODFW authority, a weakening of the Plan during the 2010 review, challenging actions that ran counter to the Plan, Commission action in 2013 that arguably violated a settlement agreement, participating in the status review in 2015, and reaching out to other stakeholders to avoid conflict. Our trust has been violated on numerous occasions. By rewarding dishonest actions of bill proponents, passage of HB4040 could test the limits of conservation community support for the Plan and erode public trust in ODFW.

- Additional misinformation on February 18th:
 - Some of the inconsistent behavior of bill supporters has been exposed during recent proceedings, however it has continued. On February 16th, livestock industry representatives seemed to acknowledge the bill's purpose was to prevent a successful legal challenge. They encouraged the Committee to pass the bill because a legal process would exclude them. They neglected to say that they had requested intervener status. Having achieved that status, those parties will be part of any legal review. Other parties have pending petitions to be included.
 - Confronted with that information, on February 18th, the Farm Bureau transitioned to saying that their concern was that *settlement* could occur and may not include them. We have been proactively told by state officials that there is no interest on the state's side to engage in any sort of settlement agreement or discussions.

The continuing misrepresentations of stakeholder actions, history, policy, and other important facts should be sufficient to give the legislature pause before declaring an emergency and passing HB4040. Rather than encourage co-operation, the passage of HB4040 would only further drive a wedge between stakeholders in wolf conservation and management. We urge you to vote no on HB4040.

Best,



Robert Klavins
Northeast Oregon Field Coordinator, Oregon Wild
PO Box 48
Enterprise, OR 97828

CC: Senate Committee on Environment and Natural Resources
Senate President Peter Courtney
Governor Brown
House Speaker Tina Kotek

[← Back \(101\)](#)**Sen**[Details](#)

iMessage

Tue, Nov 10, 10:13 AM

Vote has been taken to delist, as you likely know. Long tough meeting, and thank you for being there at outset. Reaction is still coming in. Would be good to sit down next week w you and rep Baretto if possible.

Absolutely. I'll get Branden on it. I was



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[← Back \(101\)](#)

Sen

[Details](#)

nearing Pendleton
when Branden
called last night with
the ODFW decision.

Tue, Nov 17, 5:31 PM

Hi Senator. I
dropped off a note
at your office earlier.
I'm hoping julie
connected w
Branden or Ann on
this, but I'm not
going be able to
make our 8 o'clock
phone call tomorrow
morning. Apologies



Send

[← Back \(101\)](#)**Sen**[Details](#)

morning. Apologies on this, but I have a prior engagement with the counties that I can't miss. I could talk by phone at any point in the day outside of 7-930 am and 215-330.
Thanks

Delivered

Text Message

Tue, Feb 23, 6:31 PM

Thank you Brett. I understand you did a great job before the committee on



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Sen

[Details](#)

the committee on
HB 4040. I
appreciate it.

Thanks for the text.
Have you by chance
talk with Senator
Prozanski about his
willingness not to do
a minority report?

I text Chris and he
thought Floyd had
already filed it but
that Michael had till
floor tomorrow to
sign on. Chris didn't
think Michael really
wanted to do it but



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[← Back \(101\)](#)**Sen**[Details](#)

Thanks for the text.
Have you by chance
talk with Senator
Prozanski about his
willingness not to do
a minority report?

I text Chris and he
thought Floyd had
already filed it but
that Michael had till
floor tomorrow to
sign on. Chris didn't
think Michael really
wanted to do it but
might feel obligated.
I guess we will know
more tomorrow.



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[← Back \(101\)](#) **Group MMS**[Details](#)

To: Rep, Shannon

Text Message

Tue, Feb 2, 2:35 PM

Please call my cell.
Thanks



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