

**JOINT COMMITTEE ON STREAM RESTORATION**  
**AND SPECIES RECOVERY**

**April 27, 1999 Hearing Room 50**

**4:30 PM Tapes 104 - 107**

**MEMBERS PRESENT: Sen. Ted Ferrioli, Co-Chair**

**Rep. Ken Messerle, Co-Chair**

**Sen. Joan Dukes, Vice-Chair**

**Rep. Bob Jenson, Vice-Chair**

**Sen. David Nelson**

**Sen. Frank Shields**

**Sen. Veral Tarno**

**Rep. Al King**

**Rep. Jeff Kruse**

**Rep. Randy Leonard**

**Rep. Lynn Lundquist**

**Rep. Susan Morgan**

**Rep. Bruce Starr**

**Rep. Terry Thompson**

**STAFF PRESENT: Judith Callens, Administrator**

**Stephen Kosiewicz, Administrative Support**

**MEASURE/ISSUES HEARD: HB 3612 Public Hearing and Work Session**

**SB 133 Public Hearing and Work Session**

**SB 1161 Public Hearing and Work Session**

**HB 3229 Public Hearing and Work Session**

**HB 3620 Public Hearing and Work Session**

**HB 3225 Public Hearing**

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.

TAPE/#	Speaker	Comments
<b>TAPE 104, A</b>		
004	Chair Ferrioli	Calls the committee to order at 4:48 p.m. Announces change in today's agenda. Opens the public hearing on HB 3612.
<b><u>HB 3612 - PUBLIC HEARING</u></b>		
017	Rep. Terry Thompson	House District 4. Testifies on why he introduced HB 3612.
050	Herbert Goblirsch	Comments in support of HB 3612. Submits and reads written testimony regarding albacore tuna ( <b>EXHIBIT A</b> ).
105	Rep. Thompson	Explains why HB 3612 is before this committee.
112	Lindsay Ball	Fish and Wildlife Division Captain, Oregon State Police. Submits written testimony ( <b>EXHIBIT B</b> ) and testifies in support of HB 3612.
143	Rep. Thompson	Suggests change to HB 3612 in line 24 to include the word "processors".
152	Rep. King	Notes that Rep. Thompson referred to a page two, but HB 3612 is only one page.
155	Rep. Thompson	Clarifies that he was referring to the LC draft.
170	Rep. Jenson	Asks for clarification that they are talking about processors' organizations.
172	Rep. Thompson	Responds that it could be processors or processors' organizations.
177	Rep. King	Referencing section 2, paragraph 2, in line 7, asks whether they should be dealing with value rather than gain.
187	Ball	Responds that this falls back on the fair market value of the fish.
191	Rep. King	Asks if the word "gain" already has a legal definition that they can work with.

192	Ball	Responds that this is correct.
193	Sen. Nelson	Asks how long the drift nets have been outlawed, is there evasion, and how do they enforce the fleet laws.
199	Goblirsch	Responds that a UN resolution in 1992 instated a worldwide ban on high seas, large scale, small mesh drift nets. Notes that in the last few years they have seen a few pirate drift net boats from China.
211	Rep. Thompson	Notes that there is some worry about these pirate boats.
220	Kay Brown	Department of Fish and Wildlife. Submits written material ( <b>EXHIBIT C</b> ) and testifies in support of HB 3612.
234	Chair Ferrioli	Closes the public hearing and opens the work session on HB 3612.
<b><u>HB 3612 n WORK SESSION</u></b>		
247	Chair Ferrioli	Notes that there is a minimal fiscal impact on HB 3612.
249	Rep. Thompson	<b>MOTION: Moves to AMEND HB 3612 on page 1, in line 24, after "organizations," insert "or processors or processors' organizations".</b>
		<b>VOTE: 11-0</b> <b>EXCUSED: 3 - Dukes, Kruse, Leonard</b>
263	Chair Ferrioli	<b>Hearing no objection, declares the motion CARRIED.</b>
264	Rep. Thompson	<b>MOTION: Moves HB 3612 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 11-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 3 - Dukes, Kruse, Leonard</b>
278	Chair Ferrioli	<b>The motion CARRIES.</b> <b>REP. THOMPSON will lead discussion on the floor.</b>
285	Chair Ferrioli	Closes the work session on HB 3612 and opens the public hearing on SB 133.

**SB 133 n PUBLIC HEARING**

309	Judith Callens	Committee Administrator. Explains the provisions of the SB 133-3 amendments.
366	Callens	Continues explaining the provisions of the n3 amendments.
375	Sen. Dukes	Notes that there is no mention under the scope of responsibilities about hatcheries or hatchery fish. Asks if they are encompassed in the term anadromous fish.
383	Callens	Responds that the amendments reference all programs related to native or anadromous fish, and she believes this includes hatchery programs and any related issues.
394	Rep. King	Notes that there is revised wording in the n2 amendments that might be relative to the question also.
407	Callens	Notes that in comparing the n2 amendments to the n3 amendments, the only difference she can see is this specific language.
<b>TAPE 105, A</b>		
007	Rep. Thompson	Explains why he introduced the n2 amendments.
022	Rep. Messerle	Referencing the language at the bottom of page 1A in the hand-engrossed version of the bill, questions why there is the reference to native fish and native habitat.
048	Callens	Clarifies that the n2 amendments provide a narrower scope for the committee.
058	Rep. King	Notes that the language in the SB 133-1 amendments was broad. Questions whether the language should be broader to encompass more than just native salmon recovery.
075	Callens	Clarifies that the n3 amendments are a corrected version of the n1 amendments.
082	Chair Ferrioli	Notes that Measure 66 talks about fish and wildlife habitat.
092	Rep. Lundquist	Questions what the intent of SB 133 is.
111	Chair Ferrioli	Explains that the purpose of SB 133 is to broaden the scope of responsibility for the committee to include the oversight pertaining to native and anadromous fish.

131	Rep. Jenson	States that it seems to him that the ñ2 amendments address the issue of native fish. Asks if the ñ2 amendments provide the increased flexibility to broaden the scope in the manner the Co-Chairs feel it should be.
143	Callens	Notes that the bill came from the interim committee and they were looking for the opportunity to look at a broader scope of issues. Notes that the ñ3 amendments indicate that the committee would be working at the charge of leadership.
159	Chair Ferrioli	Notes the differences between the ñ2 and ñ3 amendments.
167	Sen. Dukes	Notes that she likes the language in the ñ2 amendment regarding the committee's ability to review other issues related to stream restoration and species recovery generally.
171	Rep. Starr	Notes that the committee is amending a section of ORS in SB 133 that they are also addressing in HB 3225.
181	Chair Ferrioli	Notes that in section 1 of the ñ2 amendments there is a different set of statements about the issues to be considered by the joint committee.
193	Rep. Thompson	Expresses concern about expanding the committee's scope to include natural resources.
206	Rep. Kruse	States that his problem with the ñ2 amendments is that they do not necessarily bring in the Clean Water Act.
228	Sen. Dukes	Referencing language in section 2 of the ñ2 amendments, comments that expanding the scope to natural resources has opened up the committee to too many issues.
249	Chair Ferrioli	Notes that the term "wildlife habitat" comes from Measure 66.
255	Brown	States that the definition of wildlife in statute includes fish.
263	Chair Ferrioli	Clarifies that the committee is considering the definition of the scope of work that is contained in the first section of the bill.
273	Rep. Thompson	Agrees with the Chair's previous remarks. Comments that he would like to have some basic parameters or guidelines that the committee can pull back to.
285	Chair Ferrioli	Comments on Rep. Messerle's concerns regarding the use of the term "native and anadromous"

298	Sen. Tarno	Notes that in line 29 on page 2 of the ñ2 amendments the term "native and anadromous" has been deleted.
305	Callens	Clarifies the section of the ñ2 amendments Sen. Tarno is referring to.
310	Rep. Jenson	Notes that this language appears to be consistent throughout the ñ2 amendments.
337	Rep. Messerle	Notes that his concerns with the ñ2 amendments have been addressed.
[Committee at ease while they wait for Ms. Holman to arrive]		
389	Rep. Messerle	Referencing section 1 of the original bill, asks if they are deleting their responsibility to oversee the IMST and the CSRPTF.
397	Sen. Tarno	States that this oversight language may be in ORS 541.405.
409	Callens	Notes that ORS 541.405 is a reference to the Oregon Plan and does not address the responsibilities of this committee.
<b>TAPE 104, B</b>		
010	Rep. Jenson	Asks whether section of the ñ2 amendments addresses the concerns expressed about the IMST.
017	Callens	Responds that this section relates to the IMST's responsibilities.
021	Rep. Messerle	Notes that the ñ2 amendments change the reference from ORS 171.553 to ORS 171.551.
034	Jeannette Holman	Legislative Counsel Office. Notes that the ñ3 amendments are a corrected version of the ñ1 amendments.
048	Chair Ferrioli	Asks for clarification that the ñ2 amendments incorporate the entire original bill and the ñ1 amendments.
050	Holman	Responds that the ñ2 amendments keep the committee much more tied to the Oregon Plan activities.
064	Chair Ferrioli	Asks for clarification that the ñ3 amendments are a much broader application.
065	Holman	Responds that this is correct.

067	Rep. Messerle	Notes that the ñ3 amendments refer to ORS 171.551 in section 1, but the original bill refers to ORS 171.553. Asks if this was a typographical error.
079	Holman	Responds that in the original bill the committee name was not changed.
089	Rep. King	States that he does not understand the response given by Ms. Holman. Asks for clarification that the different ORS cite in the ñ3 amendments accounts for the change in name.
094	Holman	Responds that ORS 171.551 established the committee and when the bill was drafted during the interim, they were not looking at reconstituting the committee.
106	Rep. King	States that it appears they are going to be amending pieces of the different amendments into one of the versions.
114	Chair Ferrioli	Notes that if any amendments are adopted another version would have to be produced before the bill would move to the floor, and this would give the committee another opportunity to check the statute numbers.
119	Rep. Kruse	Questions whether the ñ2 amendments really change anything that is already in ORS 171.553.
132	Chair Ferrioli	Notes that the ñ2 amendments still address the issue of species recovery generally. Asks Ms. Holman if there are any more significant changes in the ñ2 amendments after page 2.
145	Holman	States that there are a number of changes that deal with the change from "native and anadromous" to "fish and wildlife". Responds that the rest of the sections are the same as in the ñ3 amendments.
168	Rep. Jenson	Referencing page 2 of the ñ2 amendments, starting in line 17, asks for clarification on the transition between these amendments and the hand-engrossed version of SB 133.
179	Holman	Clarifies that they have changed statutes, and that this language can be found on page 1A of the hand-engrossed version.
195	Rep. Jenson	[Comments inaudible]
206	Chair Ferrioli	Referencing page 2, line 18 of the ñ2 amendments, asks if the instructions in this line refers to line 5 on page 1A of the hand-engrossed bill version.
210	Holman	Responds that this refers to the first page of the bill.

234	Rep. Kruse	States his confusion over what line 18 on page 2 of the ñ2 amendments is referring to.
238	Chair Ferrioli	Notes that this refers to the original bill.
248	Rep. Kruse	Suggests inserting the term "water quality" on page 1, line 11 of the ñ2 amendments.
277	Rep. Lundquist	Asks for clarification that inserting this term means the committee could take action on this but would not have to.
285	Rep. Kruse	Clarifies that it is not inclusive of all water quality issues, but notes that compliance with the Clean Water Act is an integral part of the Oregon Plan.
293	Chair Ferrioli	Notes that the relating clause of the bill talks specifically about native and anadromous fish, which has implications for water quality. States that this is how he would interpret water quality in this case.
301	Sen. Tarno	Questions how involved the committee wants to be on issues such as 303(d) list and TMDLs.
308	Rep. Morgan	States her belief that water quality is ultimately where the discussion is going to end up.
316	Rep. Thompson	States that he would not want to see the committee spending all of its time on water quality issues.
321	Chair Ferrioli	Closes the public hearing and opens the work session on SB 133.
<b><u>SB 133 ñ WORK SESSION</u></b>		
326	Chair Ferrioli	<b>MOTION: Moves to AMEND SB 133-2 amendments on page 1, in line 11, after "to," insert "water quality".</b>
		<b>VOTE: 13-0</b> <b>EXCUSED: 1 - Nelson</b>
328	Chair Ferrioli	<b>Hearing no objection, declares the motion CARRIED.</b>
332	Rep. Thompson	<b>MOTION: Moves to ADOPT SB 133-2 amendments dated 3/19/99 AS AMENDED.</b>



		<b>VOTE: 13-0</b> <b>EXCUSED: 1 - Nelson</b>
337	Chair Ferrioli	Hearing no objection, declares the motion CARRIED.
341	Rep. Thompson	<b>MOTION: Moves SB 133 to the floor with a DO PASS AS AMENDED recommendation.</b>
355	Sen. Shields	Asks for clarification that they did not move any pieces of the ñ3 amendments into the ñ2 amendments.
358	Chair Ferrioli	Indicates that they did not.
		<b>VOTE: 13-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 1 - Nelson</b>
374	Chair Ferrioli	<b>The motion CARRIES.</b> <b>SEN. DUKES will lead discussion on the floor.</b>
383	Chair Ferrioli	Closes the work session on SB 133 and opens the public hearing on SB 1161.
<b><u>SB 1161 ñ PUBLIC HEARING</u></b>		
396	Callens	Explains the provisions of SB 1161 and the ñ1 amendments.
<b>TAPE 105, B</b>		
012	Sen. Dukes	Asks whether they could insert some language that says that not all members shall come from one party. Notes that there is a non-legislative task force that only has Republicans appointed to it.
037	Rep. Lundquist	Agrees with Sen. Dukes' previous remarks.
046	Rep. Kruse	Suggests making a reference that the appointments will be made based on the interim chamber rules they operate under.
054	Chair Messerle	Notes the reason why they made the change to this language.

057	Rep. Morgan	States that she has no problem with inserting language similar to what Sen. Dukes has suggested.
065	Rep. Jenson	Notes that the committee could move the bill out and then address this issue when the bill comes back to committee on the House side [comments inaudible at times].
074	Chair Ferrioli	Clarifies that the intent of SB 1161 is to represent, as broadly as possible, the group of people that they represent.
090	Rep. Kruse	Asks if the Senate has proportionality rules.
091	Sen. Dukes	Responds that they do not.
092	Rep. Kruse	Notes that the House does. Questions why they indicate that appointments should be made based on the House proportionality rules.
097	Chair Ferrioli	States that it is not necessary to recite in statute that the bodies will follow their own rules.
104	Callens	Notes that when she submitted the amendment request to Legislative Counsel, Ms. Holman is the one that suggested they remain silent on the bipartisan issue.
112	Sen. Dukes	Reiterates her concerns that the appointments may be from one party.
131	Rep. Thompson	Expresses concern about inserting language if Legislative Counsel has suggested they remain silent on the issue.
141	Rep. Starr	Suggests that they could add wording that would require that not all appointments come from the same party [comments inaudible at times].
153	Chair Ferrioli	States his reluctance to put restrictions on the decisions that are made by leadership. Closes the public hearing and opens the work session on SB 1161.
<b><u>SB 1161 ñ WORK SESSION</u></b>		
156	Rep. Starr	<b>MOTION: Moves to ADOPT SB 1161-1 amendments dated 4/26/99.</b>
		<b>VOTE: 9-3</b>  <b>AYE: 9 - Jenson, King, Kruse, Leonard, Morgan, Starr, Tarno, Ferrioli, Messerle</b>

		<b>NAY: 3 - Dukes, Lundquist, Thompson</b> <b>EXCUSED: 2 - Nelson, Shields</b>
186	Chair Ferrioli	The motion FAILS.
187	Rep. Starr	<b>MOTION: Moves to AMEND SB 1161-1 amendments by inserting language that not all members of this commission could be from the same party affiliation.</b>
191	Rep. Leonard	Clarifies that the committee must reconsider the vote on the ñ1 amendments in order to move the conceptual amendment.
198	Rep. Leonard	<b>MOTION: Moves to RECONSIDER the vote by which the committee failed to adopt the SB 1161-1 amendments dated 4/26/99.</b>
		<b>VOTE: 12-0</b> <b>EXCUSED: 2 - Nelson, Shields</b>
200	Chair Ferrioli	Hearing no objection, declares the motion CARRIED.
201	Rep. Starr	<b>MOTION: Moves to AMEND SB 1161-1 amendments by inserting language that not all members of this commission could be from the same party affiliation.</b>
		<b>VOTE: 12-0</b> <b>EXCUSED: 2 - Nelson, Shields</b>
207	Chair Ferrioli	Hearing no objection, declares the motion CARRIED.
208	Rep. Starr	<b>MOTION: Moves to ADOPT SB 1161-1 amendments dated 4/26/99 AS AMENDED.</b>
212	Chair Ferrioli	Hearing no objection, declares the motion CARRIED.
229	Rep. Starr	<b>MOTION: Moves SB 1161 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 12-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b>

		<b>EXCUSED: 2 - Nelson, Shields</b>
<b>238</b>	<b>Chair Ferrioli</b>	<b>The motion CARRIES.</b> <b>SEN. FERRIOLI will lead discussion on the floor.</b>
242	Chair Ferrioli	Closes the work session on SB 1161 and opens the public hearing on HB 3229
<b><u>HB 3229 ñ PUBLIC HEARING</u></b>		
249	Callens	Explains the provisions of HB 3229 and the ñ2 amendments.
305	Mike Llewelyn	Water Quality Division Administrator, Department of Environmental Quality. Testifies in support of HB 3229.
335	Sen. Tarno	Asks if the FTE indicated in the fiscal impact would be limited duration positions.
339	Llewelyn	Responds that this would be acceptable. Notes that DEQ would still need to have some resource to carry the standard through the formal triennial review process with the EPA.
356	Jean Underhill Wilkinson	Oregon Cattlemenís Association. Testifies on the lack of understanding of water quality standards among landowners. Comments on her organizationís concerns with HB 3229.
399	Llewelyn	Comments that the issue Ms. Wilkinson has raised is a valid one.
<b>TAPE 106, A</b>		
012	Rep. Messerle	Notes that there could be a problem with the fiscal impact of HB 3229. Asks if it is possible for DEQ to get a program started with current resources.
017	Llewelyn	Responds that they would need additional resources to take this on.
030	Rep. Morgan	Asks what the nature of DEQ's discussions has been with NMFS, EPA, and the U.S. Fish and Wildlife Service.
033	Llewelyn	Responds that he has had several discussions with NMFS, EPA, and the U.S. Fish and Wildlife Service on this issue.
047	Rep. Morgan	Asks for clarification that the EPA is not going to allow DEQ to slack off on doing the TMDLs or any of the other things that they are requiring.

049	Llewelyn	Responds that this is correct.
052	Rep. Lundquist	Asks Ms. Wilkinson if there is the potential that these water quality standards might come out more stringent than they are currently.
057	Wilkinson	Responds that this is a possibility.
076	Rep. Lundquist	Expresses support for this concept and cautions the committee on the potential outcomes that could result.
079	Chair Ferrioli	Comments that this focuses the attention on the stream function not on an arbitrary, but scientific standard.
091	Wilkinson	Suggests that when the group of scientists comes up with proposed criteria they bring it back to the committee for review.
101	Rep. King	Asks if the proposed funding for this is Measure 66 money.
104	Pete Test	Oregon Farm Bureau. Responds that the original idea was to look for Measure 66 money.
118	Rep. King	Asks for clarification that this is a different issue than the high quality water issue.
122	Llewelyn	Responds that this is correct.
124	Rep. Messerle	Notes that the EPA has not adopted Oregon's temperature standard. Asks if there is room to go back and discuss with EPA whether we could try doing some research to see if this is feasible.
133	Llewelyn	Responds that it is DEQ's understanding that EPA will be approving these standards eventually with the caveat that they want to go back and look at the temperature criteria very specifically.
147	Rep. Morgan	Asks if HB 3229 is like the Oregon Plan for the Clean Water Act.
153	Llewelyn	Responds that they are talking about a revolution in how a water quality standard is developed.
172	Rep. Morgan	Asks for clarification as to whether Mr. Llewelyn's response was yes or no.
173	Llewelyn	Responds that this is not an overarching issue with regard to the Clean Water Act in Oregon.

178	Chair Ferrioli	Notes that the issue here is whether or not there is an adaptive management standard that is not strictly science based.
184	Rep. Morgan	States that what intrigues her about HB 3229 is that it focuses on the reality of the situation.
194	Test	Submits written testimony ( <b>EXHIBIT D</b> ) and testifies in support of HB 3229.
244	Rep. Starr	Expresses support for HB 3229.
254	Sen. Tarno	Notes that Mr. Testis submitted testimony expresses support for the HB 3229-1 amendments. Asks what happened with these amendments.
257	Test	Responds that the ñ1 amendments were incorporated into the ñ2 amendments.
260	Jim Myron	Oregon Trout. Testifies in support of HB 3229.
307	Rep. Kruse	Asks for clarification that HB 3229 does not differ too much from what DEQ envisioned as their mission anyway.
315	Llewelyn	Responds that the problem is that the standard DEQ adopted said that the criteria is 64f, and then if you cannot get there after you have done everything you are supposed to do, the standard becomes what is remaining in the stream.
345	Rep. Kruse	Notes that at the start of all of this there was the assumption that EPA was going to buy into this plan of the ability to adjust when the state determined that it could not attain certain standards.
351	Chair Ferrioli	Notes that the key to this issue is the idea of adaptive management.
366	Chair Ferrioli	Closes the public hearing and opens the work session on HB 3229.
<b><u>HB 3229 ñ WORK SESSION</u></b>		
369	Rep. Starr	<b>MOTION: Moves to ADOPT HB 3229-2 amendments dated 4/26/99.</b>
		<b>VOTE: 13-0</b> <b>EXCUSED: 1 - Thompson</b>
372	Chair Ferrioli	<b>Hearing no objection, declares the motion CARRIED.</b>

374	Rep. Starr	<b>MOTION: Moves HB 3229 to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on Ways and Means.</b>
		<b>VOTE: 13-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 1 - Thompson</b>
396	Chair Ferrioli	<b>The motion CARRIES.</b>
402	Chair Ferrioli	Closes the work session on HB 3612 and opens the public hearing on HB 3620.
<b><u>HB 3620 ñ PUBLIC HEARING</u></b>		
408	Callens	Explains the provisions of HB 3620.
<b>TAPE 107, A</b>		
012	Rep. Bob Jenson	House District 57. Submits and reads written testimony in support of HB 3620 <b>(EXHIBIT E)</b> .
048	Martha Pagel	Director, Water Resources Department. Submits written testimony <b>(EXHIBIT F)</b> and testifies in support of HB 3620.
074	Sen. Nelson	Asks for clarification that the Washington ground squirrel issue came up only recently.
077	Pagel	Responds that a petition for listing as threatened came up late in the situation.
078	Sen. Nelson	Comments that the group that made the petition knew about this several years in advance but did not bring the issue forth until it appeared an agreement was being made.
093	Reed Benson	Executive Director, Water Watch. Testifies in opposition to HB 3620.
147	Benson	Continues testimony in opposition to HB 3620.
203	Rep. Lundquist	Asks for clarification that this project could proceed currently.
207	Benson	Responds that there would be some concerns under the Oregon ESA at a minimum, but dry land farming is an option available to the developers.

212	Rep. Lundquist	Comments that he does not see the logic in the fact that there is concern when the land is not contiguous, but there is not a problem if the land is contiguous.
227	Benson	Comments that this issue was discussed at some length during deliberations on earlier legislation in 1995.
247	Myron	Testifies in opposition to HB 3620.
267	Rep. Starr	Asks if Mr. Benson or Mr. Myron know of any other cases that might be affected by the passage of this legislation [question inaudible at times].
274	Myron	Responds that he does not know of any pending cases where this would be applicable. Notes that the way HB 3620 is written could allow someone in the future to move water from one land to another that was not contiguous.
284	Benson	Concurs with Mr. Myron's response.
286	Rep. Starr	[Comments inaudible].
289	Myron	States that he fails to see how anybody could make an assessment of whether or not this mitigation or conservation effort would actually protect one of these species because there is nothing to measure that by.
300	Rep. King	States that he does not know how the water gets back to the waterway when there are non-contiguous lands. Asks if this issue was discussed.
312	Pagel	Responds that at the stage of issuing a permit, WRD has not really identified where and how any return flows are going to occur.
330	Rep. King	States that it sounds like there is no plan for how the water would return back to the stream from which it came from. Questions why this would not be addressed in legislation.
344	Pagel	Comments that WRD is expecting that the individual in this situation will not be able to move the water to very far away. Notes that they have other statutes that prohibit things like inter-basin transfers.
354	Rep. Lundquist	Thanks Ms. Pagel for her positive approach to this project. Comments on the need to remain practical in regard to this issue.
391	Benson	Notes that this is an issue that generates strong feelings on all sides. Reiterates what his organization's concerns are with HB 3620.
<b>TAPE 106, B</b>		



009	Rep. Jenson	Asks Mr. Benson if honesty and fairness should be criteria that they operate on.
012	Benson	Responds that it is hard to argue with this.
013	Rep. Jenson	Asks if it would be reasonable to say that Mr. Hale was reasonably honest and fair when he did not start the dry land farming five years ago before the threatened species issue came up.
018	Benson	Responds that he does not personally have the history on this issue. Notes that there were some concerns about what was happening on the ground this past winter.
023	Rep. Jenson	Asks if it would be fair to say that the issue of the Washington ground squirrel would have been apparent to Mr. Hale five years ago.
030	Benson	Reiterates that he is not familiar with the history of this issue. Notes that there have been concerns for some time about the health of those populations and the scarcity of that habitat.
033	Rep. Jenson	Asks if it would be fair to Mr. Hale that he be notified as soon as someone had concerns about this so he could make a management decision based on this.
035	Benson	Responds that Mr. Hale was probably aware of the concerns and that they had made it apparent that a petition for listing of the Washington ground squirrel was likely to be filed.
040	Rep. Jenson	Notes how closely he has followed this situation and that this issue only came to his attention in the last year. Asks Mr. Benson if he is aware of a NMFS biological opinion relating to water by the Bureau of Reclamation above the Lower Granite Reservoir from April 1999.
051	Benson	Responds that he is not familiar with this opinion.
053	Rep. Jenson	Reads the conclusion from this biological opinion.
063	Benson	States that he would interested in reading this opinion. Notes that one reason why NMFS considered inland to be a problem was because there was already a vast amount of development upstream which was creating on going problems for Snake River salmon.
072	Rep. Jenson	Asks Mr. Benson if he was aware that when the decision was made to move the withdrawal to the Willow Creek pump station, NMFS said they no longer had an investment in the project.
076	Benson	Responds that he was aware that this position is the official, legal position of the

		Corps of Engineers.
082	Pagel	Notes that it was WRD's intent to develop language that created a standard that required this action to be necessary in connection with protection of the listed species.
094	Chair Messerle	Asks if WRD could develop administrative rules if they saw a problem.
096	Pagel	Responds that they could. Notes that they were not envisioning doing administrative rule making on this at the outset.
100	Chair Messerle	Closes the public hearing and opens the work session on HB 3620.
<b><u>HB 3620 - WORK SESSION</u></b>		
102	Rep. Lundquist	<b>MOTION: Moves HB 3620 to the floor with a DO PASS recommendation.</b>
[Committee at ease while they wait for Sen. Ferrioli to return]		
127	Rep. Morgan	Expresses support for HB 3620.
		<b>VOTE: 11-3</b>  <b>AYE: 11 - Dukes, Jenson, King, Kruse, Lundquist, Morgan, Nelson, Starr, Tarno, Ferrioli, Messerle</b>  <b>NAY: 3 - Leonard, Shields, Thompson</b>
148	Chair Messerle	<b>The motion CARRIES.</b>  <b>REP. JENSON will lead discussion on the floor.</b>
165	Chair Ferrioli	Closes the work session on HB 3620 and opens the public hearing on HB 3225.
<b><u>HB 3225 - PUBLIC HEARING</u></b>		
174	Rep. Thompson	Explains the provisions of the 6, 7, 8, 9, and 10 amendments to HB 3225 and why he introduced them.
231	Chair Ferrioli	Thanks Rep. Thompson for introducing these amendments.
237	Callens	Explains that the committee meetings next week will focus primarily on HB

		3225.
246	Chair Ferrioli	Closes the public hearing on HB 3225. Adjourns the committee at 7:50 p.m.

Submitted By, Reviewed By,

Stephen Kosiewicz, Judith Callens,  
Administrative Support Administrator

#### **EXHIBIT SUMMARY**

**A ñ HB 3612, written material, Herbert Goblirsch, 1 p**

**B ñ HB 3612, written testimony, Lindsay Ball, 3 pp.**

**C ñ HB 3612, written material, Kay Brown, 5 pp.**

**D ñ HB 3229, written testimony, Pete Test, 1 p**

**E ñ HB 3620, written testimony, Rep. Bob Jenson, 1 p**

**F ñ HB 3620, written testimony, Martha Pagel, 2 pp.**