

HOUSE BILL REPORT

HB 2628

*As Reported By House Committee on:
Fisheries & Wildlife
Appropriations*

Title: An act relating to fish and wildlife habitat protection on grazing and agricultural lands.

Brief Description: Protecting riparian-associated wildlife from agricultural and grazing land practices.

Sponsor(s): Representatives R. King, Orr, G. Cole, Rust, Belcher, Fraser, Horn, Morris, R. Meyers, Basich, Leonard, Valle and Jacobsen.

Brief History:

Reported by House Committee on:
Fisheries & Wildlife, February 7, 1992, DPS;
Appropriations, February 10, 1992, DPS(FW-A APP).

**HOUSE COMMITTEE ON
FISHERIES & WILDLIFE**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 11 members: Representatives R. King, Chair; Morris, Vice Chair; Wilson, Ranking Minority Member; Fuhrman, Assistant Ranking Minority Member; Basich; G. Cole; Haugen; Hochstatter; Orr; Padden; and Spanel.

Staff: Keitlyn Watson (786-7310).

Background: Grazing and agricultural practices can negatively affect fish and wildlife by removing native vegetation, by altering streamside vegetation, and by degrading water quality. The decline of some salmonid stocks in Washington has been attributed by the American Fisheries Society and the Columbia Basin Fish and Wildlife Authority to agricultural and grazing practices.

Programs to Protect Fish and Wildlife on Agricultural and Grazing Lands

Various incentive programs exist to encourage the implementation of grazing and agricultural practices that do not degrade water quality. Under the federal 1987 Amendments to the Clean Water Act, best management practices

(BMP's) were updated as part of the Department of Ecology's Nonpoint Source Management Plan. Agricultural BMP's exist for dairies, irrigated agriculture, dryland agriculture, and rangeland. These BMP's do not have the force of law. However, they can be implemented voluntarily by landowners or managers. The state conservation districts participate in providing interested landowners with information on how to achieve the standards in the BMP's. The Department of Ecology will verify complaints of water quality violations due to agricultural and grazing practices and will prescribe remedial measures to the violator that are designed to meet BMP's. If the landowner complies, the case is closed. Federal and state cost-share programs exist to assist landowners in meeting BMP's.

Under 1990 provisions of the federal Food Security Act, erodible soils and wetlands on farmlands are protected by providing financial incentives to landowners to do so. The Conservation Reserve Program (CRP), for example, pays agricultural landowners to remove highly erodible cropland from production. The purpose of these programs is for soil and water conservation and water quality, but fish and wildlife habitat may also benefit.

Some regulatory programs also apply to agricultural and grazing land management. For example, the hydraulic project approval process applies to actions within the high water mark of state waters. There are no regulatory programs that specifically require that fish and wildlife habitat be protected or managed according to certain standards on agricultural and grazing lands.

Management of Agricultural and Grazing Lands by the Departments of Natural Resources and Wildlife

The departments of Wildlife and Natural Resources manage land for grazing and agriculture. The Department of Wildlife manages 840,000 acres of land. RCW 77.12.210 authorizes the department to manage, sell and lease property. The department has adopted rules for grazing and agricultural leases that assure that these practices are compatible with wildlife or recreation management objectives. The rules require that a grazing management plan accompany the leases. In 1991, 52 leases on 163,948 acres were in place. The department also issues leases for sharecropping. In 1991, 8,750 acres were included in the sharecrop program. Existing leases have less than five years remaining on them. In 1990 revenue to the department from the leasing program was \$89,861.45. The department receives habitat enhancement services from graziers in addition to lease fees.

The Department of Natural Resources manages five million acres of land. RCW 79.01.242 authorizes the Department of Natural Resources to lease state lands. Of these lands, 1.1 million acres are managed for crop and livestock production. In 1988, 1798 grazing permits and leases were issued on 994,658 acres. There are 995 agricultural leases on 173,251 acres. Revenues to the department from this program in 1988 were \$4,691,690.

Habitat Management Standards for Fish and Wildlife Protection on Agricultural and Grazing Lands Managed by the Departments of Natural Resources and Wildlife

Best management practices address part of what fish need to survive: clean water. There are many components of fish habitat such as shading and large organic debris in the stream, that are not part of the BMP's except as a possible contributor to water quality. Specific standards for fish, wildlife and habitat protection on forested lands have been developed by the Department of Wildlife's Priority Habitats and Species Program. These do not have the force of law, but are management recommendations for use by interested parties. Such standards have not yet been developed for widespread use on agricultural and grazing lands. However, the department does apply standards to the lands under their management or control.

The Department of Natural Resources implements resource protection agreements with 15 to 20 percent of lessees to protect soil and water resources, with the intent of maintaining long term productivity of their trust lands. Lessees that qualify are required to enroll, as a lease provision, in the 1990 Farm Bill programs that encourage soil and water conservation. Approximately 90 percent of lessees qualify.

Washington State University

Washington State University has an agricultural department and a cooperative extension service, which conduct research and provide educational information on agricultural and grazing practices to a variety of landowners. The cooperative extension service works with conservation districts and the soil conservation service in their efforts to prescribe BMP's. Their extension service and agriculture department are not required under current law to incorporate fish and wildlife considerations into their functions.

Summary of Substitute Bill: The Department of Wildlife is directed to appoint a technical advisory committee to assist in developing best habitat management practices for application to land management activities in agriculture and

range management. The practices are to be designed to maintain or improve sufficient habitat to preserve, protect, and perpetuate fish and wildlife, and are to be completed and presented to the Legislature by August 31, 1993. The technical advisory committee shall include scientists representing agriculture, academia, and the departments of Ecology, Fisheries, and Natural Resources. The process shall be integrated if practical with the existing process used by the Department of Ecology to develop best management practices pursuant to section 319 of the federal Clean Water Act. The Department of Wildlife shall transmit their product to interested parties. The Washington State University extension service is directed to make this information available to the public.

The departments of Wildlife and Natural Resources are to study methods of application of best habitat management practices as standards to agricultural and grazing lands owned or managed by these agencies. The study is to recognize the multiple use concept in chapter 79.68 RCW for application of best habitat management practices to lands owned or managed by the Department of Natural Resources. The departments shall jointly report to the Legislature by November 30, 1993, on the following:

- (1) Ownership and acreage of state-owned or managed lands to which best habitat management practices are applicable;
- (2) Feasible techniques to implement best habitat management practices; and
- (3) A reasonable time frame for implementation of best habitat management practices on state-owned and managed agricultural and grazing lands.

Washington State University is directed to report to the Legislature by December 31, 1993, on how to best integrate fish and wildlife considerations with the existing curriculum in the university's agriculture department and with the cooperative extension service. Washington State University shall also report on the feasibility and cost of creating a rotational assignment with the Department of Wildlife.

Substitute Bill Compared to Original Bill: The original bill directs the departments of Fisheries and Wildlife, with participation by the commissioner of public lands, to develop best habitat management practices with an advisory committee by December 31, 1992. The substitute bill directs the Department of Wildlife to develop best habitat management practices with a technical advisory committee of scientists from agriculture, academia, and the departments

of Ecology, Fisheries and Natural Resources, and to submit their product to the Legislature and other parties by August 31, 1993.

The original bill requires that state agricultural and grazing lands controlled by the Department of Natural Resources and the Department of Wildlife be subject to best habitat management practices as standards, and that conditions be placed on agricultural and grazing leases to meet these standards. The substitute bill does not contain these requirements. The substitute bill adds a requirement that the departments of Wildlife and Natural Resources are to study methods of application of best habitat management practices as standards to agricultural and grazing lands owned or managed by these agencies, and to report to the Legislature by November 30, 1993.

The original bill requires Washington State University to add instruction in their agriculture department in methods of farm and livestock management that are ecologically sound and that protect fish and wildlife. The university is also directed to expand the investigational work of agricultural experiment stations in irrigation districts to include the importance of water conservation in maintaining fish populations. The director of the extension service is directed to create a rotational assignment with the Department of Wildlife for cross training. The substitute bill removes these provisions and requires that Washington State University report to the Legislature by December 31, 1993, on how to best integrate fish and wildlife considerations with the existing curriculum in the university's agriculture department and with the cooperative extension service, and on the feasibility and cost of creating a rotational assignment with the Department of Wildlife.

Both the original and the substitute bills require that the Washington State University extension service make available to the public information on best habitat management practices provided by the state departments of Fisheries and Wildlife.

Fiscal Note: Requested February 7, 1992.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: (On original bill): Habitat protection is a good idea. This will benefit commercial fishers.

Testimony Against: (On original bill): There are already current best management practices in place, and the notion

of habitat protection should be integrated with this existing process. The development of best habitat management practices should be done by an advisory committee with broader representation. Funding should be made available for Washington State University to carry out their portion of the bill.

Witnesses: (On original bill): Dan Wood, Citizens for Responsible Resource Use (opposed); Bob Johnson, Trout Unlimited (in favor); Bruce Mackey, Department of Natural Resources (in favor with suggested changes that recognize DNR's trust responsibility and give responsibility for implementing standards to DNR, and allow DNR to condition leases as necessary to carry out the intent of the act); Ray Schindler, Washington Association of Wheatgrowers (opposed); Dawn Vyvyan, Yakima Indian Nation (in favor); Ed Manary, Department of Fisheries (concerns: creates an atmosphere of non-cooperation); Marlyta Deck, Washington State Cattlemen's Association (concerns: language in findings "bashes" agriculture and grazing where this may not be necessary; much responsible rangeland management already occurs); and Robert Snell, Washington Trollers Association (in favor).

**HOUSE COMMITTEE ON
APPROPRIATIONS**

Majority Report: *The substitute bill by Committee on Fisheries & Wildlife be substituted therefor and the substitute bill as amended by Committee on Appropriations do pass.* Signed by 17 members: Representatives Locke, Chair; Inslee, Vice Chair; Spanel, Vice Chair; Appelwick; Belcher; Bowman; Braddock; Brekke; Carlson; Dorn; Hine; Peery; Pruitt; Rust; H. Sommers; Sprenkle; and Valle.

Minority Report: *Do not pass.* Signed by 9 members: Representatives Silver, Ranking Minority Member; Morton, Assistant Ranking Minority Member; Ferguson; Fuhrman; Lisk; May; Mielke; Nealey; and D. Sommers.

Staff: Susan Nakagawa (786-7145).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Fisheries & Wildlife: Language is added specifying that reports required by the Department of Fisheries go to the appropriate committees of the Legislature, as opposed to the entire Legislature.

Fiscal Note: Available (Department of Fisheries); requested February 7, 1992 (Department of Wildlife).

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The departments of Fisheries and Wildlife will work to implement the provisions of the bill. Best habitat management practices are a necessary part of habitat protection.

Testimony Against: Funding needs to be provided to the cooperative extension services at Washington State University to implement the provisions of this bill. More local input is necessary for development of best habitat management practices that affect the agricultural community.

Witnesses: Judy Olson, Washington Association of Wheat Growers (con); Ed Manary, Department of Fisheries (pro); and Pam Madsen, Department of Wildlife (pro).