

SENATE COMMITTEE ON WATER AND LAND USE

March 11, 1997 Hearing Room C

9:00 A.M. Tapes 40 - 41

MEMBERS PRESENT:

Sen. Veral Tarno, Chair

Sen. Bob Kintigh, Vice-Chair

Sen. Ginny Burdick

Sen. Ted Ferrioli

Sen. Bill Fisher

Sen. David Nelson

Sen. Thomas Wilde

STAFF PRESENT:

Mark Volmert, Administrator

Nancy Masee, Administrative Support

MEASURE/ISSUES HEARD:

Introduction of Committee Bills

SB 207 Public Hearing and Work Session

SB 598 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
TAPE 40, A		
003	Chair Tarno	Calls meeting to order at 9:00 a.m.
005	Mark Volmert	Committee Administrator, gives summary of agenda items
006	Chair Tarno	Asks about introduction of LC 3922

010	Volmert	Summarizes LC 3922
021	Sen. Burdick	Asks where this bill came from
022	Chair Tarno	Responds Oregonians in Action (OIA)
025	Sen. Kintigh	MOTION: Moves LC 3922, dated 2/27/97, BE INTRODUCED as a committee bill with approval of the Rules Committee. (To be introduced as SB 1170)
025		VOTE: 5-1 AYE: 5 - Fisher, Kintigh, Nelson, Wilde, Tarno NAY: 1 - Burdick EXCUSED: 1 - Ferrioli
	Chair Tarno	The motion CARRIES.
036	Volmert	Gives summary on LC 3921 for introduction
041	Sen. Kintigh	MOTION: Moves LC 3921, dated 2/28/97, BE INTRODUCED as a committee bill with approval of the Rules Committee. (To be introduced as SB 1169)
		VOTE: 5-1 AYE: 5 - Fisher, Kintigh, Nelson, Wilde, Tarno NAY: 1 - Burdick EXCUSED: 1 - Ferrioli
	Chair Tarno	The motion CARRIES.
057	Volmert	Gives summary on LC 3919 for introduction
063	Chair Tarno	Comments this appears to be like a small timber harvesting operation
074	Sen. Kintigh	MOTION: Moves to introduce LC 3919, dated 2/28/97, BE INTRODUCED as a committee bill with approval of the Rules Committee. (To be introduced as SB 1168)
		VOTE: 5-1 AYE: 5 - Fisher, Kintigh, Nelson, Wilde, Tarno NAY: 1 - Burdick EXCUSED: 1 - Ferrioli
	Chair	

	Tarno	The motion CARRIES.
080	Volmert	Gives summary on LC 3915 for introduction as a bill
086	Sen. Burdick	Asks where this bill came from
087	Chair Tarno	Responds it came from OIA
089	Sen. Kintigh	MOTION: Moves to introduce LC 3915, dated 3/4/97, BE INTRODUCED as a committee bill subject to approval of the Rules Committee. (To be introduced as SB 632)
		VOTE: 4-2 AYE: 4 - Fisher, Kintigh, Wilde, Tarno NAY: 2 - Burdick, Nelson EXCUSED: 1 - Ferrioli
	Chair Tarno	The motion CARRIES.
<u>SB 207</u> <u>PUBLIC</u> <u>HEARING</u>		
102	Chair Tarno	Opens public hearing on SB 207
104	Volmert	Gives background on SB 207 and -1 amendments
140	Paul Cleary	Director, Division of State Lands, gives background on SB 207 and is supportive of amendments (EXHIBIT A)
154	Chair Tarno	Asks for questions of committee
155	Sen. Kintigh	Asks if we are wiping out first seven pages.
156	Volmert	Indicates that the -1 amendments replace most of page 1, all of pages 2 through 7, most of page 8, all of pages 9 through 15
157	Chair Tarno	Asks for fiscal impact
165	Volmert	Division indicates that they could assume some of the federal permitting process which would streamline the procedures with the current staffing and two positions in the program option package
183	Cleary	Comments that the budget which was approved by the subcommittee, a program option package to continue two limited duration positions to allow implement provisions of the SB 207 amendments
184	Sen. Tarno	Asks for further comments of committee; hearing none, closes public hearing and opens work session on SB 207
<u>SB 207</u>		

WORK SESSION		
197	Sen. Kintigh	MOTION: Moves to ADOPT SB 207-1 conceptual amendments (YOU NEED TO FILL IN THE DATE OF THE AMENDMENTS AND INCLUDE THEM AS AN EXHIBIT)
		VOTE: 7-0 AYE: In a roll call vote, all members present vote Aye.
	Chair Tarno	The motion CARRIES.
	Sen. Kintigh:	MOTION: Moves SB 207 to the floor with a DO PASS AS AMENDED recommendation.
	Chair Tarno	Hearing no objection, declares the motion CARRIED.
		SEN. FERRIOLI will lead discussion on the floor.
217	Chair Tarno	Closes work session on SB 207 and opens public hearing on SB 598
SB 598 PUBLIC HEARING		
221	Volmert	Gives background on SB 598
272	Sen. Kintigh	Comments that SB 618 is about the same
276	Volmert	Comments that SB 618 is broader than SB 598 which is limited to the Milltown Hill project
286	Chair Tarno	Asks Jan Lee, Oregon Water Resources Congress, for clarification of these two bills
290	Jan Lee	Oregon Water Resources Congress, gives background on SB 598 (EXHIBIT B)
315	Sen. Burdick	Asks for sponsors names
317	Lee	Responds the sponsors are Rep. Welsh, Rep. Messerle, Rep. Markham, Rep. Kruse, Rep. Lehman, Sen. Kintigh, Sen. Tarno, and Sen. Fisher
337	Lee	Gives testimony asking to approve a waiver so they will not have to provide a fishway; suggests an amendment to SB 598 to add a reference to anadromous and food fish species (ORS 598.605)
361	Sen. Kintigh	Asks the difference between SB 618 and SB 598
380	Lee	Responds that SB 598 has the support of the agencies, and is limited only to the Milltown Hill project
395	Sen.	Asks about mitigation that will be used

	Burdick	
400	Lee	Responds that Mr. Nielson will explain this
411	Chair Tarno	Calls Douglas County witnesses
TAPE 41, A		
011	Ron Yokum	Douglas County, introduces Frank Nielson, Douglas County Natural Resources Program, and John Youngquist, a consultant with the county, gives description of the Milltown Hill project in Douglas County showing the Elk Creek drainage; dam site drainage area (EXHIBIT C)
039	Frank Nielson	Douglas County, continues presentation on Milltown project; has worked with Oregon Department of Fish and Wildlife (ODFW) to provide a headwater reservoir for fish; project will increase summer flows csf; have intake structures to control temperature; management and monitoring plan to enhance habitat
087	Chair Tarno	Asks Rep. Welsh to speak
088	Rep. Jim Welsh	State Representative, District #43. Milltown Project is within his district; supports SB 598 and the work on this project; Milltown project is a model project that will be looked to in the future;
125	Chair Tarno	Asks for questions of the committee
128	Sen. Burdick	Asks where the dam is located in relation to Elk Creek Dam
130	Nielson	Elk Creek Dam is on the Rogue River 100 miles south of this Elk Creek
138	Sen. Burdick	Asks if there is a connection between the two waterways
142	John Youngquist	Former Douglas County Water Resources Coordinator, gives credit to the ODFW and Douglas County water resources coordinator; from the dam site to Elkton; water quality intakes are installed to provide downstream benefits; in November, 70 percent of the voters supported the project
198	Chair Tarno	Asks if water from the dam to the river will lower the Umpqua temperature
206	Youngquist	Responds it is not a major impact
215	Chair Tarno	Asks if Elk Creek Tributary is listed with Department of Environmental Quality (DEQ)
216	Youngquist	Responds that it is, and it will meet the requirements
220	Yokum	Comments that the 303(d) modeling is done from several sites; water quality limitations may occur in only one or two places
230	Chair Tarno	Asks for questions from the committee

238	Yokum	Comments that March 25, the draft is due to National Marine Fisheries Service (NMFS); a final opinion will occur about May 1
230	Tom Bowerman	Landowner, has 250 acres of timberland on the edge of the area at issue; is a member of environmental organizations which have taken a position against this project by Douglas County (EXHIBIT F)
255	Bowerman	Gives background on this project relating to the impacts environmentally and economically to citizens
275	Bowerman	The complex project has implications to all; NMFS ruling on the coastal coho; this project will send a message to NMFS saying that this is not related to helping the fish
309	Bowerman	At Galesville, 2000 acres are presently serviced and the revenue generated is about \$35,000 rather than the previously projected \$250,000; Galesville has irrigable bottom land soil; Milltown soil is largely class 3 and 4, clay and forest land soil; it is called irrigation to get federal money
344	Bowerman	Says this project will not pay for itself; NMFS may have a jeopardy position endangering the Umpqua cutthroat, <ul style="list-style-type: none"> * The area is primary cutthroat area * The habitat area is already prime for the cutthroat * Galesville downstream flows are 303(d) listed
TAPE 40, B		
006	Bowerman	Continues on the habitat of the Milltown project area
014	Bowerman	ODFW behind this project but their position is softening; it is beginning to change, but the Bureau of Land Management (BLM) has found the Milltown area a significant loss to the cutthroat trout; high watershed areas are vitally important; cutting those out will lead to listing endangered species and a failed ecosystem; encourages this not to go out of committee
038	Chair Tarno	Asks if the cutthroat is in a pristine area, why it is listed
040	Bowerman	Says that the cutthroat go to the higher river where it is cooler; put the dam in the headwater and the cutthroat habitat is destroyed
068	Chair Tarno	Asks for questions
061	Jim Myron	Oregon Trout, does not support this bill or any dams without fish passage; ODFW did not follow the law when they made the agreement with Douglas County; Oregon Trout agrees with NMFS; Oregon Trout believes that ODFW made a grave error on this issue (EXHIBIT D)
096	Sen. Ferrioli	Asks if this letter from Mr. Doss is the official position of the Forest Service
105	Myron	Responds he does not believe so, that it is his personal opinion
		Northwest Regional Director for the Pacific Coast Federation of

120	Glen Spain	Fishermen's Association (PCFFA), states they have not taken a position on the Milltown project; asks why this dam does not comply with other dam requirements; would oppose this bill in this form; as policy, any waiver of fish passages upstream and downstream to available tributaries is opposed; coho and steelhead habitat exist in this area also which furthers their jeopardy
180	Jill Zarnowitz	Assistant Director, Oregon Department of Fish and Wildlife (ODFW) supports this measure for reasons that there is more to gain from the mitigation than would be gained by a fish passage; inundation above the reservoir does not destroy the habitat; cutthroat can live in reservoir; this bill is part of their memorandum of understanding with Douglas County (EXHIBIT E)
190	Zarnowitz	About 50 adults of anadromous get up above the dam site presently; cutthroat are there year around; searun cutthroat come into estuaries in August; moving up in the fall as conditions permit
225	Sen. Wilde	Asks if there are spawning beds put in place
232	Zarnowitz	Responds there will be enhanced instream habitat, restoring gravel for spawning, placement of boulders, woody debris and other habitat enhancements
240	Sen. Wilde	Asks if it has been shown that successful spawning beds can be made for the cutthroat
244	Zarnowitz	This would be for a whole host of fish that use the stream
246	Sen. Kintigh	Ask about differences in Umpqua, McKenzie and Santiam cutthroats
248	Zarnowitz	Understands they are unique, a subspecies in the Umpqua.
245	Chair Tarno	Asks if the 50 fish counted in Elk Creek tributary were steelhead, coho, chinook; is that for the 39 miles or just the upper region
265	Zarnowitz	Says it is for the stretch above the dam site, 6 to 8 miles
267	Sen. Burdick	Asks about the fish passage
270	Zarnowitz	Responds that there were not funds to provide fish passage and other mitigating measures; the dam would be very high --186 feet
268	Sen. Ferrioli	Asks if ODFW was working with the Governor's Office which supplied the mitigation to the project of Milltown
310	Zarnowitz	Responds it was with Douglas County
314	Sen. Ferrioli	Asks if there is a softening of their position
325	Zarnowitz	Responds, no, they do support this specific mitigation
342	Chair Tarno	Asks if anyone else wants to testify.
337	Ono Heusing	Director, Oregon Coastal Zone Management Association (OCZMA), supports the concepts of impoundments in the upper regions of the watersheds; coastal communities and other areas will need locations for

		impoundments
364	Chair Tarno	Asks Mr. Yokum to speak (WHAT?)
370	Yokum	Speaks for Douglas County, saying the water supply problems must be addressed
398	Sen. Kintigh	Asks about domestic water supply for Yoncalla and Rice Hill areas
412	Youngquist	Responds this is the purpose of the Milltown project for domestic water to these areas
TAPE 41, B		
005	Youngquist	Continues on Milltown project as a source of domestic supply for Yoncalla
011	Yokum	Comments that they have not a draft opinion from NMFS
039	Yokum	Gives background on surveys done in the river basins; all but Forest Service Land; ODFW found this habitat not significantly different from other areas of the Umpqua; reminds the data is great in quantity in surveys of the Umpqua basin except for Forest Service Land; the conclusion being that the Umpqua Basin habitat does not vary significantly
061	Youngquist	Galesville has been a profitable venture; Milltown alone will not pay for itself; technical assistance will be sought from a variety of sources
072	Sen. Fisher	Comments on the flood of last year and the Galesville dam's role in mitigation of the flood at Cow Creek and the Umpqua
114	Sen. Fisher	Comments that the dam's flood control capacity benefited people with homes there
139	Sen. Burdick	Asks about the difference in costs of constructing a fish passage and implementing other mitigation proposed
146	Youngquist	Responds that a fishway with a nearly 200 foot high structure makes it very expensive and impractical
166	Sen. Ferrioli	Asks if a fish passage were introduced would the other wildlife be impacted
170	Youngquist	Responds that is correct
175	Chair Tarno	Comments that this issue will be brought back with amendments
187	Chair Tarno	Adjourns meeting at 10:45 a.m.

Submitted By, Reviewed By,

Nancy Masee, Mark Volmert,

Administrative Support Administrator

EXHIBIT SUMMARY

A - SB 207, conceptual amendments, Staff, 1 p

B - SB 598, written testimony, Jan Lee, 19 pp

C - SB 598, written testimony, Frank Nielsen, 4 pp

D - SB 598, written testimony, Jim Myron, 5 pp

E - SB 598, written testimony, Jill Zarnowitz, 3 pp

F - SB 598, written testimony, Tom Bowerman, 10 pp
