

**HOUSE COMMITTEE ON STREAM RESTORATION**  
**& SPECIES RECOVERY**

April 2, 2001  
1:00 P.M.

Hearing Room E  
Tapes 75 - 78

**MEMBERS PRESENT:**     **Rep. Bob Jenson, Chair**  
                                  **Rep. Jan Lee, Vice-Chair**  
                                  **Rep. Randy Leonard Vice-Chair**  
                                  **Rep. Tim Knopp**  
                                  **Rep. Jeff Kruse**  
                                  **Rep. Patti Smith**  
                                  **Rep. Al King**  
                                  **Rep. Carolyn Tomei**  
                                  **Rep. Kelley Wirth**

**STAFF PRESENT:**       **Sandy Thiele-Cirka, Committee Administrator**  
                                  **Linda K. Gatto, Committee Assistant**

**MEASURES HEARD:**  
                                  **HB 3334 – Public Hearing**  
                                  **HJM 19 – Public Hearing**  
                                  **HB 3572 – Public Hearing and Work Session**  
                                  **HB 3213 – Public Hearing**

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These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

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<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 75, A</b>		
004	Chair Jenson	Calls the meeting to order at 1:07 p.m. as a subcommittee and opens public hearing on HB 3334.
<b><u>HB 3334 – PUBLIC HEARING</u></b>		
016	Rep. Tom Butler	House District 60. Reviews background of the pilot program on trout production by private aquaculture product facilities. Explains the benefits to the state.
050	Rep. Butler	Reviews impact of private product facilities.
078	Rep. Butler	Continues presentation stating that the private industry should have an opportunity to grow, and that the Oregon Department of Fish and Wildlife (ODFW) is operating at maximum.
116	Chair Jenson	Questions the percentage increase from 10 to 25.
120	Rep. Butler	Responds that the pilot program has been successfully managed by the private industry and the increase would be an advantage.
139	Rep. King	Requests clarification on the fiscal <b>(EXHIBIT A)</b> .
150	Rep. Butler	Responds that the overall fiscal expenditures should indicate savings to the state.
180	Chair Jenson	Closes the public hearing on HB 3334 and opens the full committee for a public hearing on HJM 19
<b><u>HJM 19 – PUBLIC HEARING</u></b>		
187	Sandy Thiele-Cirka	Administrator, summarizes HJM 19.
196	Rep. Greg Smith	House District 59. Reviews and presents the needs of rural Oregon to obtain assistance from the federal agencies for

218	Rep. Kruse	enforcement on large tracts of federal land. Questions if the request for assistance could indicate to the federal agencies that more enforcement agents are being requested.
237	Rep. G. Smith	Responds that he supports adding clarifying language. Notes that the intent is for financial assistance.
250	Chair Jenson	Recommends adding financial assistance as a possible amendment.
262	Rep. Kruse	Suggests including local enforcement efforts.
274	Katie Cate	Representing Oregon Cattlemen’s Association. Testifies in support of HJM 19. Notes that the rural counties are impacted by the downturn in the natural resource industries and unemployment is high.
322	Rep. Kruse	Comments on the federal presence in Douglas County.
329	Cate	Responds that the intent is to obtain federal financial assistance to help fund the enforcement agencies in rural Oregon.
336	Rep. P. Smith	Questions the percentage of land managed by the federal government.
339	Cate	Responds that 52% of Oregon is federal land.
342	Rep. P. Smith	Questions how much land is state owned.
343	Cate	Responds that she does not have that information.
367	Russ Spencer	Representing the Oregon State Sheriffs Association. Notes a concern on the proposed language. Suggests limiting language to funding for enforcing of state criminal law and search and rescue efforts.
398	Rep. P. Smith	Questions if there are environmental crime officers providing enforcement.
403	Spencer	Responds that he is not aware of any sheriffs offices that have environmental crime units.
412	Rep. P. Smith	Comments that there have been discussions about proposals for an environmental crimes officer.
420	Spencer	Responds that there was a proposal that Metro might fund an environmental crime officer on non-federal land.
440	Chair Jenson	Closes public hearing on HJM 19 and opens a public hearing on HB 3572.

**TAPE 76, A**  
**HB 3572 – PUBLIC HEARING**

014	Thiele-Cirka	Summarizes HB 3572.
031	Charlie Bruce	Oregon Department of Fish and Wildlife. Submits and reviews written testimony ( <b>EXHIBIT B</b> ).
096	Dave Wright	Oregon Parks & Recreation Department. Testifies in opposition to HB 3572. Submits ( <b>EXHIBIT C</b> ) and notes concerns regarding closures or limitations. Sites the New Carissa situation.
148	Rep. Lee	Questions if closures are on the shoreline or upper dry areas.
151	Wright	Responds that closures occur in many forms over a 17-mile section of shoreline.
161	Rep. Smith	Questions the public comment process prior to closure determination.
175	Wright	Responds that administrative rules allow for emergency closures. Explains that the department waits until United States Fish & Wildlife (USFW) determines closures. Adds that temporary closures do not require public hearings.
193	Chair Jenson	Comments on the importance of public input in understanding

233	Robin Hartmann	decisions and the process. Representing Oregon Shores Conservation Coalition. Reads and submits <b>(EXHIBIT D)</b> . Testifies in opposition to HB 3572. Supports the Parks and Recreations authority for regulating motorized use of beaches. Notes concerns that emergency beach closures may create competition between communities.
312	Liz Frenkel	Representing League of Women Voters of Oregon. Testifies in opposition to HB 3572 <b>(EXHIBIT E)</b> . Notes that the beaches are a state resource.
365	Frenkel	Continues and summarizes testimony.
391	John Griffith	Coos County Commissioner. Submits and provides background on the impact of beach closures <b>(EXHIBIT F)</b> . Testifies in support of HB 3572.
445	Griffith	Continues testimony.
500	Griffith	Comments on the opportunities for public comments. Continues explanation of the listing of the snowy plover.

**TAPE 75, B**

030	Griffith	Continues presentation and summarizes testimony.
064	Chair Jenson	Closes public hearing on HB 3572 and opens work session on HB 3572.

**HB 3572 – WORK SESSION**

072	Rep. Lee	Supports the need for public input prior to closures. Comments on the concern of overriding the federal Endangered Species Act and the impact between communities. Suggests developing a resolution without legislation.
083	Chair Jenson	Questions the type of pressure being issued from USFW.
090	Bruce	Responds that the western snowy plover was listed a few years ago. Notes the concern is with the take.
105	Chair Jenson	Questions if USFW support the beach closures and if the working relationship has been positive.
112	Bruce	Responds that the relationship is positive and is supportive of seasonal closures.
131	Rep. Kruse	Questions how long the nests have been fenced off.
133	Bruce	Responds that a combination of techniques have been used to evaluate the species population. Notes that fencing has occurred for approximately 6-8 years and it is used primarily for predation.
143	Rep. Kruse	Questions how many incidents of take have occurred.
145	Bruce	Responds that he does not have that information.
151	Rep. King	Questions the status, is the species threaten not endangered.
156	Bruce	Responds that the species is listed under both state and federal ESA as threatened. Notes that the recovery plan has been developed.
178	Rep. Tomei	Questions if the 17 miles of closure is restricted to motorized use and how much is closed to foot traffic.
184	Bruce	Responds that it is closed for both motorized and foot traffic in some areas. Notes that foot traffic is prohibited in small areas north of Coos Bay.
204	Wright	Further clarifies that most of the 17 miles is closed to both motorized and foot traffic.
208	Rep. Wirth	Asks if there are other reasons for the Parks and Recreation Department to close beach access.
213	Wright	Responds that the department is the only authority to close beaches or limit beach activities. Notes that at times cities have

268	Chair Jenson	been delegated limited authority. Closes the work session on HB 3572 and opens a public hearing on HB 3334.
<b><u>HB 3334 – PUBLIC HEARING</u></b>		
318	Roy Elicker	Legislative Coordinator, ODFW. Reads and submits testimony reviewing the pilot program directed by SB 834 (1999) <b>(EXHIBIT G)</b> . Notes that there is only one private hatchery facility interested in bidding on the trout production to sell to the state.
371	Elicker	Continues presentation reviewing the possible \$500,000 expense per biennium to the department. Notes that 6 of the 10 state hatcheries still produce trout as part of the department's program.
414	Rep. Wirth	Questions if other states have a program that requires the state to purchase from a private production company.
417	Elicker	Responds affirmative. Reviews California's process. Notes that he is unsure if it is mandated or not.
434	Rep. Wirth	Requests confirmation if other states mandate or not. Questions if the production companies are limited to selling in their home state.
447	Elicker	Responds that the companies can sell to any buyer, in or out of state. Provides additional information provided in SB 834 (99).
<b>TAPE 76, B</b>		
022	Rep. Tomei	Requests clarification regarding the 10% dispute.
025	Elicker	Responds and explains there has been dispute over the cost per pound of the fish. Reviews directives of SB 834 (99).
080	Rep. Tomei	Questions if the department agrees \$2.50/lb. figures for private production.
087	Elicker	Responds in agreement with the \$4.57/lb cost.
093	Rep. King	Comments the department's accounting requires improvement. Notes and discusses the need to identify problems so a solution may be determined.
121	Rep. Kruse	Questions if the bidding process has begun. Comments on ODFW not providing all the costs.
126	Elicker	Responds that the bids are being prepared to send to the producers for the 2001 production year.
132	Rep. Kruse	Questions the current capacity of the state hatcheries. Comments on the current efficiency level.
143	Elicker	Responds that Fall Creek is not operating at capacity.
149	Kay Brown	Policy Coordinator, ODFW. Responds that the hatcheries are empty at different times. Notes this is due to the rearing seasons of the different species. Adds that several hatcheries have been reduced due to budget reductions.
161	Rep. Kruse	Explains that the department has been reluctant in providing the legislature with production costs.
177	Rep. King	Questions if the purchase percentage was increased to 25% will initiate interest from other trout producers.
182	Elicker	Responds that the 10% production provides the department with fair amount of fish to place in the market. Notes that he does not have that information if the production level is increased to 25%.
203	Rep. Wirth	Questions if the state is limited in purchasing any amount of trout from private production.
207	Elicker	Responds that the current status states 10% or more. Provides

additional information regarding the current fiscal impact statement.

245 Spencer Representing Desert Springs. Comments that ODFW has been delinquent in providing adequate data (**EXHIBIT H**). Notes that Desert Springs has attempted to attract other trout producers.

288 Rep. Leonard Comments on the method of how the costs are being determined and questions if the \$4.57 is the actual cost.

311 Spencer Responds and explains that the figure was calculated through a joint effort.

322 Tom MacDonald Desert Springs Trout Farm. Provides background on how the figures have been calculated.

349 Rep. Leonard Questions how much does \$4.57 include of the fixed costs that the state will pay regardless of who is producing the fish.

378 Spencer Responds that they believe this is the most accurate figure to date.

389 Rep. Leonard States and questions that he is interested in the true cost of rearing trout.

427 MacDonald Discusses and presents the current operations of Desert Springs Trout Farm.

475 Lyle Negus Desert Springs Trout Farm. Discusses on the potential savings to the state. Comments that the savings could be utilized in other areas of the department. Notes that some of the hatcheries should be discontinued.

**TAPE 77, A**

060 Spencer Comments that the older hatcheries could be utilized as holding areas for rearing trout.

091 Phil Donovan Representing NW Sportfishing Industry Association. Comments that the association is neutral on the bill but interested in the subject.

108 Terry Thompson Representing Desert Springs Trout Farm. Comments that private aquaculture has an advantage over the state in the area of water temperature.

143 Chair Jenson Closes public hearing on HB 3334 and opens public hearing on HB 3213.

**HB 3213 – PUBLIC HEARING**

152 Steve Mountainspring Attorney at Law, Dole, Coalwell, Clark, Mountainspring & Mornarich. Provides background and submits study (**EXHIBIT I**). Reviews the removal and fill permits in Jackson County.

200 Mountainspring Continues review of mitigation and banking of wetlands credits.

230 Diane Davidson President of Landowner Resource Management (LORM) Corporation. Presents testimony and submits (**EXHIBIT J**). Continues review of wetland issues in Jackson County.

280 Davidson Discusses the pilot program, the wetland mitigation bank.

322 Davidson Continues presentation, reviews the conservation mapping center.

398 Davidson Submits and reviews proposed amendments (**EXHIBIT K**) and written testimony (**EXHIBIT L**).

440 Davidson Continues and summarizes presentation.

**TAPE 78, A**

040 Rep. King Questions if mitigation reduces recreational opportunities and mitigation will simplify some real estate transactions.

050 Davidson Responds affirmatively. Comments that the private sector is uninformed and detached from this process.

080 Chair Jenson Submits Division of State Lands written testimony (**EXHIBIT**

083

Chair Jenson

**M).**

Closes public hearing on HB 3213 and adjourns meeting at 3:22 p.m.

Submitted By,

Reviewed By,

Linda K. Gatto,  
Committee Assistant

Sandy Thiele-Cirka,  
Committee Administrator

**EXHIBIT SUMMARY**

- A. HB 3334, Fiscal Impact Statement, Staff, 1 pp.**
- B. HB 3572, Written testimony, C. Bruce, 2 pp.**
- C. HB 3572, Written testimony, D. Wright, 3 pp.**
- D. HB 3572, Written testimony, R. Hartmann, 1 pp.**
- E. HB 3572, Written testimony, L. Frenkel, 1 pp.**
- F. HB 3572, Written testimony, J. Griffith, 1 pp.**
- G. HB 3334, Written testimony, R. Elicker, 1 pp.**
- H. HB 3334, Written testimony, R. Spencer, 8 pp.**
- I. HB 3213, Written testimony, S. Mountainspring, 75 pp.**
- J. HB 3213, Written testimony, D. Davidson, 4 pp.**
- K. HB 3213, -1 amendment (3/30/01), D. Davidson, 2 pp.**
- L. HB 3213, Written testimony, D. Davidson, 1 pp.**
- M. HB 3213, Written testimony, Division State Lands, Staff, 1 pp.**