

**SENATE COMMITTEE ON BUSINESS & CONSUMER AFFAIRS**

February 03, 1999 Hearing Room A

6:00 p.m. Tapes 22 - 25

**MEMBERS PRESENT:** Sen. David Nelson, Chair

Sen. Lee Beyer, Vice-Chair

Sen. Rick Metsger

Sen. Randy Miller

Sen. Charles Starr

**STAFF PRESENT:** Anne Tweedt, Counsel

Judy Minnich, Administrative Support

**MEASURE/ISSUES HEARD:** SB 3 Public Hearing and Work Session

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   |
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| <b>Tape 22, A</b>                 |                    |  |
| 006                               | Chair Nelson       | Opens public hearing at 6:05 pm.   |
| <b><u>SB 3 PUBLIC HEARING</u></b> |                    |  |
| 007                               | <b>George Hash</b> | <b>Mayor, City of Umatilla</b><br><br>Submits written testimony and testifies in support of SB 3 <b>(EXHIBIT A)</b> . States that Umatilla is well prepared for handling a new prison. They are currently working on infrastructure development. The proposed site is well buffered from residential and school locations. |
| 039                               | Hash               | Discusses changes in Umatilla and need for economic growth. States   |

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|     |                     | that Umatilla views the prison as an environmentally clean industry with good stable jobs.  |
| 075 | <b>Martin Davis</b> | <b>City Manager, Umatilla</b><br><br>Indicates he has nothing to add to the Mayor's testimony but would like to submit letters for the record from a community member and an economic development professional who weren't able to testify in person <b>(EXHIBIT B AND C)</b> .   |
| 080 | Hash                | Asks that letters from students in the Blue Mountain Community College class in correctional services be placed in the record <b>(EXHIBIT D)</b> .  |
| 086 | Sen. Metsger        | We were given a compromise proposal by the Governor this afternoon and I'm wondering what your reaction is to his proposal? <b>(EXHIBIT E)</b> .  |
| 089 | Hash                | We have sent a question or two to him, but until we get those responses I'd rather not react any further to the governor's proposal.  |
| 105 | Sen. Miller         | Thanks the Mayor for his testimony. Asks if he thinks Umatilla can afford to wait until 2007 for their economic growth. Notes that the Governor and the legislature will be different in 2007 and this Governor and legislature can't bind them to action to be taken at that time.   |
| 124 | Hash                | We are concerned about this too. Of course it's not hard to want it now.  |
| 127 | Sen. Miller         | When the Governor vetoed SB 397 passed by the 1997 legislature that authorized the sale of Dammasch property the veto message said "If the legislature desires to prevent the construction of any correctional facility which has been sited in the last seven months it is incumbent on the legislature to also identify and site a cost effective alternative." There was nothing noted about regional requirements. In your opinion is the Umatilla site a cost effective alternative? |
| 142 | Hash                | The State saves 90.9 million dollars. We all need to pay our fair share of taxes and get benefits in return. But to waste money is a sin.   |
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| 152 | Sen. Miller            | Discusses the perception that people who live in the valley are insensitive to needs of Eastern Oregon. Notes that the past years have led him to believe that it may be true. Asks if the denial of their desire to have the prison will cement that belief in Umatilla.  |
| 162 | Hash                   | That is why I invited you and the entire legislature to come and see our part of the State. I frankly think that Eastern Oregon may be getting short changed.  |
| 179 | <b>Charlotte Lehan</b> | <b>Mayor of Wilsonville</b><br><br>Submits written testimony and testifies in support of siting the intake center and women's prison facility on Day Road in Washington County ( <b>EXHIBIT F</b> ). Indicates that although the city of Wilsonville is against siting it on the Dammasch property, they are fully supporting the alternate site at Day Road. Indicates that Wilsonville would also like the economic development associated with the prison location. |
| 259 | <b>Stacey Rumgay</b>   | <b>North Wilsonville Industrial Association</b><br><br>Owns a nursery on Day Road site. She represents some of the property owners. Discusses the reasons the site is optimal for the siting of a facility such as a prison. The area needs the infrastructure which would be part of the construction process. Supports prison at Day Road. ( <b>EXHIBIT G</b> )  |
| 354 | Sen. Beyer             | Inquires about the makeup of the property owners she represents.   |
| 363 | Rumgay                 | Indicates that she represents about half of the property owners of the Day Road site. Only two of the property owners are unwilling to sell their land.  |
| 371 | Sen. Miller            | Asks about neighbors and opposition to location of prison at Day Road.   |
| 381 | Rumgay                 | Indicates she is aware of the CAPS organization and their opposition.  |
| 387 | Sen. Miller            | Discusses jurisdictional issues relating to the Day Road site.   |
| 396 | Lehan                  | Indicates that Washington County   |

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|                   |             | has indicated they would work with Wilsonville, however she has not met with the new Washington County Commissioners. The Washington County staff have been very helpful.   |
| 407               | Sen. Miller | If the choice is between the Wilsonville area and Umatilla, and it is clear that Umatilla will cost \$91 million less, does your concern for tax payers dollars indicate that the prison should be sited in Umatilla? |
| 426               | Rumgay      | The \$91 million is not an immediate recapture. You will have to find property to replace the property used at Umatilla and that will reduce the long term savings.   |
| 447               | Sen. Miller | It is not at all certain that we will have to replace that property. The prison populations projections are being reduced. What we know exists today, is a need for a women's prison and a willing host in Umatilla.  |
| 456               | Rumgay      | You will also need an intake center and most of the new inmates are from the tri-county area.   |
| <b>Tape 23, A</b> |             |   |
| 024               | Sen. Miller | If we had to choose between a willing community where you save money and an unwilling community where you don't save and further must condemn private property to do it, what should the state do?                    |
| 030               | Rumgay      | Majority prevails. If it is going to serve a needed use, then it will benefit the majority of the people.   |
| 037               | Lehan       | It is not that simple to make these decisions. There are many factors which need to be considered. Condemnation is a last resort.   |
| 047               | Sen. Miller | All things being equal you would condemn last?  |
| 053               | Lehan       | All things are not equal in this case. Policy decisions regarding the benefits of siting the facility in the Portland metropolitan area are priority.   |
| 062               | Sen. Miller | When you decided to attend this hearing and testify in this manner,   |

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|     |                         | did you consider that you might be increasing the possibility that this prison will be located at Dammasch?  |
| 069 | Lehan                   | I don't view it that way.  |
| 071 | Sen. Miller             | In my judgment it is possible.   |
| 072 | Sen. Metsger            | You initially asked legislative leadership to let you look for another tri-county site, specifically in Wilsonville. Could you give me a short chronology of that process?   |
| 074 | Lehan                   | Gives a short history of Wilsonville's activity surrounding the siting of the prison. Indicates that Wilsonville was doing the legislature's bidding in this site search.  |
| 102 | Sen. Metsger            | Is it true that Wilsonville is supportive of the Day Road site simply because they don't want it at Dammasch. Does Wilsonville really want a prison at all?  |
| 107 | Lehan                   | That is the perception. Our first priority is that it not be at Dammasch. However, with all the time spent to locate another site and the knowledge gained, we now feel it will be beneficial to Wilsonville. We actively support this site. We have never expressed objections to Umatilla. If the Governor and legislature decide it should go to Umatilla, we would support that. Wilsonville wants the prison for the same infrastructure reasons Umatilla does. |
| 136 | Sen. Metsger            | Since Umatilla became a possibility, has your City Council reaffirmed their support for the Day Road site?   |
| 139 | Lehan                   | Our last formal reaffirmation was in August, however I have every reason to believe that their unanimous support is still there.   |
| 146 | Chair Nelson            | Ms. Rumgay, the members of your association don't actually own any of the Day Road property?   |
| 149 | Rumgay                  | Yes, they own approximately 70% of the site.   |
| 161 | <b>Sen. Gary George</b> | <b>State Senator from Oregon Senate District 2</b>   |

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|     |                     | District 2 is close to the sites, but they are not in my district. Discusses both sites. Thinks neither site is appropriate for a prison. This becomes very clear from the air. Indicates that there are other sites quite close to those being considered which are far better for this purpose and discusses these.  |
| 240 | Sen. George         | Discusses the need for another east-west connection to Highway 99. Indicates that the last property available to do that is the Day Road site. Discusses other reasons that the property being considered in the Wilsonville area should not be used as a prison site. Notes that the Day Road site is in Washington County and is not a part of Wilsonville. Objects to using the Willamette River to meet water needs. |
| 304 | Chair Nelson        | Is the highway connection you discussed in the Department of Transportation's plans?   |
| 315 | Sen. George         | No, however this is the only property left for this connection without bulldozing homes and other properties.  |
| 323 | Sen. Miller         | Do you recall the veto message by the Governor for SB 397? There was no mention of a regional burden sharing concept. Do you believe the Umatilla site fulfills the Governor's mandate as outlined in his veto message?  |
| 347 | Sen. George         | Yes. In fact that was one of the considerations. We were trying to come up with a compromise that met the Governor's criteria.   |
| 356 | <b>Mel Ray</b>      | <b>President of Umatilla Development Corporation</b><br><br>Testifies in support of SB 3. Indicates the need for good jobs in a clean industry. It will contribute to growth in Umatilla. In addition it will save the state quite a bit of money.   |
| 402 | <b>Joanne Mills</b> | <b>Oregonians for Responsible Prison Siting</b><br><br>Submits written testimony and testifies in support of SB 3 <b>(EXHIBIT H and I)</b> . Indicates the reasons that her organization believes Dammasch is a very poor site for a prison.   |

**Tape 22, B**

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| 030 | Mills                     | Continues testimony regarding the history of prison siting in Wilsonville. Discusses land use issues as they relate to the Dammasch property.  |
| 060 | <b>Terry Withers</b>      | <b>Oregonians for Responsible Prison Siting (ORPS)</b><br><br>Testifies in support of SB 3 <b>(EXHIBIT J, K and L)</b> . Discusses community support as part of the siting process. Discusses expense and time spent by ORPS in fighting the siting of the prison at the Dammasch.                 |
| 103 | Chair Nelson              | Have you taken a position on the Governor's offer?   |
| 104 | Mills                     | Did hate to take a position before the mayor of Umatilla takes a position. We have supported the Day Road site in the past as an alternative to the Dammasch site.   |
| 115 | Sen. Miller               | If there is a choice between the Day Road site and Umatilla, it should be noted that any promise which is to be implemented in 2007 is not certain. Events may change our needs and those involved will be different. Which site would you choose today?   |
| 135 | Mills                     | Umatilla appears to be the best option.  |
| 153 | Sen. Miller               | Do you know when the idea of regional burden sharing became part of this issue?  |
| 163 | Mills                     | Discusses the research ORPS did on the prison siting process in other areas of the country. The University of Oregon did a study in 1988 which indicated that the most successful siting occurred when it was done with the idea that prisons can be a benefit. Prisons don't have to be a burden. |
| 191 | <b>Melanie Pennington</b> | <b>Citizens for Accountability in Prison Siting (CAPS)</b><br><br>Submits written testimony and testifies in support of SB 3 <b>(EXHIBIT M, N and O)</b> . CAPS represents over 200 families. The Governor's proposal today is not seen as a compromise by my group.                               |

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|                   |              | <p>Had we been given more notice of the proposed compromise, there would have been far more citizens here. The Day Road site was thoroughly explored by the State and found not acceptable. What changed?</p> <p>Umatilla saves money. Day Road has environmental problems that haven't been fully explored as to their cost impact in addition to the already known extra cost.</p> <p>Umatilla wants the prison. CAPS is committed to do what is required to block the siting at Day Road. Community opposition is strong. Umatilla is welcoming the facility.</p>   |
| 275               | Pennington   | <p>Properties would have to be condemned. When the North Wilsonville Industrial Association was formed, ORPS sent 50-60 letters to owners of tax lots, and received 40 back, only 3 favored the prison. The state owns property that is suitable for a prison. It is unconscionable to take private property when suitable property is available.</p> <p>The property floods. It is in the 100 year floodplain (Exhibit M). There is currently litigation against one of the major owners of the Day Road site regarding the flooding. I have a video tape illustrating the flooding <b>(EXHIBIT P)</b>.</p> |
| 314               |              | Video tape (Exhibit P) is shown.   |
| 380               |              | Video contains a portion of a meeting in February, 1998 with Dave Cook, Department of Corrections. States that their analysis indicates that the Day Road site is not a good site for various reasons, including the necessity for condemnation proceedings.   |
| 438               | Pennington   | The Umatilla site is the only site which meets the only published criteria for siting of a prison developed by the Division of Corrections. The consultant hired by the DOC to look at the Day Road site cited many problems and recommended against it (Exhibit M).   |
| <b>Tape 23, B</b> |              |  |
| 032               | Chair Nelson | Thanks the witnesses for their valuable testimony.   |



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| 039 | Sen. Miller              | Had the CAPS group known of this so called deal, they would have been here. I hope we can soon stop terrorizing the members of the Wilsonville community and site this facility where it is wanted.   |
| 054 | <b>Dennis Mulvilhill</b> | <p><b>Washington County</b></p> <p>Submits a letter from Washington County and testifies in support of SB 3 (<b>EXHIBIT Q</b>). When the letter was written we were not aware of the alternative offered by the Governor. Washington County supports SB 3. We have problems with both sites in the Wilsonville area:</p> <ul style="list-style-type: none"> <li>• The impact on the surrounding community real estate values;</li> <li>• It is unclear what the environmental impact will be; and</li> <li>• The process troubles the Commissioners. A fresh approach, such as SB 3 is worth looking at.</li> </ul> <p>If there is a veto, Washington County is still open to other sites, but the cited issues need consideration. If Day Road site is chosen, Washington County wants to be the issuing authority for building permits.</p> |
| 166 | <b>Sen Thomas Wilde</b>  | <p><b>State Senator from Oregon Senate District 8</b></p> <p>Testifies in support of SB 3. Discusses the inadequacies of the Dammasch site. Indicates that flying over the two Wilsonville sites in a helicopter quickly points out their inadequacies. Originally, any site that would be prone to flooding was not to be considered. The Day Road site is obviously prone to flooding and on those grounds alone should be unacceptable. The Umatilla site has gone through the site review process and is acceptable. I have received only one letter from a citizen against the Umatilla site.</p>  |
| 250 | <b>Mike Mueller</b>      | <p><b>Tualatin</b></p> <p>Submits written testimony and testifies in support of SB 3 (<b>EXHIBIT R</b>).</p> <p>Highlights portions of his written testimony.</p>   |
| 363 | <b>Bob Mitchell</b>      | <b>Sherwood</b>   |

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|                   |                         | Discusses the news coverage of the Day Road site. Indicates that the advocates of the Day Road site have glossed over the difficulties with the site. Believes Umatilla is the best site.  |
| 390               | <b>Stephanie Eisert</b> | <b>Sheridan</b><br><br>Testifies in support of SB 3. Indicates that her home is on the edge of the Day Road site. She is a Washington County resident and wishes to disassociate herself from Wilsonville.   |
| <b>Tape 25, A</b> |                         |  |
| 015               | <b>Gene Reddemann</b>   | <b>Wilsonville</b><br><br>Submits written testimony and testifies in support of SB 3 <b>(EXHIBIT S)</b> . Hopes a compromise can be reached.   |
| 111               | <b>Dale Dickert</b>     | <b>Sherwood</b><br><br>His land is part of the Day Road site and he doesn't wish to give it up. It appears Umatilla is a solution and I am quite disturbed that the Governor is not willing to participate in siting at Umatilla as a compromise. Discusses compromise.  |
| 159               | <b>Dave Miller</b>      | <b>Sherwood</b><br><br>Does not wish to give up his property. Has owned property for ten years. Wants to build on his land. But is now in limbo due to uncertainty of prison siting controversy.   |
| 198               | <b>Buz Wiedemann</b>    | Believes there is substantial local support for the prison being sited at Day Road. Gives details of development of general area into an industrial site. Siting the prison at Days Road will bring much needed improvement to the infrastructure.<br><br>Discusses benefits of Day Road site for a prison facility. Believes there will be problems of staffing and operations at a remote site such as Umatilla. Does not believe the site is in a flood plane and the standing water problem is easily fixed. |
| 317               | <b>Kendra MacLennan</b> | <b>Wilsonville</b>   |

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|                   |                        | Testifies against siting the prison at the Dammasch site.   |
| 349               | <b>Cornelia Gibson</b> | <b>Wilsonville</b><br><br>Testifies against siting the prison at the Dammasch site and indicates her support of SB 3.   |
| 382               | Sen. Miller            | Asks Mr. Wiedemann to explain, if he were Governor, why he would choose Day Road over Umatilla.   |
| 423               | Wiedemann              | Believes that the \$91 million shouldn't be taken at face value.  |
| 442               | <b>Larry Niswender</b> | <b>Legislative Fiscal Analyst</b><br><br>34.2 million of the savings reflect a difference in the actual cost of construction. Site acquisition costs are not a factor in Dammasch or Umatilla.                          |
| <b>Tape 25, A</b> |                        |   |
| 026               | Wiedemann              | I guess you are really asking how I can support Day Road in view of all the issues you pointed out. The burden sharing nature of the prison siting and the need for regional facilities should certainly be considered. |
| 050               | Sen. Miller            | What did you find not credible in Dave Cook's testimony in February, 1998 from the video which was shown (Exhibit P)?   |
| 053               | Wiedemann              | I thought it was just a first impression, first look. Subsequent investigation changed his mind.  |
| 066               | <b>Klaus Gibson</b>    | <b>Wilsonville</b><br><br>Testifies against Dammasch site with particular emphasis on Oregon land use laws.   |
| 089               | <b>Michael Murchie</b> | <b>Tualatin</b><br><br>Submits written testimony and testifies in support of SB 3<br><b>(EXHIBIT T).</b>  |
| 123               | <b>Charlie Wright</b>  | <b>Sherwood</b><br><br>Testifies in support of SB 3. Believes the Dammasch site is not an appropriate place. Believes that the  |

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|                                 |              | <p>Department of Corrections didn't follow their own rules for siting the prison. The cost issues alone make Umatilla the correct choice. Community acceptance is not available in Wilsonville, but is present in Umatilla.</p> |
| 241                             | Chair Nelson | <p>Discusses the value of public hearings and thanks those who attended. Closes public hearing and opens work session on SB 3.</p>  |
| <b><u>SB 3 WORK SESSION</u></b> |              |   |
| 259                             | Sen. Starr   | <p><b>MOTION:<br/>Moves SB 3 to the floor with a DO PASS recommendation.</b></p>  |
| 262                             | Sen. Beyer   | <p><b>MOTION:<br/>Moves to ADOPT the amendments to SB 3 (EXHIBIT U).</b></p>  |
| 272                             | Sen. Beyer   | <p>Indicates that the offering of this compromise makes good sense to move the issue forward.</p>   |
| 280                             | Sen. Miller  | <p>Indicates he will oppose the amendments, assuming they move the site from Dammasch to the Day Road site.</p>   |
| 289                             | Sen. Metsger | <p>Concurs with Sen. Beyer in that the Governor has made a good faith proposal. We need to move this to the full Senate.</p>  |
| 299                             | Sen. Starr   | <p>Believes that effective and compelling reasons have been presented against siting the prison at Day Road and will therefore oppose the amendment</p>   |
| 320                             |              | <p><b>On the motion to ADOPT the amendments to SB 3.</b></p> <p><b>VOTE: 2-3</b></p> <p><b>AYE: 2 - Beyer, Metsger</b></p> <p><b>NAY: 3 - Miller, Starr, Nelson</b></p>   |
|                                 | Chair Nelson | <p><b>The motion FAILS.</b></p>   |

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| 332               | Sen. Beyer          | I am concerned that if we don't work with the Governor to compromise, I'm afraid that we will find ourselves back at Dammasch.  |
| 354               | Sen. Starr          | This proposal by the Governor was late to us, and I am encouraged by his interest. I think we should move this to the floor and let it work itself out among the full Senate.   |
| 385               | Sen. Miller         | I would also like this to be over. The search for a compromise has not been satisfied by choosing Day Road. If the Governor decides to veto SB 3, then we have the final decision. It doesn't seem to be a difficult choice. I don't think any of us can walk away from this hearing and put this prison on one of the Wilsonville sites. |
| <b>Tape 24, B</b> |                     |   |
| 031               | Sen. Metsger        | Thanks those who attended the hearing. The compelling issue is the end game. If we pass this to the full Senate we may end up with it at Dammasch since that is the fall back site if SB 3 is vetoed. I will vote against SB 3.   |
| 079               |                     | <p><b>On the motion to move SB 3 to the floor with a DO PASS recommendation.</b></p> <p><b>VOTE: 3-2</b></p> <p><b>AYE: 3 - Miller, Starr, Nelson</b></p> <p><b>NAY: 2 - Beyer, Metsger</b></p>   |
|                   | <b>Chair Nelson</b> | <p><b>The motion CARRIES.</b></p> <p><b>SEN. QUTUB AND SEN. MILLER will lead discussion on the floor.</b></p>   |
| 087               | Sen Beyer           | Serves notice of a possible minority report.  |
| 102               | Chair Nelson        | Adjourns the meeting at 9:07 pm.  |

Submitted By, Reviewed By,

Judy Minnich Anne E. Tweedt,  
Administrative Support Counsel

**EXHIBIT SUMMARY**

**A ñ Written testimony, George Hash, 2pp**

**B ñ Letter from R.J. Staudacher, received January 12, 1999, 2 pp**

**C ñ Letter from Mike Jewett dated January 28, 1999, 1 pp**

**D ñ Letters from students submitted by George Hash, 12 pp**

**E ñ News release from Governor John Kitzhaber dated February 3, 1999, 2p**

**F ñ Written testimony, Charlotte Lehan dated February 3, 1999, 1 pp**

**G ñ Written testimony, Stacy Rumgay dated February 3, 1999, 2 pp**

**H - Letter from Joanne Mills dated May 26, 1997, 2 pp**

**I ñ Written testimony from Joanne Mills dated February 3, 1999, 4 pp**

**J ñ Written testimony, Dan Willis dated February 3, 1999, 1 pp**

**K ñ Letter from Margaret Gentes dated February 2, 1999, 1 pp**

**L ñ Letter from Kathy Ulrich dated February 2, 1999, 1 pp**

**M ñ Written testimony, Melanie Pennington dated February 3, 1999, 19 pp**

**N ñ Written tesimony from Edna Borders dated February 3, 1999, 1 pp**

**O ñ Written testimony from Mike and Lois Hiatt dated February 1, 1999, 1 pp**

**P ñ Video titled "Day Road Flooding and February, 1998 Department of Corrections Comments, 1 video**

**Q ñ Letter from Washington County Board of Commissioners dated February 2, 1999. 2 pp**

**R ñ Written testimony from Mike Mueller dated February 3, 1999. 2 pp**

**S ñ Written testimony from Gene Reddemann dated February 3, 1999, 2 pp**

**T ñ Written testimony from Alison Browdie and Michael Murchie, 1 pp**

**U ñ Proposed amendments to SB 3 dated February 3, 1999, 8 pp**