

From: [Janet Conklin](#)
To: [SENR Exhibits](#)
Subject: Re: Opposition to House Bill 4040
Date: Tuesday, February 23, 2016 11:30:14 AM

February 23, 2016

Senator Chris Edwards
Senate Committee on Environment and Natural Resources
900 Court Street NE, S-411
Salem, Oregon 97301

RE: Opposition to House Bill 4040

Chair Edwards and Members of the Committee:

You and your committee are currently considering HB4040 which would ratify the Oregon Fish and Wildlife Commission decision November, 2015 which delisted Oregon wolves as an endangered species.

It is so important not to pass this bill out of committee but protect the right for judicial review to ascertain if this decision by this agency is lawful . This is the long-established and fair way to basically hold the administrative branch of government accountable for actions that do not comply with the law.

House Bill 4040 is plainly designed to preclude judicial review of the Oregon Fish and Wildlife Commission's decision to remove wolves from the endangered species list. To delist a species should not be taken casually. I would say that the legislature should not be making decisions about endangered species and their recovery just as scientists should not be making laws.

The way the Oregon Fish and Wildlife Commission came to this decision was very troubling and leaves valid questions. I kept abreast of the scientific information on this issue and attended the hearing at which this decision was made. Many world class scientists were against delisting with detailed examples of substantial flaws in the ODFW (Oregon Department of Fish and Wildlife) Population Viability Analysis and the ODFW Grey Wolf Biological Status Review and gave substantial evidence that the five delisting criteria under the Oregon Endangered Species Act were not met. Their overwhelming consensus and input was not brought up in the hearing. Critically, there was virtually no independent scientific peer review of ODFW's report and proposal to delist as required by the Oregon Endangered Species Act.

Without the legislature examining the details leading to the Commission's decision over the

course of several months and reading all the scientific material , they cannot make an informed vote. Furthermore and as fundamental, there is an established process for judicial review of administrative agency decisions, and it is not appropriate for the legislature to preempt that process.

In your position as chair and members of the environmental committee for Oregon, surely a priority would be to uphold a just, fair process for citizens of this State to get an impartial, non-political review of such an impactful yet controversial decision.

I ask that you do not pass this bill out of committee.

Sincerely,

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From: [Janet Conklin](#)
To: [SENR Exhibits](#)
Subject: HB4040
Date: Tuesday, February 23, 2016 11:46:43 AM

To: Senate Committee on Environment and Natural Resources

Re: HB 4040

Date: February 22, 2016

Dear Chairman Edwards and Committee Members:

I am writing to ask that you not pass HB 4040 out of your committee, for the following reasons:

Last November the Oregon Fish and Wildlife Commission took action to remove the grey wolf, *canis lupus*, from the protections of the Oregon Endangered Species Act. This administrative action was based on a staff recommendation of the Department of Fish and Wildlife. The Commission's delisting decision is presently under review by the Oregon Court of Appeals.

The transparent purpose of HB 4040 is to preempt the normal and long-established process of judicial review of administrative action for compliance with the law. I respectfully submit that this reflects a highly inappropriate attempt by representatives of special interests to interfere with the process of judicial review. For the Legislature to pass this bill would be to violate the separation of powers by usurping the legitimate role of the judicial branch in determining whether or not an administrative action was taken in compliance with applicable law.

The applicable statute (Oregon Endangered Species Act, ORS 496.172) requires that a delisting decision be made on the basis of verifiable science, not politics. To assure that this standard will be met, the law requires that DFW's Population Viability Analysis (PVA) and Biological Status Review be peer reviewed by a panel of independent scientists, and that certain statutory delisting criteria be met. The basis of the review now pending in the Court of Appeals is that the statutory requirements were not complied with in that science does not support either the Department's recommendation or the Commission's decision.

I followed this process closely and am familiar with the many scientific analyses submitted by independent scientists testifying that the agency's PVA and Biological Status Review were not supported by science as required by statute. This evidence was overwhelmingly in opposition to delisting wolves. There was scant if any competent evidence to support the Commission's action. Compliance with applicable statutes and sufficiency of evidence to support administrative action are the precise questions now before the Court of Appeals. The Legislature should not preempt that review.

At the very least, the Legislature should not undertake to make laws that clearly should be made based on science without examining all of the scientific evidence. Without that, the act can only be described as political, which flies in the face of all established principles of wildlife conservation. We respectfully submit that the process of judicial review should be allowed to proceed normally, without legislative intervention.

Respectfully,

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