

**SENATE COMMITTEE ON WATER AND LAND USE**

May 13, 1999 Hearing Room B

1:00 p.m. Tapes 81 - 82

**MEMBERS PRESENT:** Sen. Veral Tarno, Chair

Sen. Tony Corcoran, Vice-Chair

Sen. Gary George

Sen. Marylin Shannon

Sen. Thomas Wilde

**MEMBER EXCUSED:**

**STAFF PRESENT:** Raymond J. Kelly, Administrator

Diana Bronson, Administrative Support

**MEASURE/ISSUES HEARD:** HB 3571A Public Hearing and Work Session

HB 3599A Public Hearing and Work Session

HB 3356A Work Session

HB 3357 Public Hearing and Work Session

HB 3620 Work Session

SB 989A Work Session

SB 832A 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   |
|---------------------------------------|------------------------|--|
| TAPE 81, A                            |                        |  |
| 003                                   | Chair<br>Tarno         | Opens meeting at 1:15 p.m. and opens public hearing on HB 3571A.                             |
| <b><u>HB 3571A PUBLIC HEARING</u></b> |                        |  |
| 004                                   | Ray Kelly              | Committee Administrator. Summarizes HB 3571A.  |
| 010                                   | Rep. Lane<br>Shetterly | House District 34. Presents <b>(EXHIBIT A)</b> . States HB 3571A is the result of the Benton |

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|                                       |                | County Planning Commission's decision to approve an application of Project Vote Smart for construction of a library and research facility on exclusive farm use (EFU) land in the vicinity of Wren. |
| 040                                   | Chair Tarno    | Asks if Rep. Shetterly is addressing existing community centers or new centers to be built.   |
| 041                                   | Rep. Shetterly | Responds that HB 3571A is directed for new applications for building community centers.   |
| 042                                   | Sen. Corcoran  | States he would like to be clear for the record, and asks about the intent of the language change that would keep Vote Smart from locating in Wren.   |
| 046                                   | Rep. Shetterly | Replies that Vote Smart has already lost to the Benton County Commissioners and is now moving their operation to Minnesota or an area out of Oregon.  |
| 048                                   | Sen. Corcoran  | Replies that this is a good thing.  |
| 052                                   | Chair Tarno    | States the only language he might change is on page 4.  |
| <b><u>HB 3571A WORK SESSION</u></b>   |                |   |
| 062                                   | Sen. Corcoran  | <b>MOTION: Moves HB 3571A to the floor with a DO PASS recommendation.</b>   |
|                                       |                | <b>VOTE: 3-0</b><br><b>AYE: In a roll call vote, all members present vote Aye.</b><br><b>EXCUSED: 2 - George, Shannon</b>   |
|                                       |                | <b>Chair Tarno</b><br><b>The motion CARRIES.</b><br><b>SEN. CORCORAN will lead discussion on the floor.</b>   |
| 069                                   | Chair Tarno    | Closes work session on HB 3571A and opens public hearing on HB 3599A.   |
| <b><u>HB 3599A PUBLIC HEARING</u></b> |                |   |
| 071                                   | Kelly          | Summarizes HB 3599A.  |
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| 075                                 | Rep.<br>Shetterly | Presents ( <b>EXHIBIT B</b> ). Explains the necessity for HB 3599A. States that if unrealistic requirements are placed on valley farmers before they can replace tiling, there will be a shutdown of the agricultural industry in the Willamette Valley.   |
| 138                                 | John Lilly        | Assistant Director, Division of State Lands (DSL). Presents ( <b>EXHIBIT C</b> ). States that HB 3599A was initiated by Oregonians for Food and Shelter and the Oregon Farm Bureau to address the concerns about state removal-fill permit requirements that apply to drainage activities on wetlands that have been continuously managed for crop production. States the DSL supports HB 3599A. |
| 172                                 | Pete Test         | Oregon Farm Bureau. Presents ( <b>EXHIBIT D</b> ). States that HB 3599A will clarify what fill and removal activities are allowed on converted wetlands in exclusive farm use zoned lands. States that HB 3599A describes when repair of certain structures is exempt from state fill and removal laws. States the bureau strongly supports HB 3599A.  |
| 193                                 | Glen Stonebrink   | Oregon Cattlemen's Association (OCA). Testifies in support of HB 3599A.  |
| 207                                 | Chair<br>Tarno    | Closes public hearing on HB 3599A and opens work session.  |
| <b><u>HB 3599A WORK SESSION</u></b> |                   |  |
| 210                                 | Sen.<br>Corcoran  | <b>MOTION: Moves HB 3599A to the floor with a DO PASS recommendation.</b>  |
|                                     |                   | <b>VOTE: 4-0</b><br><br><b>AYE: In a roll call vote, all members present vote Aye.</b><br><br><b>EXCUSED: 1 ñ George</b>   |
|                                     |                   | <b>Chair<br/>Tarno</b><br><br><b>The motion CARRIES.</b><br><br><b>SEN. GEORGE will lead discussion on the floor.</b>  |
| 215                                 | Chair<br>Tarno    | Closes work session on HB 3599A and opens public hearing HB 3356A.   |
| <b><u>HB 3356A WORK SESSION</u></b> |                   |  |
| 220                                 | Kelly             | Summarizes HB 3356A.   |

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| 228                                  | Rep. Jeff Kruse | House District 45. States that HB 3356A is a "fish friendly bill." Explains that HB 3356A gives authority to waive some fees and provides an incentive for individuals to consider management changes that would benefit fish.  |
| 243                                  | Chair Tarno     | Recesses public hearing on HB 3356A and opens public hearing on HB 3357.  |
| <b><u>HB 3357 PUBLIC HEARING</u></b> |                 |   |
| 247                                  | Rep. Jeff Kruse | Testifies in support of HB 3357 and states the fees are to be reduced on already appropriated water.  |
| 262                                  | Chair Tarno     | Asks Test to testify on both HB 3356A and HB 3357.  |
| 270                                  | Pete Test       | Oregon Farm Bureau. Presents ( <b>EXHIBIT E</b> ) and testifies on HB 3356A. States that HB 3356A allows Water Resources Department to waive certain requirements or fees and to provide additional assistance to applicants for changes in permits or water use subject to transfers for projects implemented with the Governor's Watershed Enhancement Board (GWEB) permit. |
| 300                                  | Doug Meyers     | Water Watch. Testifies in support of HB 3357.   |
| 306                                  | Tom Byler       | Water Resources Department (OWRD). Presents ( <b>EXHIBIT F</b> ). States that HB 3356 provides an incentive for water users to make changes to their water rights in a manner that would benefit fish and wildlife habitat.   |
| 350                                  | Chair Tarno     | Closes public hearing on HB 3356 and reopens work session on HB 3356.   |
| <b><u>HB 3356 WORK SESSION</u></b>   |                 |   |
| 353                                  | Sen. Corcoran   | <b>MOTION: Moves HB 3356A to the floor with a DO PASS recommendation.</b>   |
|                                      |                 | <b>VOTE: 4-0</b><br><br><b>AYE: In a roll call vote, all members present vote Aye.</b><br><br><b>EXCUSED: 1 ñ George</b>  |
|                                      |                 | <b>Chair Tarno</b><br><br><b>The motion CARRIES.</b>  |

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|                               |               | SEN. TARNO will lead discussion on the floor.   |
| 361                           | Chair Tarno   | Closes work session on HB 3356A and opens public hearing on HB 3357.  |
| <u>HB 3357 PUBLIC HEARING</u> |               |   |
| 368                           | Test          | Testifies in support of HB 3357. Presents <b>(EXHIBIT G)</b> . States that HB 3357 reduces the application fee for appropriation of stored water.   |
| 394                           | Byler         | OWRD. Testifies in support of HB 3357 and submits <b>(EXHIBIT H)</b> . States that HB 3357 reduces the application fee to appropriate stored water and allows the Director of OWRD to waive survey and mapping requirements for the completion of a supplemental water right permit, provided certain criteria are met. |
| 446                           | Chair Tarno   | Closes public hearing HB 3357 and opens work session.   |
| <u>HB 3357 WORK SESSION</u>   |               |   |
| 454                           | Sen. Corcoran | <b>MOTION: Moves HB 3357 to the floor with a DO PASS recommendation.</b>  |
|                               |               | <b>VOTE: 4-0</b><br><br><b>AYE: In a roll call vote, all members present vote Aye.</b><br><br><b>EXCUSED: 1 n George</b>  |
|                               |               | <b>The motion CARRIES.</b><br><br><b>SEN. SHANNON will lead discussion on the floor.</b>  |
| TAPE 82, A                    |               |   |
| 019                           | Chair Tarno   | Closes work session on HB 3357 and opens work session on HB 3620.   |
| <u>HB 3620 WORK SESSION</u>   |               |   |
| 027                           | Sen. Corcoran | <b>MOTION: Moves HB 3620 to the floor WITHOUT RECOMMENDATION as to passage and BE REFERRED to the</b>   |

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|                                    |                     | <b>committee on Joint Stream Restoration and Species Recovery Committee.</b>   |
|                                    |                     | <b>VOTE: 4-0</b><br><br><b>AYE: In a roll call vote, all members present vote Aye.</b><br><br><b>EXCUSED: 1 ñ George</b>   |
|                                    | <b>Chair Tarno</b>  | <b>The motion CARRIES.</b>   |
| 033                                | Chair Tarno         | Closes work session on HB 3620 and opens work session on SB 989.   |
| <b><u>SB 989A WORK SESSION</u></b> |                     |  |
| 040                                | Chair Tarno         | Submits the ñ3 amendments to SB 989A <b>(EXHIBIT I).</b>   |
| 043                                | Glen Stonebrink     | Oregon Cattlemenís Association. States that Legislative Counsel found a constitutional problem with SB 989A and the committee administrator can explain the situation.   |
| 047                                | Kelly               | States that there was a constitutional question as to the way SB 989A was originally written. Explains the corrections made to SB 989A.  |
| 062                                | Stonebrink          | States that SB 989A, with the ñ3 amendments, provide that the State of Oregon may not consent to the acquisition of lands or waters by the federal government under the Act of March 1, 1911, or the Migratory Bird Conservation Act without the consent of the governing bodies of the counties in which the lands or water are situated. |
| 089                                | Sen. Corcoran       | Asks if the Migratory Bird Conservation Act applies to Bald Eagles.  |
| 091                                | Stonebrink          | States he does not believe so. States he would need to look at the definition as to whether a Bald Eagle is a migratory bird.  |
| <b>100</b>                         | <b>Sen. Shannon</b> | <b>MOTION: Moves to ADOPT SB 989A-3 amendments dated 5/10/99.</b>  |
|                                    |                     | <b>VOTE: 4-0</b><br><br><b>EXCUSED: 1 ñ George</b>   |

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|                                    | Chair<br>Tarno  | Hearing no objection, declares the motion CARRIED.  |
| 104                                | Sen.<br>Shannon | MOTION: Moves SB 989A to the floor with a DO PASS AS AMENDED recommendation.  |
|                                    |                 | VOTE: 3-1<br>AYE: 3 - Shannon, Wilde, Tarno<br>NAY: 1 ñ Corcoran<br>EXCUSED: 1 ñ George   |
|                                    | Chair<br>Tarno  | The motion CARRIES.<br><br>SEN. TARNO will lead discussion on the floor.  |
| 111                                | Chair<br>Tarno  | Closes work session on SB 989A and opens work session on SB 832.  |
| <b><u>SB 832A WORK SESSION</u></b> |                 |   |
| 115                                | Kelly           | Summarizes the ñ8 amendments to SB 832A. Submits (EXHIBIT J).   |
| 125                                | Phil<br>Donovan | Northwest Steelheaders. Summarizes the ñ8 amendments.   |
| 175                                | Donovan         | Continues summary of the ñ8 amendments.   |
| 200                                | John Lilly      | Division of State Lands (DSL). Testifies as to reasons for language changes to the ñ8 amendments. States there is a sunset provision that puts the whole statute in place for a period of five years as a test.   |
| 212                                | Donovan         | Continues summary of the ñ8 amendments.   |
| 238                                | Chair<br>Tarno  | States there may be a concern in Section 16 where State Parks and Recreation may establish a pilot program and there may be a fiscal impact. Asks if the committee indicated that the State Parks and Recreation, "may, within the existing budget," establish a pilot program. |
| 250                                | Donovan         | States he will work on language and touch base with the state parks.  |
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| 254 | Chair            | States he recognizes SB 832A is not a perfect bill, but would like it to go to the floor.   |
| 257 | Sen.<br>Corcoran | Raises issues from landowners on the Metolius River. Asks Donovan to address the issues and if the landowners' concerns were being acknowledged.              |
| 266 | Donovan          | States the referral is to the headwaters and that is why the language was added with regard to recognizing the sensitive habitat found in the Metolius River. |
| 275 | Sen.<br>Corcoran | Raises issue that SB 832A will lead to more litigation and more expense to the state.   |
| 275 | Donovan          | Replies that the Steelheaders believe that SB 832A is grounded in recent law.   |
| 285 | Sen.<br>Corcoran | Asks about the issues that riparian landowners face concerning boaters camping overnight in the front yards of owners.  |
| 288 | Donovan          | States that with the A-Engrossed version of SB 832, restrictions are placed on camping as well as hunting.  |
| 296 | Sen.<br>Wilde    | Thanks the Steelheaders for addressing all of the concerns presented to them.   |
| 309 | Sen.<br>Corcoran | <b>MOTION: Moves to ADOPT SB 832A-8 amendments dated 5/13/99.</b>   |
|     |                  | <b>VOTE: 5-0</b>  |
|     |                  | <b>Chair Tarno</b><br><b>Hearing no objection, declares the motion CARRIED.</b>   |
| 312 | Sen.<br>Corcoran | <b>MOTION: Moves SB 832A to the floor with a DO PASS AS AMENDED recommendation.</b>   |
|     |                  | <b>VOTE: 4-1</b><br><b>AYE: 4 - Corcoran, George, Wilde, Tarno</b><br><b>NAY: 1 - Shannon</b>   |
|     |                  | <b>Chair Tarno</b><br><b>The motion CARRIES.</b>  |



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|     |                | <b>SEN. TARNO will lead discussion on the floor.</b>   |
| 320 | Chair<br>Tarno | Closes work session on SB 832A and adjourns meeting at 2:06 p.m.                                     |
|     |                | Testimony from 1000 Friends of Oregon on HB 3571A ( <b>EXHIBIT K</b> ) is submitted into the record. |

Submitted By, Reviewed By,

Diana Bronson, Raymond J. Kelly,  
Administrative Support Administrator

**EXHIBIT SUMMARY**

**A ñ HB 3517A, written testimony, Rep. Lane Shetterly, 2 pp.**

**B ñ HB 3599A, written testimony, Rep. Lane Shetterly, 7 pp.**

**C ñ HB 3599A, written testimony, John Lilly, 2 pp.**

**D ñ HB 3599A, written testimony, Pete Test, 2 pp.**

**E ñ HB 3356, written testimony, Pete Test, 2 pp.**

**F ñ HB 3356A, written testimony, Tom Byler, 3 pp.**

**G ñ HB 3357, written testimony, Pete Test, 1 p.**

**H ñ HB 3357, written testimony, Tom Byler, 3 pp.**

**I ñ SB 989A, proposed amendments, LC staff, 1 p.**

**J ñ SB 832A, proposed amendments, LC staff, 3 pp.**

**K ñ HB 3517A, written testimony, Randy Tucker, 1 p.**