

SENATE ENVIRONMENT AND LAND USE: FULL COMMITTEE MINUTES:

- Jan. 18: p. 1 & 2 (Also on Tape 1, side 2, 0000-end and Tape 2, side 1,
3PM 0000-0415)
Jan. 25: p. 1 & 2 (Also on Tape 2, side 2, 97-1228 and Tape 3, side 1,
3PM 000 - 1003)
Jan. 30: p. 1 & 2 (Also on Tape 3, side 1, 0086 - ~~0660~~ - 1260)
3PM
Feb. 1: have no minutes of full comm. for this date altho' index to minutes
lists hearing (on Tape 4, side 1, 0024 - 1200 and side 2, 0000-0013)
Feb. 8: ditto .. (on Tape 4, side 2, 0956-1330 and Tape 5, side 1, 0000-0608)
Feb. 9: ditto... (on Tape 5, side 2, 0525-1095)
Feb. 12: p. 1, 2, 3 & 4 (Also on Tape 6, side 2, 0000-1213 and Tape 7, side 1,
7PM 0000-1230)
Feb. 13: p. 2 & 3 (Also on Tape 7, side 2, 0000-1093) (3PM meeting)
Feb. 15: p. 1 (Also on Tape 8, side 1, 0886-1541)
3PM

Note: heading to minutes lists SB 100; no ref in minutes by no. but
Sen. Hallock announced membership of ad hoc comm. headed by
Sen. Macpherson. (This meeting is not listed in index to minutes
under SB 100).

- Feb. 27: p. 1, 2 & 3 (Also on Tape 9, side 1, 1437 - ~~1501~~ end and
4 PM Tape 10, side 1, 0024-0331)

~~Mar. 3: no minutes of full comm. for this date altho' index to minutes
lists hearing~~

- Mar. 6: p. 1, 2, 3 & 4 (Also on Tape 11, side 1, 0031-1037)
3PM
Mar. 8: p. 1, 2 & 3 (Also on Tape 11, side 1, 1035-1796 and Tape 11, side 2,
3PM 0056 - 0549)
Mar. 13: p. 1 (Also on Tape 11, side 2, 0551-1621)
3PM

Note: brief mention of proposed amendments to printed bill, rest of
minutes seem to relate to other bills).

- Mar. 20: p. 1, 2 & 3 (Also on Tape 12, side 1, 1152-1768)
3PM
Mar. 22: p. 3 & 4 (Also on Tape 12, side 2, 0000 - 1249)
3PM

Note: disc. of SB 100 comes up during disc. on SB 300). This meeting is
not listed in index to minutes under SB 100.

- Mar. 27: p. 4 (Also on Tape 12, side 2, 1247-1892 and/or Tape 13,
3PM side 1, 0000 - 0273)

Note: This meeting is not listed in index to minutes under SB 100.

- Apr. 3: p. 1 & 2 (Also on Tape 14, side 1, 0000-1013)
7PM

- Apr. 5: p. 1 & 3 (Also on Tape 14, side 1, 1020-1778 and/or Tape 14, side 2,
3PM 0017-0249)

- Apr. 10: p. 1 (Also on Tape 14, side 2, probably shortly after
3PM meeting began, ca. 0252-0295)

Note: brief mention by Sen. Hallock that if agreement not reached on
SB 100 by April 12, he would move bill back out.

This meeting not listed in index to minutes under SB 100.

- Apr. 11: have no minutes of full comm. for this date altho' index to minutes
lists hearing (but gives no tape no.)

- Apr. 12: p. 1 (Also on Tape 14, side 2, probably ca. 1388-1558)
3PM

Note: this meeting not listed in index to minutes under SB 100.

SENATE ENVIRONMENT AND LAND USE: FULL COMMITTEE MINUTES:

Apr. 17: p. 2 & 3 (Also on Tape 15, side 2, 0027-0768)
3PM

Note: this meeting not listed in index to minutes under SB 100.

May 3: p. 2+3 (Also on Tape 17, side 1, 1527-2386 and/or Tape 17, side 2,
3PM 0000-0251...we would guess Tape 17, side 2)

Note: Brief mention of SB 100 & 101...Sen. Hallock asked witnesses, during
disc. of SB 849 if they were familiar with these two bills.

This meeting not listed in index to minutes under SB 100.

May 15: p. 1 & 2 (Also on Tape 18, side 1, 1134-1878 and/or Tape 18, side
3PM 2, 0015-0137...we would guess Tape 18, side 1)

Note: Brief mention during disc. of other bills...Sen. Ripper asked who
would have final say on whether or not a bldg. could be constructed
if SB 100 passed. This meeting not listed in index to minutes
under SB 100.

SENATE ENVIRONMENT AND LAND USE: COGS SUBCOMMITTEE MINUTES:

Feb. 1: p. 1, 2 & 3 (Also on Tape 4, side 1, 0024-1200 and side 2, 0000-0013)
3PM

Feb. 9: p. 1 & 2 (Also on Tape 5, side 2, 0525-1095)
11:30AM

Feb. 12: p. 1 (Also on Tape 6, side 1, 0811-1006)
11:30AM

SENATE ENVIRONMENT AND LAND USE: AREAS OF CRITICAL CONCERN SUBCOMMITTEE: MINUTES:

Feb. 8: p. 1 & 2 (Also on Tape 4, side 2, 0956-1300 and Tape 5, side 1,
7:45AM 0000-0608)

Feb. 12: p. 1, 2 & 3 (Also on Tape 5, side 2, 1096-1273 and Tape 6, side 1,
7:45AM 0000-0795)

SENATE ENVIRONMENT AND LAND USE: AD HOC COMMITTEE ON SB 100 MINUTES:

Feb. 18: p. 1, 2 & 3 (No tape listed on minutes or in index to minutes)
1PM

Feb. 23: p. 1, 2, 3, 4, 5 & 6 (Also on Tape 9, side 1, 0532-1420)
1PM

Feb. 27: p. 1, 2, 3 & 4 (Also on Tape 9, side 2, 0000-1459)

Separate exhibit file contains: ^{now in notebook} ~~6 folders of~~ exhibits re SB 100 which
would contain testimony, data submitted at hearings, and any other
exhibits accumulated by the committee during hearings on this bill.
This material is extensive...we estimate several hundred pages...and
once patrons have read minutes perhaps they could select testimony, etc.
mentioned and have copied. Of course, we recommend personal research.

HOUSE ENVIRONMENT AND LAND USE COMMITTEE MINUTES:

May 3: p. 1 & 2 (Also on Tape 18, side 1, 0 - 1120)
8AM

May 8: p. 1 & 2 (Also on Tape 18, side 2, 900 - 1594)
8AM

May 10: p. 2 & 3 (Also on Tape 19, side 1, 1200-~~and~~ and/or Tape 19, side 2,
8AM 0- 430)

HOUSE ENVIRONMENT AND LAND USE COMMITTEE MINUTES:

May 14: p. 2 (Also on Tape 19, side 2, 500-end and/or Tape 20, side 1,
7:30PM 0 - 500)...we would guess Tape 19, side 2, ca. 1044).

Note: this is do pass motion by Rep. Kafoury, which passed).

Separate exhibit file contains:

(Note: at present exhibits are filed with minutes; these will be removed
and placed in separate exhibit file during Archives' processing) *now in
not book*

1. Statistics supplied by Steve Hawes, Legis. Counsel, May 3. 3 pages.
2. Statement by W. J. Kvarsten, Director, MidWill.Valley Council
of Govts, May 8. 1 page.
3. Statement of Nan Dewey, Legis. Rep., Ore. Wheat Growers League,
May 8. 1 page.
4. Testimony of Joyce Cohan, Tri County New Politics, Land Use Task
Force, May 8. 2 pages.
5. Testimony of Margaret Collins, Citizens for State Planning, May 8.
1 page.
6. 2 telegrams to Rep. Fadeley re Shoreline Management Bill. 1 page.
7. Unidentified: headed Eff. date of HB 3210. 1 page. (May 8)
8. New Bulletin, Will. River Frontage Owners Assn, Wilsonville, Jan. 23,
1973. against bill. 2 pages. (May 8)
9. OSPIRG news release Mar. 2, 1973. 3 pages. (May 8)
10. Statement of Ken E. Omlid, Pres, Assn. of Ore Counties. May 10. 1 page.
11. CRAG AREA, marked Lloyd Anderson. May 10. 1 page.
12. Statement ofcan't read...marked Markham...Craig Markham,
Pac. NW Chapt. of Sierra Club. May 10. 1 page.
13. Portland Chamber of Commerce recommendations, summary. May 10. 1 page.
14. Ditto, statement of Roger Yost. May 10. 4 pages.
15. Statement of John C. Webber, Webber & Sons, Inc., Canby. May 10. 1 page.
16. Ltr or statement of Phillip R. Balsiger, Mayor, Wilsonville. May 10.
1 page.
17. Ltr. from Barbara Brown, Dem. Central Comm. of Clackamas Co. May 10.
1 page.
18. Ltr. to Rep. Fadeley from Ralph S. Mason, Dep. State Geologist.
May 10. 1 page.
19. Ltr. to Rep. Fadeley from John W. Broome. May 10. 1 page.
20. Ltr. to Rep. Fadeley from Brian L. Almquist, City Admin, Ashland.
May 10. 2 pages.
21. Statement of James R. Moore, League of Ore. Cities. May 10. 2 pages.

*additional material seems to have
been added when exhibits taken from
minutes & placed in separate notebook*

*now
can 50 p.*

Compiled by: M. Keillor, Reference Archivist
10/5/73

MINUTES: 73 pages

EXHIBITS: approx. 611 pages

Senate Bill 100

SENATE COMMITTEE ON ENVIRONMENT AND LAND USE

Jan. 18, 1973 3:00 pm 315 State Capitol

Members Present: Senator Ted Hallock, Chairman
 Senator Victor Atiyeh
 Senator Hector Macpherson
 Senator Jack Ripper
 Senator Michael Thorne
 Senator George Wingard

Excused: Senator John Burns, Vice Chairman

Senator Hallock opened the meeting with the following agenda: Jan. 23, with Senator John Burns presiding, the committee would again hear testimony on SB 77. Jan. 25, Pros and Cons will be heard on SB 100. Feb. 6, SB 77 with Cornelius Bateson and Diarmuid O' Scannlain scheduled. Feb. 8, Fred Van Atta and anyone else who wishes to be heard on SB 77. Feb. 13, more on SB 100. Perhaps the committee will know enough about SB 77 and SB 100 by Feb. 15 to have a work session. He further informed the committee that the City of Portland soon would have an amendment to SB 77.

Senator Hallock announced there would be no testimony on SB 100, but rather the committee would spend the total time on the explanation of SB 100.

Senator Macpherson was asked to give the background on SB 100. He handed each member a table of contents on SB 100 along with other material on the bill. He then introduced Steven Hawes, Legislative Counsel and Gary Hill, Local Government Relations, who explained the bill using charts to further explain.

Senator Macpherson felt it might be helpful to have someone speak to the committee from OCC AND DC.

Senator Hallock asked John Toran and Steven Hawes to research "if every compact we have entered into has had mandatory legislative ratification".

Section 37, line 24, Senator Hallock suggested and consent be added after advise.

James H. Gorst, member of the Legislative Assembly of the Province of British Columbia was introduced and welcomed to the committee meeting.

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Section 45, line 18 following the word commission add with consent of the committee, was suggested by Senator Hallock.

John Toran was directed to draft a letter to the Attorney General for his opinion as to whether the Land Conservation and Development Commission constitutionally, by its self, may approve a comprehensive plan, eg, is the power of the Commission the same as conferred upon the Emergency Board.

Section 55, Senator Hallock felt the committee should take a closer look at the content.

Section 66, line a, has merit, but the rest is unclear, Senator Hallock noted.

Gary Hill was asked to draw or have the Highway Dept. draw up an organizational chart, showing the top body, COGS, OCC & DC etc. and a second one showing the elected officials and appointed officials, so as to see the public flow.

John Toran and Steven Hawes were asked to consult on amendments & reorganization of some of the structure on SB 100.

The meeting was adjourned at 5:30 pm.

Respectfully submitted,


Senator Ted Hallock, Chairman

Log to recordings of Senate Environment and Land Use Committee

Tape 1, track 2 0000	Tape 2, track 1 0000
0230 S. Hawes and G. Hill	0054 Sec. 55
0452 John Toran and S. Hawes	0297 Sec. 66
0554 Senator Macpherson	0403 Gary Hill
1109 Sec. 37	0415 John Toran and S. Hawes
1146 James Gorst	
1200 Sec. 45, 1 18	
1217 Attorney General	

Senate Bill 100

SENATE COMMITTEE ON ENVIRONMENT AND LAND USE

Jan. 25, 1973 3:00 pm 20 State Capitol

Members present: Senator Ted Hallock, Chairman
 Senator John Burns, Vice Chairman
 Senator Victor Atiyeh
 Senator Hector Macpherson
 Senator Jack Ripper
 Senator Michael Thorne
 Senator George Wingard

Jim Allison, Oregon Rural Landowners Assn., asked permission to ask questions of Legislative Counsel. Steven Hawes represented Legislative Counsel. Mr. Allison submitted his questions in writing.

Lonnie Van Elsberg, Coos County County Commissioner, testified against SB 100 and submitted written testimony. Senator Hallock posed this to Comm. Van Elsberg, " If a county wanted to coalesce with another county, it could do so , 13 counties have already done so; what if this concept were in this bill would you like it better than COGS?" Comm. Van Elsberg answered, "Yes."

Senator Hallock asked Mr. Allison how many members he represented. Mr. Allison answered, " About 1300 members and 13 counties." He was asked to submit a list of members to the committee within the next few weeks.

Kenneth A. Brown, Executive Director of the Farmers Political Action Committee, Inc., Gervais, Oregon spoke against the bill. He submitted written testimony and declined to give the number of members he represented.

Jane L. Button, Oregon Legislative and Research Committee, testified against SB 100. She informed the committee that she represented 5,000 to 10,000 people but the membership list was not public information.

Eldon Hout, Chairman, Washington County Board Commissioners, testified in favor of SB 100. Senator Hallock asked, " If there were two choices; if we were to make the governing bodies of COGS elective or there was an option instead, counties could be autonomous and get together voluntarily, which of the two would you choose?" "Getting together" was the answer.

Paul Rudi, Coos County Planning Commission, spoke in favor of SB 100, but did not necessarily represent the Planning Commission.

Bud Svalberg, State Soil and Water Conservation Comm. spoke in complete agreement with objectives of SB 100. Senator Hallock asked Mr. Svalberg if he could be a resource person for the work session Feb. 14 or 15. Mr. Svalberg will be out of town, but could send some one from the Commission.

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Kessler Cannon testified in favor of SB 100 and presented an amendment to the bill for the committee to consider. Senator Hallock asked him to be present at the work session of the committee.

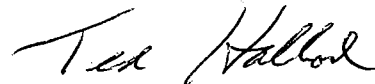
Harold D. Gates, City Attorney for Lincoln City testified and wasn't sure whether he was pro or con SB 100. Senator Burns asked him to submit in writing an answer to Senator Wingard's question as to how Mr. Gates would remedy the situation.

Helen Glen, Realtor from Roseburg testified in favor of SB 100, stating, "We need land use planning now."

Robert Davis, male nurse from the US Veterans Hospital, Roseburg testified in favor of SB 100.

Meeting adjourned at 5:15.

Respectfully submitted,



Senator Ted Hallock, Chairman

Log to recordings, Senate Committee Environment and Land Use

Tape 2 Track 2 Jan. 25, 1973

97 Jim Allison

654 L. Van Elsberg

861 Jim Allison

878 Kenneth Brown

1111 Jane Button

1228 Eldon Hout

Tape 3 Track 1

0000 - 405 Eldon Hout

0429 Paul Rudi

0 539 Bud Svalberg

665 Kessler Cannon

794 Harold Gates

953 Helen Glen

1003 Robert Davis

Senate Bill 100

SENATE COMMITTEE ON ENVIRONMENT AND LAND USE

Jan. 30, 1973 3:00 pm 315 State Capitol

Members present: Senator Ted Hallock, Chairman
 Senator Victor Atiyeh
 Senator Hector Macpherson
 Senator Jack Ripper
 Senator Michael Thorne
 Senator George Wingard

Excused: Senator John Burns, Vice Chairman

Senator Hallock announced the following meetings: Feb. 12, 7:00 pm in Room 20, SB 100, Feb. 13, 3:00 pm in Room 315, work session.

Two sub committees were appointed: Senator Macpherson, chairman, with Senator Ripper and Senator Thorne to take a look at COGS in SB 100. Senator Hallock suggested they think about a "voluntary administrative district" idea, where counties could ban together if they wished or not and could become the intermediate planning body to which appeals could be taken.

Senator Burns, chairman, with Senator Atiyeh and Senator Wingard are to study the areas of critical concern and the activities of the critical concern areas.

The sub committees were asked to report back to the committee by Feb. 13 with suggested draft changes.

Joyce Cohen, Tri County New Politics, Land Use Task Force, testified in favor of SB 100 and submitted written testimony.

Senator Hallock suggested to Senator Macpherson for his sub committee- when looking at the whole intermediate body of government, Section 22 and 23 of the printed bill. Section 22 sub 5, (shall) and Section 23, sub 3 (may) maybe should look at the imperative "shall". Committee should consider Section 11, amendment.

Senator Hallock suggested to Senator Atiyeh for his sub committee, Section 31 and 32.

Craig Markham, Sierra Club (1,927 members in Oregon). It is one of the oldest conservation groups in Oregon. He spoke in favor of SB 100 and submitted written testimony.

Martin Davis, Oregon Environmental Council, submitted written testimony in favor of SB 100. He suggested, Section 40, sub 1 line 34 add "or person or group of persons" after commission.

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Jack Johnson, State Water Resources Board, testified in favor of SB 100 and submitted written testimony.

Senator Hallock suggested to Senator Macpherson's sub committee to look at page 3 of Mr. Johnson's report, pertaining to Section 42, page 5. And that the committee consider on the final page "conservation" taken out and substitute "Dept. of Land Utilization and Development".

Phin Balsiger, Mayor of Wilsonville, testified in favor of SB 100 and had this suggestion: Section 48, page 24, line 11 would add after Act, "no such action shall be deemed necessary unless the commission shall present evidence of its needs".

George Auckland, Oriental Motif Shop, 725 NW 23rd, Portland, submitted written testimony and testified against SB 100.

Senator Hallock asked the committee for unanimous consent to introduce as a committee bill, a bill by the request of the Administrator of the Health Dept. on sub surface sewage disposal.

Grace Lein, Voice of Liberty, submitted written testimony against SB 100.

Gene Magee, Manager of the Oregon Coast Assn. representing 400 members in the 7 coastal counties, (dedicated to highway improvement and development and tourists promotion). He also represents the Pacific NW Travel Assn. and the Oregon Chamber Executives (a state wide Assn.).

Senator Hallock asked Mr. Magee if all 400 members had come to a consensus of opinion of SB 100. Mr. Magee answered no. Senator Hallock suggested he talk with Senator Macpherson before Feb. 13.

Art Dummer, Rt. 2 Box 341, Forest Grove, testified against SB 100.

Eldon Austin, Molalla, testified against SB 100.

Respectfully submitted,



Senator Ted Hallock, Chairman

Log to Recordings

Tape 3 Track 1

0086 Joyce Cohen

0395 S. Hallock to Sen. Macpherson

0409 Craig Markham

0527 Martin Davis

0590 Jack Johnson

0660 Sen. Hallock to Sen. Macpherson

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Log to Recordiggs

0681 Phil Balsiger
0734 George Auckland
0927 Introduction of bill
0933 Grace Lein
1011 Gene Magee
1048 Sen. Hallock
1063 Art Dummer
1120 Eldon Austin
1260

SENATE BILLS 77, 186, 218

SENATE COMMITTEE ON ENVIRONMENT AND LAND USE

Feb. 8, 1973 3:00 pm 315 State Capitol

Members present: Senator Ted Hallock, Chairman
 Senator John Burns
 Senator Victor Atiyeh
 Senator Jack Ripper
 Senator Hector Macpherson
 Senator Michael Thorne

Excused Senator George Wingard

Senator Hallock announced, Feb. 12, 5:00 pm is the deadline for introducing bills. He further announced he had introduced as a committee bill, Senator Atiyeh's "flood plains bill," at the request of the Attorney General. He also introduced another committee bill, at the request of The Metropolitan Parks Foundation, Inc., a non-profit corporation.

Ward Armstrong, AOI, with the ad hoc committee on SB 100, which embraces representatives of AOI, Local Government, League of Oregon Cities, Assn. of Oregon Counties, and Agriculture are working together to see how their concerns can be resolved. Sen. Hallock asked Sen. Macpherson to serve as a sub-committee of one to work with the ad hoc committee and report to the full committee Feb. 20.

Fred Van Atta, Oregon State Home Builders Assn. presented written testimony against SB 77.

John Toran was directed to write a letter on behalf of the committee to Mr. O'Scannlain asking him to have to the committee by Feb. 20, in as complete detail as he can, what his contemplated rules would be under the passage of SB 77 as it is. Also ask Mr. O'Scannlain what his plans would be - to whom he would utilize if you say in 10 to 13 counties, sanitarians might be utilized, who he would utilize in the other 23 counties.

Mr. Fred Van Atta interuppted with, "Admn. Bateson said only 10 to 15% of the time of sanitarians would be available for septic tank inspections if this transfer was made and they gave the priority to his program."

Sen. Hallock re-phrased the question, "The other 85% of time required from sonebody- the sanitarian or somebody else to do the job and who possibly are the kinds of persons he might see fit to contract."

Mr. Van Atta felt these were fair questions.

Sen. Thorne asked if a letter to Mr. Bateson could be sent to inquire as to what the policy is currently.

Sen. Hallock directed John Toran to ask Mr. Bateson for a copy of the 90 page revised rules.

SENATE BILL 100

SENATE COMMITTEE ON ENVIRONMENT AND LAND USE

Feb. 12, 1973 7:00 pm 20 State Capitol

Members present: Senator Ted Hallock
 Senator John Burns
 Senator Victor Atiyeh
 Senator Hector Macpherson
 Senator Michael Thorne
 Senator George Wingard

Excused: Senator Jack Ripper

Senator Hallock announced we limit each witness to 8 minutes starting with the opponents, beginning with the witnesses left from Jan. 30 public hearing.

Shirley Hulegaard, Oregon Legislative and Research Committee, Assistant State Coordinator, and representing Lane County Tax Protective Assn. Political Action Committee said her group is prepared to take an injunction out to take SB 100 to the federal supreme court , if necessary as it is unconstitutional.

Ruby Nichols, Silverton, Save Silverton Committee, The Women for Constitutional Government, Oregon Legislative & Research Committee presented several petitions with over a 1,000 signatures of people who question the constitutionality of the Governor's right to form 14 administrative districts and set up 13 administrative councils of government not elected by the people.

Sen. Hallock asked during what period of time were the signatures gathered.

Ruby Nichols replied, " Nov. and Dec. 1972".

Rep, William Grannell, North Bend, submitted written testimony.

Bob Harrison, Bend Chamber of Commerce, submitted written statement.

Duane Kaptur, Rt. 1 Portland, submitted written testimony.

Joseph Spenner, Silverton yielded 4 min. of his time to Ruby Nichols.

Ruby Nichols

Monty Anderson, Josephine county Planning Comm., Submitted written testimony.

Dave Brashears, Grants Pass Planning Director for Josephine County, submitted written testimony.

John Weber, Canby represents Weber and Sons and 760 Farm Bureau members in Clackamas County.

Dan Dority, Lake Oswego, has a 600 acre farm in Marion County, submitted written testimony.

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Irwin S. Adams, Ex. Vice President North Clackamas Chamber of Commerce, lives in Milwaukie and made remarks on behalf of the membership of 538 in the North Clackamas area.

Mike F. Becker, spoke briefly opposing SB 100.

Mrs. Dan Dority, Lake Oswego, spoke against SB 100.

Russ Krueger, Portland, Washington County. He feels we already have existing laws and should abide by them.

B. J. Rogers, Springfield, Assoc. of Oregon realtors, submitted written testimony. He is the chairman of the Planning and Zoning of the above group and represents 3500 plus members.

Mike Miksche, realtor from Pringle, Crook County, submitted written statement and noted he was speaking for himself as an individual.

Paul Brown, Wilsonville, feels if certain areas in the bill could be revamped and reworked it could be a very useful and feels it is long over due.

Don Darling, LaCom, Linn County agrees with Ruby Nichols.

Mary Kangas, Scapoose, Representing herself and her family is opposed to CRAG and feels it was illegally formed and she questioned the Federal funds for CRAG, since HUD says they must have Clark County or they get no funds and the State of Oregon can't make laws for the state of Washington.

PROPOSERS

Diarmuid O'Scannlain, DEQ submitted written testimony expressing the DEQ position on SB 100.

Randall Kester, President of the Portland Chamber of Commerce and appearing on behalf of the chamber submitted printed statement.

Roger Yost, Campbell & Yost, architect, testified on behalf of the chamber and submitted a written statement.

Sen. Burns to Mr. Yost, " It is your recommendation that the guidelines be put into statute or that the new Dept. be given rule making authority to set these guidelines?"

Roger Yost answered that during the interim, the process would be that from the local to the regional to the state level, these people would be working together to evolve policy making statements and planning guidelines

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that would be presented to the 1975 Legislature and that during that period of time other than advising and coordinating with these policy statements and guidelines, they would have no authority.

Sen. Burns to Roger Yost, "We would put them into the statute in the 1975 session?"

Roger Yost replied, "In the 1975 session, based on a considerable amount of evidence, the Legislature and the people of Oregon would see what this Dept. really was going to do and make a more definitive decision.

James Moore, Beaverton, League of Oregon Cities, (former mayor of Beaverton) submitted written testimony. He handed the committee a packet which included a proposed piece of legislation and a 10 page analysis of SB 100.

Sen. Hallock said to Mr. Moore, " In essence you parallel Mr. Kester and Mr. Yost, except you have gone to the pains of drafting a bill."

James Moore said that what Mr. Kester and the gentleman from Josephine County said was basically what he was saying.

Don Karr, Klamath Falls, Associate Professor in Biological Sciences, Oregon Technical Institute presented written testimony along with a map showing proposed planning districts.

Dorothy Anderson, Eugene, League of Women Voters, Legislative Chairman, submitted written testimony with a list of specific suggestions.

David Koonce, read a statement for John Gray, Chr. of the Board, Omart Industries, Chr. of the Board of Trustees of Reed College and a land developer in Oregon. He was unable to attend due to conflict.

Commissioner Ken Omlid, Eugene, Lane County, submitted written testimony and a proposed bill for an act, which is a Senate bill, in Local Government Affairs.

Stan Biles, Beaverton, former member of Friends of the Earth, and the American Civil Liberties Union, student advisor to the Washington County Planning Comm. and at the present an assistant to Rep. Whiting, but was speaking for himself. He submitted proposed amendments to the committee.

Charles Quaintance, portland, lived 32 years in La Grande, submitted written testimony.

Stan Pinarich, Tillamook, former member of the Tillamook Planning Commission, with the Oregon Shores Conservation Comm.

Sen. Hallock asked Mr. Pinarich if he had heard Kester, Yost and Moore's idea to create a Dept., fund it to plan for 18 monthes and come back with

what it would do in 1975. Do you concur, you wouldn't like to see the areas of Critical Concern go for another 20 months or so?

Mr. Pinarich said that was correct and that some vehicle should be set up immediately

Sen. Wingard asked if it would be helpful, throughout the state if we had specific rules as to who could and could not vote on a particular planning commission.

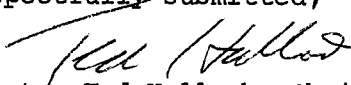
Mr. Pinarich answered, "Yes."

Sen. Hallock, asked if he were aware of the beginning of OCC&DC before he left, and if he had followed it since he had left.

Mr. Pinarich said that he was not there at the beginning but had followed it as closely as he could and felt they need teeth.

The meeting was adjourned at 11:15 PM.
Testimony recieved from people not getting to testify.

Greg Wasson
James Pearson
Henry Skade
Walter Brown
Nancy Stevens

Respectfully submitted,

Senator Ted Hallock, Chairman

Log to Recordings:

Tape 6, Tr 2	Tape 7, Tr. 1
0000	0000
0036 Shirley Hulegaard	0012 Randall Kester
0101 Ruby Nichols	0119 Roger Yost
0279 Sen. Hallock	0226 Sen. Burns
0280 Rep. Grannell	0244 Roger Yost
0420 Bob Harrison	0246 Sen. Burns
0471 Duane Kaptur	0270 Roger Yost
0590 Joseph Spenner	0407 James Moore
0640 Ruby Nichols	0514 Sen. Hallock
0681 Monty Anderson	0526 James Moore
0730 Dave Brashears	0630 Don Karr
0776 John Weber	0727 Dorothy Anderson
0819 Dan Dority	0801 David Koonce
0871 Irwin Adams	0873 Comm. Omlid
0902 Mike Becker	0984 STan Biles
0924 Mrs. Dan Dority	1069 Charles Quaintance
0952 Russ Krueger	1180 Stan Pinarich
1017 B. J. Rogers	1195 Sen. Wingard
1085 Mike Miksbhe	1207 Stan Pinarich
1137 Paul Brown	1227 Sen. Hallock
1166 Don Darling	1230
1178 Mary Kangas	
1213 Diarmuid O'Scannlain	

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Sen. Hallock asked Sen. Burns to report back on sub committee, Areas of Critical Concern by Feb. 20.

Martin Davis, OEC, presented a written statement speaking for him self and as to his views on SB 100 to date.

Sen. Hallock asked him if the observation were his own or OEC.

Martin Davis stated that the views would be ratified at the meeting that evening.

Sen. Macpherson reported on his sub committee on COGS:

The committee has met three times with one full hearing. Robert Logan informed the committee why we had COG and what went into their creation , the three federal planning requirments, désignated sub state districts in which an area wide planning organization has been established. 2/3 of voting membership , policy body of planning of organization must be elected officials of cities and counties. Adequate long range area wide comphrensive planning, including water and sewer and open space functional planning and programing which is consistent with area wide comphrensive planning.

Mickey Moffitt, Coos County Comm., thinks council should be voluntary.

Richard Prarson, says his COG very successful, Dist. Wasco. County.

David Mc Grath, County Comm. for Clatsop County, support COG's as we know understand them.

Larry Rice, Lane COG showed some diffulties, but for the most was satisfied.

Frank Elliot, Lane County Comm. said he opposed COG's only if they were mandated.

Ellen Lowe, Salem City Council spoke in favor of COG's.

Dr. Russell Beaton, Proffessor of Economics at Willamette University, did a study of THE MID WILLAMETTE COG.

Sen. Hallock informed the committee that Sen. Burns had submitted a bill to divide Oregon into 9 counties.

The following meeting were announced by the chairman:

Tue. Feb. 20 , Sen. Macpherson ad hoc committee will report.

Tue. Feb. 20, Sen. Burns sub committee will report.

Tue. Feb. 20, Sen. Wingard sub committee on SB 77 will report.

He further announced if it were possible to agree on a revised SB 100, after it is drafted, we will call future pbulic hearings.

This Thur. we have SB 186. He then read the list of agencies for John Toran to contact for the hearing. SB 165 and SB 167 also. Clerk to notify Mr. O'Scannlain to have people he wants to testify.

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2/15/73 SB 186 and SB 295 , 2/20 Will hear form Sub Committees, SB 77
SB 100. Thursday FEB. 22 will announce later.

Senator Macpherson stated that he wanted to report further on the COG sub committee. Sen. Wingard asked Sen. Macpherson that if the development of a comprehensive pland embraces city and county lines, how you develope it under this plan.

Sen. Macpherson answered that each county developes a comprehensive plan and each city developes a comprehensive plan and the two of them get together and plan. Sen. Wingard felt the only reason for creating COGs was for the money. Sen. Wingard asked if the governing body could all be elected officials. Sen. Macpherson said that they could.

Sen. Ripper said he didn't think the Federal Gov. was going to cut out funds to the state of Oregon, because we want to run our state the way we want it.

Sen. Wingard was concerned about holding the people together other than the threat of money.

Sen. Hallock said that LCDC is how we do it, let's call it the overview parent body that has developed a state wide plan and state wide guidelines.

Sen. Burns said that as long as we have 36 counties, he would give the planning commission complete authority for all the planning decisions. It must be in the hands of the elected officials.

Sen. Hallock asked the committee that if we only had 36 counties and there is only one OCC & DC did anyone resist OCC & DC being in as a buffer. There were no objections.

The meeting was adjourned at 4:45 pm.

Respectfully submitted,



Sen. Ted Hallock, Chairman

Log to recordings:

Tape 7 Track 2	0833	Sen. Hallock to J. Toran
0000	0848	Sen. Macpherson
0007 Sen. Hallock	0853	Sen. Wingard
0050 Sen. Thorne	0883	Sen. Ripper
0150 Sen. Wingard	0909	Sen. Hallock
0157 Sen. Macpherson	0971	Sen. Burns
0168 Sen. Hallock	0992	Sen. Hallock
0192 Sen. Hallock (Energy Crisis)	1093	
0215 Sen. Hallock (ad hoc comm.)		
0571 Martin Davis		
0654 Sen. Macpherson, report		
0805 Sen. Hallock		

SENATE BILL 100, 295 186

SENATE COMMITTEE ON ENVIRONMENT AND LAND USE

Feb. 15, 1973 3:00 pm 315 State Capitol

Members present: Senator Ted Hallock, Chairman
 Senator Michael Thorne
 Senator George Wingard
 Senator Victor Atiyeh
 Senator Jack Ripper
 Senator Hector Macpherson

Excused: Senator John Burns

Senator Hallock announced that the ad hoc committee serving under Senator Macpherson embraced, Ward Armstrong, Weyhauser, Dean Brice, AOI, Comm. Mel Gordon, Assoc. of Oregon Counties (Gordon Fultz to take his place in his absence) L. B. Day former director of DEQ, Nan Dewey, Oregon Wheat Growers, and Farm Bureau League, Martin Davis OEC, and that that group and only that group would be a policy making with Senator Macpherson, others would be welcome to attend meetings.

Sen. Macpherson asked what about Fred Van Atta. Sen. Hallock apologized and included Fred Van Atta representing the Home Builders and Realtors.

SB 186

J. E. Schroeder, State Dept. of Forestry, appeared in opposition to SB 186 and was concerned about the term "permit or license". He said they issue 8500 permits annually, authorizing the operation of power driven equipment on forest lands, 18,00 permits for burning annually. They issue 20 to 25 closures, 20 to 25 industrials restrictions. Our forest practice act 10,000 notifications to people that are involved and concerned. On a burning permit we could have 5 people come in and demand a hearing because we failed to issue permits and another five people come in and demand a hearing because we did issue permits to burn.

George Baldwin, Oregon State Highway Dept. opposed SB 186 and was concerned about any "5 persons" from Portland can force a public hearing on any agency action throughout the entire state which they contend involves, air, water' pollution. He feels the 5 people should have alleged actual threat of harm to them and their ^{homes} before demanding a hearing. Hearings are a considerable expense and if no action is required under this bill after a hearing, what do the words, findings and decisions mean?

Kessler Cannon, Assistant to Gov. Mc Call for Natural Resources, concerned as the other two agencies who testified before him.

Sen. Hallock to Mr. Cannon, "Every Agency says they have hearings, but resist saying it in the law. What if a bill like this said 'media shall be used to publish hearings'".

Mr. Cannon said that if it could be a part of the newspaper where you could turn to a section that you knew was there people might use it.

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Sen. Hallock to Mr. Cannon, "SB 186 deals with rules and regulations, you wouldn't be resistive to a bill like this, with mandatory hearing procedure?"

Mr. Cannon answered, "No."

Mr. Rittenhouse, State Marine Board, testified briefly against SB 186

William Cox, Director of the Division of State Lands, opposed SB 186 and felt that the hearings would be too expensive.

Dr. Kelly Woods, testified against SB 186 in its present form and presented written testimony.

Bob Hollaway, Oregon State Game Commission, says they are required by law to hold hearing before setting any hunting, angling or trapping regulations.

Charles Lawson, spoke in favor of SB 186 and felt it would be better to have hearings before we have trouble.

SB 295

Gary Sandberg, DEQ explained the bill and submitted written testimony.

Tom Donaca, AOI, stated the bill in its present form would have taken out the basis to which you can measure noise, and would amend the bill to read-line 17, after established, " as well as the method of measurement of levels of noise emission."

Senator Macpherson moved that line 17 be amended, Roll call showed 6 ayes.

Senator Atiyeh moved SB 295 do pass with amendment. Roll call showed 6 ayes.

Senator Hallock is to carry bill to the floor.

Senator Hallock announced future meetings:

Feb. 20, Tue. report from Sen. Wingard sub committee SB 77.
" report from Sen. Macpherson ad hoc comm.
" report from Sen. Burns sub comm. SB 100.
Feb. 22, Thur. Energy Crisis meeting
Feb. 22 SB 104, 166 and 167 at regular committee meeting.

Respectfully submitted,



Senator Ted Hallock, Chairman

SENATE BILL 100

SENATE COMMITTEE ON ENVIRONMENT AND LAND USE

February 27, 1973

4:00 p.m.

315 State Capitol

Members Present: Senator Ted Hallock, Chairman
Senator Victor Atiyeh
Senator Jack Ripper
Senator Hector Macpherson
Senator George Wingard
Senator John Burns (late)
Senator Michael Thorne (late)

Senator Hallock announced that he had submitted as a committee bill a "Housing Rent Control Bill" at the request of the City of Portland.

Senator Macpherson moved to table SB 166 and 167. Research Comm. felt the measures were not really needed. There were 5 ayes on a roll call vote.

Senator Hallock thanked Mr. Day and all of the ad hoc committee members. He asked Mr. Day to explain SB 100. The clerk was to give each committee member a copy of the bill to read with an open mind. On March 6 all interested parties are asked to bring in their amendments. A motion will be made to print this bill as Substitute SB 100. Each set of amendments will be considered after that. One extra work session will be needed by March 8.

Before hearing witnesses, Senator Hallock said he understood that the OEC and Oregon Shores Coalition disagreed and that they could present proposed amendments.

Mr. L. B. Day said that in working with the ad hoc committee and Senator Macpherson, they tried to give a major role to county government. They discussed a proposed budget, not only for the state staff but to the area of grants and aid to counties. The ad hoc committee submitted amendments bring printed SB 100 up to the new SB 100. It gives Engrossing and Enrolling the method to achieve the full bill. It will cost \$159,395. in addition to \$100,000 for a legislative committee. Notice how the interim committee with citizens advisory committee is tied with the state commission. There is very strong citizen's participation at the local level. They have tried to work with environmental groups.

Mr. Hal Brauner, assistant to Kessler Cannon, testified. The ad hoc committee had some suggested amendments to the draft. Senator Hallock suggested they be submitted.

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Environment and Land Use
February 27, 1973

Senator Hallock said that other language was needed in subsection (1) of section 1, such as "The 57th Legislative Assembly hereby declares it to be. . ." In subsection (4), third line from the bottom, instead of private agencies and groups, a collective noun such as "people, persons or citizens" could be used.

Senator Hallock asked if section 12 contained the same language as in the printed bill. If subsection (2) was deleted, Oregon sovereignty would not be surrendered to some interstate group. Senator Hallock wondered about not having section 12 in the bill.

Mr. L. B. Day said it would preclude the state from arriving at certain agreements in a compact. Senator Hallock said that since it was there now, would it throw the state into a compact the state did not wish to join. Mr. Day said no.

Senator Hallock directed Mr. John Toran to draft a letter to the President of the Senate asking his permission to ask the Attorney General for his opinion about taking out of the bill the language that would compel us join a compact on the word of the commission.

Mr. Brauner testified on part 3 which is of state-wide significance. It replaces part of the sections of the areas of critical concern. Planning and siting of public schools was added.

Senator Hallock called attention to page 17, after 3k in the ad hoc amendments to add a new subsection (3) to consider the matter of compensatory payment. By 1977 the planning here means that the parcel a person had planned to subdivide shall not be so zoned and the owner would have realized much money. LCDC somehow indemnifies them for different zoning or find another solution. There is something that directs the LCDC to study compensatory payment. Mr. Day could include this in the legislative committee.

Mr. Van Atta said there is a bill being drafted in the Governor's office and is hopeful that it will solve the problem this session.

Mr. Day informed the committee that they had had advice from planners. Goals must be set to start with. That set of goals is the direction taken by the county government in development of their overall comprehensive plans, with a special consideration for priority areas that might fall within their counties, lake and lake shore areas.

Senator Atiyeh said he was trying to understand the difference between areas. In activities, cities or counties are not involved.

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 Environment and Land Use
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Mr. Brauner said that the relationship to the goal-setting process by the commission applies to the activities as well as to the priority areas.

Senator Thorne wanted to know if the goals were flexible. Mr. Day said the goals were not inflexible. He continued that there would be seven field offices which would have good coordination with the counties.

Senator Burns asked if, in setting up the seven field offices, they could be structurally set up paralleling the DEQ, Highway Department and other agencies involved. Mr. Day answered yes, but that he would not want it mandated.

Senator Hallock announced that the ad hoc committee would meet on March 6 and take up where they stopped. He asked that the committee work with Mr. Don Barney, lobbyist for the City of Portland on language affecting the tri-county area. The instrument could be the CRAG. Mr. Toran and Legislative Counsel will give help. The committee was asked to draft a companion bill for funding and another bill to create an interim committee.

Hal Brauner said that a funding bill has been introduced and is in Ways and Means.

Senator Hallock said that explanation would continue next Tuesday and amendments could be presented. He asked the clerk to have photo-copied 50 bills, to be distributed to interested groups.

Senator Atiyeh said he would like a short overview of SB 100.

Senator Hallock said that using our staff, we could try to reduce to one page the philosophy of SB 100. He asked Mr. Toran to get the highway artist to draw a diagram showing the chain of command, reflecting this other amendment including counties or CRAG, OCC&DC and LCDC.

The committee is to reconvene at 7:00 to hear amendments to SB 77.

The meeting was adjourned at 4:20 p.m.

Respectfully submitted,


 Sen. Ted Hallock, Chairman

Peg Henwood, Clerk

Log to recordings:

- Tape 9 Track 1
- 1437
- 1444 SEN/ Macpherson
- 1450 SEN. Hallock
- 1501 L. B. Day

SENATE BILL 100

SENATE COMMITTEE ON ENVIRONMENT AND LAND USE

March 6, 1973

3:00 p.m.

315 State Capitol

Members Present: Senator Ted Hallock, Chairman
Senator John Burns, Vice Chairman
Senator Michael Thorne
Senator George Wingard
Senator Victor Atiyeh
Senator Jack Ripper
Senator Hector Macpherson

Senator Hallock welcomed former U. S. Senator M. Neuberger to the Senate hearing.

The Honorable Tom McCall, Governor of the State of Oregon was the first witness. He shared with the committee a letter from "Friends of the Earth," and submitted a written statement in support of the "new" SB 100. Included in his packet was an article about COGs, report of the impact of the Charbonneau development, and a report on the Willamette Valley Mall.

Mr. L. B. Day continued with the explanation of SB 100. He stated that there was a funding bill in the Ways and Means Committee for SB 100. He started with section 35 of the mimeographed document.

Senator Burns was concerned about page 18, paragraph (b) concerning "public involvement" and said he would suggest some amendatory language later.

L. B. Day suggested a look at page 17, section 36. They are going to hold public hearings and implement other suggestions from public involvement.

Senator Hallock interrupted with--for, not from.

L. B. Day The point is there is better language to say it, but that was our intent.

Senator Burns It is important not only to have notice of hearings, but to give notice of what the goals are. I wonder if the ad hoc committee considered the statute for a publication for what the goals are rather than this notice of hearing.

L. B. Day We did not, but we would not object to that.

Senator Burns stated that he would suggest some language.

Senator Macpherson said that regarding section 45, he would like a better notification system, and wondered what happens after 90 days.

Page 2
Environment and Land Use
March 6, 1973

Senator Hallock suggested that Kathleen Beaufait take a look at the section pertaining to "public hearings" after the 90 days, then 30 days. He asked Legislative Counsel to apply the same kind of language that appears in section 36, subsection (1), paragraph (a) on page 18 to section 37, subsection (1) on page 18, starting with the first line to clarify the language.

Senator Burns Did you build in an appellate procedure for the appeal of the cost function? If a dispute rises between the county and the state with respect to the assessment of the cost, what is the procedure?

Senator Hallock asked Kathleen Beaufait to add language that would take care of the cost function.

Senator Macpherson The teeth of the bill is in paragraph (d) of section 51 of the bill. What this petition by any affected person means is a zone change, etc. Can it actually be appealed or can only the ordinance be appealed?

Hal Brauner In this case the ordinance is the action.

Senator Burns was concerned about the appeal section. He asked Mr. Day if he could use some legal help with the appellate section.

Mr. Day said that he would be happy to have legal help and would want each district to have an opportunity to make their case if they felt they had been unjustly treated at the local level or at the state level.

Senator Burns suggested that Legislative Counsel provide the committee with some analysis upon the appellate section of section 51.

Senator Hallock said according to ORS 183.310 to 183.500, he is concerned about not having a built-in hearing procedure.

Senator Burns If you want to make your notice provisions of subsection (2) of section 52 consistent with your notice provisions on goal hearings, you are going to have to specify it in the statute.

Senator Hallock asked Kathleen Beaufait to check the definition of "affected person" or possibly "aggrieved."

Senator Burns suggested they use the language in the energy board statute, regarding monthly review with the legislative committee on the progress of this department and the problems they are running into.

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Environment and Land Use
March 6, 1973

Senator Hallock asked Kathleen Beaufait to look into section 55 pertaining to the above. He presented amendments from the City of Portland affecting subsection (2) of section 19. He said that the mayor of Portland wanted to make sure the Tri-County government comes about by a vote of the people.

Senator Ripper If we put it in place of subsection (2), would it then preclude counties from voluntarily joining together.

Senator Hallock Coos and Curry would come under (2) if they joined together, and if you make it three counties--if the people vote a duo or tri or more county planning entity, that is the entity.

Senator Ripper The Governor said he was going to keep COGs.

Senator Hallock The city amendment is based on the one man, one vote, voting in a regional entity of government for the purpose of planning.

Senator Ripper said he would like "authorized" spelled out a little differently.

Senator Hallock would add "by vote" after "authorized." He would like Kathleen Beaufait to look at the amendments to put in the language that Senator Ripper suggested.

Senator Thorne would like to take a second look at the amendments and possibly likes the first language better.

Senator Hallock explained the second amendment would be another subsection, also section 19.

L. B. Day would like to talk with lawyers before deciding on the second amendment.

Senator Burns Can you provide for us, Mr. Day, how many of the positions or how many dollars can be transferred from the local government assistant's office or from the natural resources offices to assist with the funding?

L. B. Day I would ask that you make that request of the Legislative Fiscal office or Ways and Means.

Senator Hallock made the following announcements:

March 8, Thursday, SB 100 Individuals representing groups to testify.

March 13, Tuesday, SB 100 Work session, looking at amendments and the document as a whole, and possibly asking the committee

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Environment and Land Use
March 6, 1973

to reconvene in the evening. Senator Hallock asked the members of the ad hoc committee to be available for the work session so the committee could ask them for opinions. Hal Brauner said he would be available.

The meeting was adjourned at 4:45 p.m.

Respectfully submitted,



Sen. Ted Hallock, Chairman

Log to recordings:

Tape 11 Track 1
0031
0084 Gov. Mc Call
0369 L. B. Day
0422 Sen. Burns
0430 L. B. Day
0451 Sen. Burns
0470 L. B. Day
0478 Sen. Burns
0526 Sen. Macpherson
0542 Sen. Hallock
0622 Sen. Burns
0648 Sen. Hallock
0685 Sen. Macpherson
0702 Hal Brauner
0739 Sen. Burns
0756 L. B. Day
0776 Sen. Burns
0792 Sen. Hallock
0811 Sen. Hallock
0859 Sen. Burns
0865 Sen. Hallock
0932 Sen. Hallock
0954 Sen. Ripper
0982 Sen. Thorne
0987 Sen. Hallock
0993 L. B. Day
1000 Sen. Burns
1026 L. B. Day
1037 Sen. Hallock

SENATE BILL 100

SENATE COMMITTEE ON ENVIRONMENT AND LAND USE

March 8, 1973

3:00 p.m.

315 State Capitol

Members Present: Senator Ted Hallock, Chairman
Senator Michael Thorne
Senator George Wingard
Senator Victor Atiyeh
Senator Jack Ripper
Senator Hector Macpherson

Excused: Senator John Burns, Vice Chairman

Opponents of SB 100 were called upon to give testimony.

Jim Allison, Oregon Rural Landowners Association, submitted written testimony which included five amendments.

Mike F. Becker, Keep and Bear Arms, feels we should forget the bill.

Jane Button, Oregon Legislative and Research Committee, questioned who decides what is liveability.

Grace Lein, Estacada, felt that if the committee wanted to know what the people want, it should be brought to a vote.

Jim Moore, League of Oregon Cities, submitted a written statement, including suggested "Goals and Guidelines" and "Review and Policy Implications for Cities in Revised SB 100."

Doug Heider, Portland General Electric, stated he was not opposed to SB 100 as revised. They are concerned with section 25, paragraph (c) of subsection (1) on page 12. Counties are not capable of planning nuclear sites!

Senator Wingard questioned a statute reference and would check on it and talk with Mr. Heider later in the meeting.

Jack McIsaac, Pacific Power and Light Company, said his company had a few arguments with the revised SB 100. He referred to page 12, paragraphs (a), (b) and (d) of section 25 are not subject to any state-wide planning comprehensive planning goals.

Lloyd Anderson, City Commissioner, City of Portland, submitted written testimony. He stated that the county staff was neither equipped nor able to make judgments on many issues of concern to the city. He would agree with the amendments the City of Portland had submitted and would add another to section 19.

Senator Macpherson said, what if the bill is not amended?

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Environment and Land Use
March 8, 1973

Lloyd Anderson I don't think CRAG is voluntary to the extent that if it did not exist there would be a substantial reduction of federal grant money that came to the area. If the amendments suggested here pass and the legislation passes which has been submitted, with those together it would work.

Senator Wingard to Doug Heider. On page 12 of the revised bill, section 2, it relates to statute already written "except that a state agency may neither implement any such activity or adopt any plan relating to such activity without the prior approval of the commission", how do you think that would operate?

Doug Heider I'm not sure. The Nuclear Thermal Energy Council could not approve an application until we got a permit from LCDC.

Senator Wingard I think the legal counsel for NTEC is also mistaken on this particular area. The statute is specific. "You shall include all eight of these in your siting and in the site study, one of which is land use." He referred to ORS 453.455 as it relates to sites. He feels we really need a check on siting plans.

William Young, Mayor of Beaverton and Chairman of the Executive Board of CRAG, submitted written testimony and amendments to section 19. He gave each of the members a copy of "Planning Studies in the Columbia Basin and the Willamette Valley."

Wanda Mays of Portland, spoke in support of CRAG as the planning agency for administrative district number 2. She submitted written testimony.

Jerry Tippins, Portland Metropolitan Area Local Government Boundary Commission, testified in favor of SB 100 with the exception of section 19. He submitted written testimony.

Senator Hallock asked Mr. Tippins if he and Commissioner Anderson and CRAG agreed. Mr. Tippins answered yes.

Bud Kramer representing the Multnomah County Commissioners was in favor of SB 100, stating that Multnomah County was one of the 36 counties being designated to carry out the state-wide plan.

Gordon Fultz, Association of Oregon Counties, supported SB 100 and submitted written testimony. He stated that he would like to work with the committee on the proposed amendments.

Phil Balsiger, Mayor of Wilsonville, submitted written testimony and would refer the committee to page 6, section 11, page 14, section 27, page 16, section 34 and page 19, section 40. He was concerned about the burden of proof upon the commission to make changes as they see fit.

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Environment and Land Use
March 8, 1973

Senator Hallock did not concur with Mayor Balsiger as to his fourth amendment.

Walter Brown, Clackamas County Citizen Association, submitted written testimony and proposed amendments. He testified in support of SB 100.

Dorothy Anderson, League of Women Voters, spoke in favor of SB 100 and submitted written testimony. The League is disappointed that the COGs were omitted from the bill and also the League questions the definition of "affected person" on page 26.

Senator Hallock asked Senator Macpherson along with John Toran, Hal Brauner and Steve Hawes to go through the proposed amendments to SB 100 and report back to the committee on Tuesday, March 13. He asked other people at the hearing who did not get to testify to submit their amendments for the committee's consideration. Tuesday will be a work session and possibly will come back for an evening session. DEQ has two bills, HB 2436, HB 2437 assigned to us today, and they must meet a federal deadline of March 19. We will ask Barbara Seymour to come and speak on the bills.

The meeting was adjourned at 5:30 p.m.

Respectfully submitted,



Senator Ted Hallock, Chairman

Log to recordings:

Tape 11 Track 1
1035
1051 Jim Allisen
1105 M. Becker
1119 J. Button
1170 G. Lein
1232 J. Moore
1334 D. Heider
1416 Sen. Wingard
1468 J. Mc Isaac
1544 L. Anderson
1645 Sen. Macpherson
1649 L. Anderson
1684 Sen. Wingard
1690 D. Heider
1700 Sen. Wingard
1735 W. Young
1796 W. Mays

Tape 11 Track 2
0056 Sen. Hallock
0058 B. Kramer
0119 G. Fultz
0212 P. Balsiger
0247 Sen. Hallock
0329 W. Brown
0455 D. Anderson
0512 Sen. Hallock
0549

SENATE BILL 100 HOUSE BILLS 243.6 243.7

SENATE COMMITTEE ON ENVIRONMENT AND LAND USE

March 13, 1973

3:00 PM

315 State Capitol

Members present: Senator Ted Hallock, Chairman
Senator John Burns, Vice Chairman
Senator Victor Atiyeh
Senator Hector Macpherson
Senator Jack Ripper
Senator Michael Thorne
Senator George Wingard

SB 2436

Diarmuid O' Scannlain explained the bill and submitted amendments to the bill. The bill has a federal deadline, March 18, 1973. What the bill does is have the Federal Gov. take over all water pollution control operations. The state must comply with a series of requirements. It is those requirements we are addressing in HB 2436 and HB 2437. The DEQ must file a formal application to the EPA no later than March 18 so that Oregon can issue Federal permits under the new Federal program. This involves changing the commission members and changing the statutes in certain ways to conform with Federal requirements. If not Oregon will have a two permit system.

Sen. Burns made a motion to accept the adoption of the amendments to HB 2436. Roll call vote showed, 5 ayes, Sen. Atiyeh, no, Sen. Thorne, no.

Sen. Hallock asked Mr. O'Scannlain to come back on Thur. and the committee would once again hear HB 2436 and HB 2437.

Sen. Burns presented proposed amendments to the printed SB 100. Copy attached. Sen. Burns moved the adoption of his amendments to the bill.

Roll call vote showed, 4 no, Sen. Burns, yes, Sen. Ripper, yes, Sen. Thorne, yes. Motion failed.

Sen. Macpherson presented the proposed amendments from the ad hoc committee to SB 100. He moved the adoption of the amendment to Sec. 11.

Sen. Hallock asked the committee's pleasure on SB 77; it has now been engrossed and the committee has had a chance to look it over for five days. John Toran reminded Sen. Hallock that the committee had assured Mr. Crofoot that he could submit his amendments after the bill was engrossed. Sen. Hallock stated Mr. Crofoot could present the amendments on Thur.

Sen. Burns moved the adoption of Sec. 5 sub 1 line 2 after "of" deleting seven and adding "five". Roll call vote showed 5 ayes, Sen. Wingard, no.

Sen. Macpherson would strike his previous motion and would move to make an addition - Sec. 24 page 11 of the mimeographed bill a new sub section 5. Roll call vote showed 7 ayes.

Sen. Macpherson re: Regional Planning- the ad hoc committee offered 4 options. Option 1 "Permissive Councils of Governments" (sec. 3 and 19)

SENATE BILL 100

SENATE COMMITTEE ON ENVIRONMENT AND LAND USE

March 20, 1973

3:00 PM

315 State Capitol

Members present: Senator Ted Hallock, Chairman
Senator John Burns, Vice Chairman
Senator Victor Atiyeh
Senator Hector Macpherson
Senator Jack Ripper
Senator Michael Thorne
Senator George Wingard

Senator Hallock explained to the committee, the forms sent to the committee clerks to register dissenting votes.

Sen. Macpherson moved the adoption of option 3 of the amendments to mimeographed SB 100 . (Regional Planning) Section 19. He moved the adoption of option 3 with the words "in each county" deleted. Roll call vote showed 4 ayes. Sen. Atiyeh was delayed, was Sen. Burns and Sen. Thorne. Motion carried.

The committee next considered Option 1 (Permissive Councils of Government) Sec. 3 (8), Sec. 19 (3) which would become (4). Sen. Macpherson made a motion for the adoption of option 1. Roll call vote showed 4 ayes.

Don Jones, The League of Oregon Cities, spoke to the committee on option 4, Sec. 19 of the printed amendments. No motion was made on option 4.

Sen. Macpherson spoke to the "activities of critical concern".

Sen. Hallock moved the deletion of "sub c" under section 25 of the mimeographed bill; "The planning and siting of energy generation and transmission facilities for public purposes." Roll call vote showed 5 ayes, Sen. Wingard, no.

Sen. Macpherson then moved to insert a new "sub c", The siting and construction of high voltage and power transmission lines, except lines subject to regulations by the NTEC under ORS 543.305 to 553.575, 453. 994. Hall Brauner was asked to explain the amendment. Jack Mc Isaac, PPL spoke to the motion. Roll call vote showed 4 no, 2 aye, Sen. Macpherson and Sen. Wingard. Motion failed.

Sen. Macpherson moved that option 3, Sec. 25 be adopted. Roll call vote showed 7 ayes. Motion carried.

Sen. Wingard presented an amendment to Sec. 57 copy attached. ORS 453.345. Roll call vote showed 7 ayes, Motion carried.

Sen. Macpherson further explained "designated areas of critical concern", and stated that he would not make a motion to adopt it.

Sen. Hallock stated to the committee that there was a bill for funding in the Ways and Means Committee and he hoped they would put more money in than the bill called for for OCC&DC.

Page 2
Environment and Land Use
March 20, 1973

Sen. Macpherson explained the appeal section, Sec. 50. an appeal on the cost of planning. Roll call vote showed 7 ayes. Motion carried.

Sen. Macpherson explained the legislative review, sec. 56. Sen. Macpherson moved the adoption of the amendment with the following language, "Goals and guidelines adopted by the commission shall be included in the report to the Legislative Assembly required by sub section 1 of this section", roll call vote showed 7 ayes. Motion carried.

Sen. Macpherson explained "notice" section 36, (1) (a) delete "time" and place" and insert "time, place and purpose". Sec. 37 (1) delete "time and place of such hearing" and insert "time, place and purpose of the hearings and the place where copies of the proposed goals and guidelines are available before the hearings with the cost thereof". Section 45. (1) After "bodies," insert "and upon public hearings held within 30 days thereafter". Roll call vote showed 7 ayes. Motion carried.

Kathleen Beaufait spoke to the housekeeping amendments. Sen. Macpherson moved that Miss Beaufait be empowered to catch and correct any such housekeeping errors to be found in the mimeographed bill. Roll Call vote showed 7 ayes.

Sen. Macpherson moved the deletion of the word "prime" on page 17, sub k of the mimeographed bill. Roll call vote showed 7 ayes. Motion carried.

Sen. Burns moved that Sec. 34 sub k page 17, the period be struck after "agricultural land" and insert "in the Willamette Valley". Roll call vote showed 4 no, 3 aye; Sen. Burns, Sen. Ripper, Sen. Thorne.

Kathleen Beaufait gave her idea of the meaning of the words "affected" and "aggrieved". Affected- person is a person some how touched but perhaps not directly. Aggrieved person who has been hurt financially.

Sen. Burns moved that wherever in Sec. 51 and 52 of the mimeographed bill "aggrieved" be inserted to be the modifier for person or persons replacing the word affected. Sen. Burns with drew his motion.

Sen. Atiyeh would make the motion on the Church amendment. Roll call vote showed, 4 ayes, 3 no, Sen. Macpherson, Sen. Wingard, Sen. Hallock.

Sen. Hallock explained the amendment on "Commission Membership". Sen. Wingard made a motion that the membership embraced in the bill be comprised of 4 1 from each of the congressional districts, but no more than 2 of the entire group from Multnomah County, but a least 1 from Mult. County and balance at large. Roll call vote showed, 6 aye, Sen. Burns no. Motion carried.

Sen. Hallock stated that anyone who wanted to discuss anything on "membership" would talk with Kathleen Beaufait and maybe have a change to look at maps.

Sen. Atiyeh referred the committee to page 12, Sec. 25 , sub 2 would delete " approval" and insert "review" . He so moved. Roll call vote showed 4 ayes, 3 no, Sen. Macpherson, Sen. Wingard, Sen. Hallock. Motion carried.

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Environment and Land Use
March 20, 1973

Sen. Burns asked Kathleen Beaufait about the appeal section 50 and 51. She did have a question about page 27 ORS 183.480. Sen. Hallock would empower her to adjust it correctly.

Sen. Atiyeh moved that the mimeographed SB100 as amended be substituted for the printed SB 100 to be sent to the desk to re-engrossed and returned to the committee and within 7 days of receipt of the printed bill a evening meeting will be scheduled. Roll Call vote showed, 6 ayes, Sen. Burns, no. Motion carried.

Sen. Hallock asked Sen. Macpherson to meet with Mr. Day and review the budget for SB 100. He would further ask the committee to empower him to write a letter to Ways and Means Committee attaching a proper budget and the committee's recommendation after proper disposition with SB 100.

Sen. Hallock announced the following agenda:

March 22, Thur. SB 300, SB 310, SB 434.
March 29, Thur. 7:00 pm Room 20, Joint Sub-Committee on Energy.
SB 424, 491, SJR 19.

The meeting was adjourned at 4:30 PM.

Respectfully submitted,


Sen. Ted Hallock, Chairman

Log to recordings:
Tape 12 Track 1
1152 Sen. Hallock
1180 Sen. Macpherson
1225 Don Jones
1238 Sen. Macpherson
1239 Sen. Wingard
1247 Sen. Macpherson
1406 Sen. Macpherson
1433 Sen. Macpherson
1484 K. Beaufait
1504 Sen. Macpherson
1529 K. Beaufait
1586 Sen. Atiyeh
1682 Sen. Hallock
1694 Sen. Atiyeh
1707 Sen. Burns
1720 Sen. Atiyeh
1729 Sen. Hallock to Sen. Macpherson
1768

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Environment and Land Use
March 22, 1973

Sen. Macpherson would further question Sec. 9, as to preempting local action; why do we need 11 and 12 sections, when everybody has to go to Water Resources Board for review. Mr. Johnson stated that local government still has the permit authority and the state board is advisory only. Sen. Macpherson would further ask Mr. Johnson for the definition of "flood plain"

Sen. Macpherson asked Mr. Johnson how the board was going to spend the \$40,000.00. Mr. Johnson answered that 30,000.00 would be used for ortho-photo mapping, 10,000.00 for actual interpretation and analysis. He further stated that they could double their money by putting geological survey on a matching fund basis; the Corps. of Engineers is free and so is the Soil Conservation service. They have recommended that 50,000.00 be put by the State (per year) into identifying the flood plains.

Sen. Wingard stated that the committee would have to look closer at SB 300 and either work SB 300 into SB 100 or SB 300 would become SB 100.

Jack Johnson stated that the board would rather have had the "flood plains" included in SB 100 and would be pleased to work with the committee in settling differences.

John Neilson OEC stated that OEC was pleased that the issue of "flood plain" management is being considered and would save further comment when the bill comes up at a later date.

Fred Van Atta, Oregon State Home Builders, stated that they supported the objectives in SB 300 and believe it should be intergrated in SB 100.

Sen. Macpherson wondered about throwing away SB 300, but keep the number to delimate to the State Water Resources Board, the need to develop the goals and guidelines which would then be put into SB 100 to the LCDC.

Sen. Hallock stated that the money available to the Water Resources Board relayed by Mr. Johnson would still be used to carry out the program.

Sen. Hallock asked John Toran to research in ORS 536.210 sub 6, in respect to 536.15.

Sen. Hallock asked Jack Johnson to review the printed SB 100 when it is ready and be prepared to tell the committee how the Water Resources Board would see its cooperative role with LCDC and if they feel LCDC is mandated to give attention to "flood plain management". He further stated that he would like to see the budget that had been submitted to Ways and Means.

Sen. Macpherson would like this statement entered into the record- "The Water Resources Board in July had asked to be named LCDC under SB 100 and was looked at by his committee and by the Governor's staff and was rejected."


Sen. Hallock announced the following meetings:

March 27, Tue. SB 186, SB 293, SB 294, SB 387

March 29, Thur. SB 310 with amendments and SB 661

The meeting was adjourned at 4:45 PM.

Respectfully submitted,



Sen. Ted Hallock, Chairman

Log to recordings:

Tape 12, Track 2

0000

0030 D. O'Scannlain

0091 Sen. Macpherson

0135 D. O'Scannlain

0166 M. A. Donnell

0200 Sen. Atiyeh

0210 M. Donnell

0253 M. Roach

0305 Sen. Hallock

0343 B. O'Brien

0356 Sen. Atiyeh

0357 Sen. Wingard

0432 D. Jeffery

0511 Sen. Atiyeh

0574 Sen. Hallock

0620 Sen. Ripper

0651 Jack Johnson

0806 Sen. Hallock

0816 J. Johnson

0898 Sen. Hallock

0973 Sen. Macpherson'

1033 Sen. Macpherson

1045 Sen. Wingard

1053 J. Johnson

1083 John Neilson

1111 Fred Van Atta

1149 Sen. Macpherson

1155 Sen. Hallock

1178 Sen. Hallock to John Toran

1209 Sen. Hallock to J. Johnson

1222 Sen. Macpherson

1249

Sen. Hallock made the following announcement:

Thur. March 29 SB 293, 186, 387, 310, 661 and possibly SB 434.

Thur. PM at 7:00 pm "Energy" meeting; SB 424, 491 and SJR 19.

Tue. April 3, SB 673, 487, 731

Tue. April 3, 7:00 Pm Room 20 SB 100.

Sen. Wingard would like the clerk to notify all people who had testified on SB 100. Sen. Hallock instructed the clerk to notify all group spokesman.

Sen. Hallock handed each of the members a copy of an opinion of the Attorney General to the effect that SB 100 would not permit the LCDC to bind the State of Oregon to interstate agreement. John Toran had copies of an subordinate opinion on which the opinion was based.

Sen. Hallock reminded Sen. Macpherson that on Thur. he would like him to report on the budget for funding SB 100.

Sen. Burns read an article from the Federal Register of March 8, 1973, "RPA by administrative rule, relating to implementation to national air quality standards air passed a regulation which gives them authority for regulating siting of complex air sources." Barbara Seymour, DEQ informed the committee that she had a copy.

The meeting was adjourned at 4:50 pm.

Respectfully submitted,



Sen. Ted Hallock, Chairman

Log to recordings:

Tape 12 Track 2

1247

1260 Sen. Burbidge

1307 Attny. General Lee Johnson

1386 Sen. Atiyeh

1429 C. Bateson

1456 Jack Kalinoski

1487 Sen. Hallock

1489 J, Kalinoski

1498 Sen. Ripper

1516 Sen. Atiyeh

1533 Emorory Crofoot

1546 Sen. Hallock

1550 B. Seymour

1612 Sen. Hallock

1615 Pat Wicks

1621 Sen. Ripper

1650 Sen. Wingard

1657 Sen. Hallcok

1716 Sen. Ripper

1721 Sen. Hallock

1748 Sen. Macpherson

1752 Ann Forest

1756 Sen. Hallock

1760 B. Seymour

1794 Sen. Burns...

1800 Sen. Hallock

1814 Sen. Wingard

1878 Sen. Wingard

1881 Sen. Atiyeh

1892 Sen. Atiyeh

Tape 13 Track 1

0000

0007 Sen. Hallock

0015 SEn. Macpherson

0039 SEn. Hallock

0074 Sen. Atiyeh

0125 Sen. Wingard

0169 SEn. Burns

0182 SEn. Burns

0219 Sen. Hallock

0228 Sen. Wingard

0237 Sen. Hallock

0246 Sen. Burns

0273

SENATE BILL 100

SENATE COMMITTEE ON ENVIRONMENT AND LAND USE

April 3, 1973 7:00 PM Room 20 State Capitol

Members present: Sen. Ted Hallock, Chairman
 Sen. John Burns, Vice Chairman
 Sen. Hector Macpherson
 Sen. Victor Atiyeh
 Sen. Michael Thorne
 Sen. George Wingard

Excused: Sen. Jack Ripper

Sen. Hallock announced that the hearing would address its self to SB 100 and each witness would be limited to 5 minutes, and on Thur. in the committee would take final action on SB 100.

Clay Myers, Secretary of the State of Oregon, testified in favor of SB 100 and urged the passing of it. He presented written testimony.

Ward Armstrong, Weyhauser Company, supporting SB 100 said that his company owning large amounts of land in Oregon support SB 100.

Craig Markham , Sierra Club representing 2,000 members spoke in favor of SB 100 and submitted written testimony.

Dorothy Anderson , Legislative Chairman for the League of Women Voters of Oregon testified in favor of SB 100 and submitted written testimony.

Don Waggoner, President of the Oregon Environmental Council, was concerned with Page 12 , and felt thea some areas of the bill could have been stronger, but do support SB 100.

Neil Farnham, President of the American Institute of Architects, submitted written testimony in favor of SB 100 and submitted amendments to Sec. 54. Sen. Atiyeh moved the adoption of the amendment; "on page 26, line 5 after "suspended" insert " for a reasonable interval not to exceed 60 days". Delete the rest of line 5 and all of lines, 6, 7 and 8. Roll call vote showed, 6 ayes.

Jim Allison , Oregon Rural Land Owners Association, was concerned about the definition of goals and guidelines. Sen. Thorne would like Mr. Allison to submit his definition of goals and guidelines. Mr. Allison asked the committee to read HB 3113 and HB 2607 . He felt the bill should provide compensation. Sen. Hallock would refer him to page 11 and 12.

L.B. Day, Oregon Joint Council of Teamsters and representing the ad hoc committee who submitted amendments on SB 100. He testified in support of SB 100 and urged its passage.

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James Moore, Legislative Committee Chairman for the League of Oregon Cities, testified in opposition to SB 100. He submitted written testimony.

R. A. Krueger, Portland, spoke against the bill and was concerned about law suits regarding comprehensive planning already in effect in cities and counties.

Ruby Nichols., Silverton, testified against SB 100 and wanted the committee to know she was speaking only for herself, not the city of Silverton.

Grace Lein, Zamo, testified against the bill and stated that she felt that after the state made land use plans, the citizens should be able to vote on it.

John Weber, Canby, submitted testimony against SB 100.

Arthur Koning, Beaverton, testified against SB 100 and was concerned as to where the funds would come from to implement SB 100.

Ernest Mc Kinney, Lakeview, representing the County Commissioners of Lakeview, wanted to know if the zoning already done in their county would have to be re-zoned.

Gil Meyer, Troutdale, testified against SB 100 and was concerned about private parks and didn't want the state telling them how to plan.

Kenneth Brown, Gervais, Oregon, testified against SB 100 and presented written testimony.

Sen. Hallock announced that on Thur. April 5, the committee would hear an amendment from the City of Portland and Sen. Macpherson will present the funding for SB 100.

The meeting was adjourned at 8:30 PM.

Respectfully submitted,



Sen. Ted Hallock, Chairman

Log to recordings:

Tape 14, Track 1	0493 James Moore
0000	0618 R. A. Krueger
0034 Clay Myers	0684 Rudy Nichols
0115 Ward Armstrong	0756 Grace Lein
0135 Craig Markham	0795 John Weber
0178 Dorothy Anderson	0827 Arthur Koning
0189 Don Waggoner	0894 Ernest McKinney
0267 Neil Farnham	0925 Gil Meyer
0311 Sen. Atiyeh	0947 Kenneth Brown
0333 Jim Allison	1013
0449 L. B. Day	

SENATE BILLS 100, 492, 834

SENATE COMMITTEE ON ENVIRONMENT AND LAND USE

April 5, 1973

3:00 PM

315 State Capitol

Members Present: Sen. Ted Hallock, Chairman
 Sen. John Burns, Vice Chairmen
 Sen. Victor Atiyeh
 Sen. Hector Macpherson
 Sen. Jack Ripper
 Sen. Michael Thorne
 Sen. George Wingard

Sen. Hallock submitted the amendments from the City of Portland to SB 100. Sen. Macpherson moved the adoption of the amendments. Discussion followed and the decision was made to hold the bill over until Tue. for the City of Portland to resubmit their amendments.

Sen. Thorne submitted amendments from the League of Oregon Cities regarding goals and guidelines. Sen. Thorne moved the adoption of the two amendments to Sec. 3. Roll call vote showed, 4 no, Sen. Burns, Ripper and Thorne aye. Motion failed.

Don Barney stated that he had talked with Kathleen Beaufait and would now present the Portland amendments with new language.

Sen. Macpherson withdrew his prior motion and would move the adoption of the revised amendments from the City of Portland- on page 9 of the printed bill, line 29, after the period insert "For the purposes of this subsection, the responsibility of the county described in this subsection shall not apply to cities having a population of 300,000 or more, and such cities shall exercise within incorporated limits thereof, the authority vested in counties by this' subsection.". Roll call vote showed, 5 ayes, Sen. Burns and Sen. Thorne no.

Sen. Wingard wanted this statement entered into the record, " I would prefer option #1 of the League of Oregon Cities amendments, Sec. 19 be in the bill, however I am not going to make the move at this time, because I think it might jeopardize the passage of the bill, but in terms of better government for the State of Oregon and better planning process, it should be included at some later date," (Copy attached)

Sen. Macpherson made a motion to send SB 100 to the floor with a do pass recommendation.

Sen. Thorne wanted this statement entered into the record. " It appears to me from the standpoint of my first exposure to something of this nature, and it was said that you've got to have faith in the system. On the assumption that there is cause to believe in the system, and certainly now is an opportunity to experience the bitterness of it not working and in future months and years as we live with what we are attempting to do. I don't doubt that the bill is going to go out of committee, but I do believe that without something made mention of that feeling and that what we are doing here has little value if I see the system not working, that someone is using this as an attempt to make an end run or to circumvent the hours of work and effort that have gone into the

Page 2
Environment and Land Use
April 5, 1973

formulation of this thing, I'm going to be the first to raise all the heck I can, I have suspicion that's behind it and I would trust that as the bill receives in whatever manner it does, that every effort made, be made in this same context. I've had experience already with a bill that came out of this committee and gotten into the other house and there was an attempt in good faith and we looked eye to eye with each other and we resolved the issue and there were problems that arose and things done that tended to cast another intent on the piece of legislation. I'm very concerned about that and I want to say this as I assume it will be a part of the record. I am concerned if there is not good faith indicated that this is in fact a ploy to perpetuate the executive or ploy to satisfy a special interest realizing that there are problems that are not consistent through out the state then I am going to be very, very disappointed in the system. I feel with tongue in cheek I probably can go along with the bill as it is now prepared."

Roll call vote on the motion to pass the bill out of committee showed, 6 ayes, Sen. Burns, no. The motion carried.

Sen. Burns did not want his "no" vote misunderstood. He would have liked the "critical areas" kept in the bill and definition set up in the statutes to get started now and would rather have seen the administrative function put into the DEQ to save some of the money rather create another department.

Sen. Hallock handed the members the fiscal analysis and the suggested letter to Sen. Holmstrom drafted by Sen. Macpherson for funding of SB 100.
Sen. Atiyeh was concerned that 1/3 of the available money was going to go for administration.

Sen. Hallock instructed the clerk to invite Hal Brauner, Bob Logan and L. B. Day to the committee meeting April 10 and would hear from them the last part of the meeting.

SB 492 Sen. Wingard sponsor of the bill explained the bill, stating that the public should be involved in the committee on field burning and does not feel that a member of a state agency would be representing the public. He further stated that the attendance by the members of state agencies was not as good as those of the public members.

Sen. Hallock questioned the word "member" and asked Sen. Wingard to work with Kathleen Beaufait to change the language.

Sen. Macpherson stated that he would not support the bill.

Sen. Wingard will work on 2 amendments to SB 492, the OEC concept and the language in lines 19 and 20.

Diarmuid O'Scannlain, DEQ stated that he was pleased with the performance of the members of the field burning board that the Director of DEQ appoints. He would like to delete the language on lines 19 and 20.

SENATE BILLS 387, 434, 492, 661, 529, 834.

SENATE COMMITTEE ON ENVIRONMENT AND LAND USE

April 10, 1973

3:00 Pm

315 State Capitol

Members Present: Sen. Ted Hallock, Chairman
 Sen. John Burns, Vice Chairman
 Sen. Victor Atiyeh
 Sen. Hector Macpherson
 Sen. Jack Ripper
 Sen. Michael Thorne
 Sen. George Wingard

Sen. Hallock announced that if an agreement had not been reached on SB 100 by Thur. April 12, he would entertain a motion to move the bill back out. SB 100 had been referred back to committee April 10.

SB 387 Attorney General, Lee Johnson testified and questioned as to whether the committee had adopted in the amendments "probable cause". Sen. Hallock referred him to the amendments adopted on page 2 line 8. Mr. Johnson submitted other amendments and Sen. Hallock asked him if the entire document would embrace his previous amendments and those adopted from Mr. Bateson. Mr. Johnson answered that it would. Mr. Crofoot stated that he was in agreement with the amendments.

Sen. Wingard made a motion to adopt the amendments in total submitted by the Attorney General. Roll call showed, 5 ayes, Sen. Burns and Sen. Ripper, delayed.

Sen. Thorne questioned the conflict with SB 77.

Lee Johnson stated that SB 387 would in effect amend SB 77.

Sen. Hallock asked Tom Donaca if he had any problems with the amended SB 387.

Tom Donaca stated that he was not certain that the bill was totally necessary. He further stated that there was a bill in judiciary which would further conflict with SB 387 and would change ORS 449.100. He feels that SB 387 is a complete review of SB 77. He would refer the committee to SB 77, Section 19, sub 1 and sub 2 and on the basis of " whenever such pollution or threatened pollution requires action to protect the public health, safety or welfare" /page 15, line 16, Mr. Donaca states that the Attorney General apparently believes he has to make an additional showing which would be a substantial addition to his pleadings.

Lee Johnson stated that he did not disagree with Mr. Donaca, but that it was ambiguous, and that any time you have an ambiguity, any lawyer plays it safe and pleads everything and he proves everything. He feels that the best way to do this is to have a clean clear cut remedy without any roadblocks; and he feels that the bill as amended does cover some areas that SB 77 does not; particularly noise pollution and solid waste discharge.

Tom Donaca stated that ORS 820 would be repealed in SB 387 and in SB 77 it would be preserved.

SENATE BILLS 100, 104, 186
HOUSE BILL 2183, 2125, 2175

SENATE COMMITTEE ON ENVIRONMENT AND LAND USE

April 12, 1973 3:00 315 State Capitol

Members Present Sen. Ted Hallock, Chairman
 Sen. John Burns, Vice Chairman
 Sen. Victor Atiyeh
 Sen. Hector Macpherson
 Sen. Michael Thorne
 Sen. George Wingard

Excused: Sen. Jack Ripper

Sen. Hallock referred the committee to the proposed letter to go to the joint chairman of the Ways and Means Committee regarding funding for SB 100. Included was a budget proposal and the fiscal analysis.

Hal Brauner stated that the staffing requirements had been considered by the ad hoc committee who had drafted SB 100. They had met with planning people from both the state and local level and with the fiscal analyst.

Sen. Atiyeh was concerned that 1/3 of the total amount of money was going for administration.

Hal Brauner stated that the 900,000 dollars was not for administrative overhead; but portions would be used for central planner, field planners and staff assistants to the local people.

Sen. Macpherson asked to hear from Legislative Fiscal. Mr. Goodman stated he was the Fiscal Analyst for the Executive Dept. and not with Legislative Fiscal.

Sen. Macpherson made a motion that the committee transmit the letter and budget and the suggested amendments to HB 5082 and a copy of the fiscal analysis to the joint chairman of the Ways and Means Committee. Roll vote Ayes, 5, Sen. Burns and Sen. Ripper excused. The motion carried.

Sen. Hallock stated that Sen. Macpherson felt that a statement of Legislative Intent should be made regarding SB 100 as to "Goals" and "Guidelines".

Sen. Atiyeh offered his assistance to Sen. Macpherson in drawing up a statement of intent. Sen. Hallock wanted the statement to reflect the concept of SB 100 as it was passed out of the committee. The chairman asked Sen. Macpherson to accept input from any of the members and to poll the members as to their vote on the statement before the bill came before the Senate.

Sen. Hallock delivered a statement to the committee on SB 100 reflecting his feeling about the bill and stating that no comprehensive land use plan has ever been attempted for the state of Oregon or any other state in the union.

SB 104 Sen. Hallock asked Mr. R. Kester of the Oregon Railroad Assn. if he still opposed the bill. Mr. Kester stated that their position was opposed to SB 104. Sen. Hallock further stated that Sen. Burns was going to submit amendments to SB 104. The chairman instructed the clerk to ask Sen. Burns for a copy of the amendments and to mail a copy to Mr. Kester.

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Environment and Land Use
April 17, 1973

Sen. Atiyeh was concerned about other bills involving the same issues and asked if SB 101 would conflict with SB 487.

Sen. Macpherson answered that the two bills were not incompatible.

Steve Hawes referred the committee to Sec. 13, ORS 92.090; stating that the committee may wish to amend the section so that subdivisions may be numbered rather than naming them.

Sen. Hallock questioned the use of the word "map" for plat.

Steve Hawes answered that the definition of "map" means a diagram concerning a partition and plat refers to subdivision.

Sen. Hallock asked about Sec. 10, sub 2, regarding delegating of approval. Steve Hawes would suggest at the end of sub 2 after "therein" insert "and to approve". Sen. Macpherson wondered about "names" versus "numbers" of subdivisions. Sen. Hallock suggested the committee leave in numbers.

Sen. Macpherson made a motion to have SB 487 engrossed as amended and returned to the committee. Roll call vote showed, Ayes 4. Motion carried.

SB 673 Sen. Hallock read a letter to the committee that had been sent to Sen. Burns and a letter from Sen. Burns stating that Legislative Counsel had answered his questions which removed any objections he had to the bill.

Sen. Hallock handed the members amendments to SB 673 from the Associated General Contractors. Sen. Hallock asked Barbara Seymour if she had read the amendments. She answered that the amendments would pose no problem for DEQ.

Sen. Atiyeh made a motion to adopt the amendments to SB 673. Roll call vote showed, Ayes 4. Motion carried.

Sen. Atiyeh made a motion that SB 673 as amended be sent to the floor with a Do Pass recommendation. Roll call vote showed, Ayes 4. Sen. Wingard is to carry the bill to the floor.

Sen. Hallock explained HJR 53 to the committee. It requires state agencies to emphasize recycling.

Sen. Atiyeh made a motion that HJR 53 be sent to the floor with a Do Pass recommendation. Roll call vote showed, Ayes 4. Motion carried. Senator Ripper to carry bill to the floor.

Sen. Hallock read the statement of intent as to "goals and guidelines" in SB 100. Sen. Macpherson made a motion that the statement of intent signed by all the committee members be formally entered into the committee's records and in the Senate Journal. Roll call vote, Ayes 4. Motion carried.

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Environment and Land Use
April 17, 1973

Sen. Hallock read a letter to the committee from James Moore from the League of Oregon Cities, stating their objection to SB 100. Copy attached.

The meeting was ajourned at 4:00 PM.

Respectfully submitted,


Senator Ted Hallock. Chairman

Log to recordings:

Tape 15 track 2

0027 Sen. Macpherson
0046 Steve Hawes
0232 Steve Hawes
0284 SEn. Macpherson
0347 Steve Hawes
0388 Steve Hawes
0439 Sen. Atiyeh
0450 Sen. Macpherson
0548 Steve Hawes
0554 Sen. Hallock
0590 Sen. Hallock
0599 Sen. Macpherson
0647 Sen. Hallock
0653 Sen. Atiyeh
0693 Sen. Hallock
0715 Sen. Hallock
0751 Sen. Hallock
0768

Not right

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May 3, 1973

leaving the market to the major branded dealers.

William A. Mooney, President of the Don Fraser CO. one of the Oregon Jobbers and has been in business for 27 years. He has 11 service stations in Washington and 9 stations in Oregon. They are a branded Douglas Oil Co. jobber. 5 of his stations are closed due to the shortage.

Lee G. Powell, Champion Oil Co. who has been in business for 43 years and owns and operates 23 service stations. He read a telegram he had prepared to send to the United States Congress, urging them to allocate fairly the scarce petroleum products.

Carl Leathers, Leathers Oil Co., has been a gasoline jobber for 14 years. He stated that he had been buying approximately 1/2 million gallons per month from Gulf and 9 of his 11 stations are closed now due to the shortage of gas.

Sen. Macpherson made a motion to adopt SJM 15. Roll call vote, 5 ayes. The Memorial was adopted. Sen. Ripper to carry it to the floor.

Sen. Hallock asked the people who had come to testify on SB 424 and SB 491 if they would come back on May 8. They agreed.

SB 849 Bob Logan from the Executive Dept. testified in favor of the bill, stating that his office was responsible for the drafting of the bill and feel the bill is needed to back SB 100. Mr. Logan handed the committee some hypothetical examples. The first one entitled "Compensation for Zoning."

Sen. Hallock asked Mr. Logan about constitutional amendments; such as SJR 25 the state's credit may be pledged and is re-paid by leveeing of ad valorem taxes or the Legislative Assembly may provide other revenues. He asked if Mr. Logan had put in both instrumentalities in the proposed constitutional amendment.

Mr. Logan answered that that would be the intent to use general funds to pay off the bonds plus any revenue raised from future sale of states right.

Sen. Hallock asked if the bonds would be sold to help implement land use planning and when the money is paid back in, is it paid to the LC & DC or the treasury or to the general fund.

Mr. Logan stated that they had not settled that question. Mr. Logan handed the committee the second example, "Temporary Land Reservation", and the third example, "Permanent Land Preservation."

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Environment and Land Use
May 3, 1973

Earl Moore, Moore Orchards, Hood River, testified in favor of SB 849. He stated that favored the bill to preserve good farm land and open spaces and felt the compensation was needed.

Kenneth Omlid, Lane County Commissioner, Eugene, testified that he agreed with the concept of SB 849. Mr. Omlid was concerned about Sec. 3, sub sec 1, "which prohibits the reasonable use of property or results in significant economic use"; maybe "or" should be changed to "and". Sec. 5, line 25, making it mandatory for the landowner to repurchase property that the state does not want to keep in that use, was also a concern.

Sen. Burns asked Comm. Omlid that if the concept of the bill were to become a reality, would he think that the county commissioners should make the decisions.

Comm. Omlid answered that he felt that the county commissioners should make the decisions under the home rule, relative to the recommendation from the planning commission.

Carl Halvorson, Portland, stated that he had been interested in the concept of SB 849 and felt it should be addressing itself to open space and open land as opposed to down zoning within urban areas. He feels that containment lines should be drawn and not compensate people within the line. Mr. Halvorson felt that Sec. 4, sub 1, 2 and 3 should be one option and the "20 %" sub 1, line 28 should be deleted. Sec. 5, sub 1 (a) line 23; he would delete "or amended". In sub b he would add a "period" after "state" in line 27 and delete the rest of the line. Mr. Halvorson suggested the committee clean up the first 9 sections of the bill and he felt that Sec. 10 and 11 were unclear.

Stephen and Eileen Zielinski, who own and operate a farm in Salem testified that SB 849 would not give them any benefit. They are included within the urban growth boundary and the value of their land will increase because of this. They would rather not be within the boundary as they would like to continue farming and want protection to be able to farm. Mr. Zielinski further stated that they were on class one soil.

Sen. Hallock asked them if they were familiar with SB 100 and SB 101. They answered that they had been following the bills.

The meeting was adjourned at 5:15 PM.

Respectfully submitted,



Sen. Ted Hallock, Chairman

Log to Recordings:
Tape 17, track 1
1527
1534 Sen. Wingard
1537 Joel Goss
1555 Sen. Hallock
1573 Sen. Macpherson

SENATE BILLS 487, 849, 186, 422, 491, 492,
SJR 19, SJR 25,
HOUSE BILLS 2504, 2667

SENATE COMMITTEE ON ENVIRONMENT AND LAND USE

May 15, 1973 3:00 pm 315 State Capitol

Sen. Hallock opened the meeting by bringing to the committee's attention the proposed amendments submitted by Ward Armstrong, Weyerhaeuser Co. on SB 487.

Steve Hawes, Legislative Counsel, explained the amendments; page 3 and on page 13. Copy attached.

Sen. Macpherson moved the adoption of the amendments to SB 487. Roll call vote, Ayes, 6, no, Sen. Hallock. Motion carried.

Steve Hawes explained the amendments suggested by John Bennett, Eugene Planner. On page 3 and page 4, referring to "leasing". Copy attached.

Sen. Macpherson moved the adoption of the above amendments. Roll call vote, Ayes, Sen. Burns, Sen. Macpherson, Senator Wingard, Sen. Hallock. No, Sen. Atiyeh, Sen. Ripper, Sen. Thorne. Motion carried.

Sen. Hallock explained the amendments submitted by Mr. Jim Allison, Oregon Rural Land Owners; concerning the retro-active decision of the Washington County Commission concerning land being zoned before March 1.

Sen. Hallock asked the committee to move to HB 2667 since Sen. Carson and Rep. Paulus were to testify. Sen. Carson stated that too many groups were doing planning for the Capitol Planning Commission, including General Services, the Legislature, the Ways and Means Committee and the City of Salem. He said it is all uncoordinated and the bill would strengthen the Capitol Planning Commission to enable it to do a better job of planning.

Rep. Paulus said that the membership of the Capitol Commission had been people who lived outside of either Marion or Polk County and the bill would provide that the membership include the Mayor of the City of Salem and one member of the Salem Planning Commission. She further stated that the bill would not require additional funding.

Sen. Burns stated that the bill was very good and was concerned about the construction of the state facility on the Highway campus and he would move to delete "July 1, 1973" and insert "upon passage". Roll call vote, ayes, 7. Motion carried.

Sen. Ripper asked if SB 100 passed who would have the final say on whether a building could be constructed or not.

Sen. Hallock responded with the fact that the Capitol Planning Commission would have to get final approval from the Marion Cog or whoever is the governing body.

Page 2
Environment and Land Use
May 15, 1973

Sen. Ripper asked if the Capitol Planning Commission has to come back to the Legislature in the next session.

Sen. Carson answered that they would have to come back to the Legislature and hopefully with one directive focus of what the recommendation of all governing bodies are.

Sen. Burns made a motion to send HB 2667 as amended to the floor with a Do Pass recommendation. Roll call vote, ayes, 7. Motion carried. Sen. Carson will carry the bill on the floor.

HB 2504 Sen. Heard testified in favor of the bill stating that two of the counties he represents have geothermal resources. He feels it is important to pass this bill which lends direction to geothermal resources.

Sen. Hallock directed the committee back to SB 487 and the amendment submitted by Jim Allison.

Sen. Atiyeh made a motion to adopt the amendments. Roll call vote, aye, Sen. Atiyeh, Sen. Burns, Sen. Macpherson, Sen. Ripper, Sen. Hallock. No, Sen. Wingard. Excused, Sen. Thorne. Motion carried.

Sen. Hallock questioned the meaning of the amendments. Sen. Burns who had voted aye, stated that he wished to further research the amendments and would leave his vote aye with the privilege of changing his vote.

Sen. Macpherson stated to the committee that in talking with other members of the committee, the bill should be held for further study.

Sen. Hallock would put the bill on again for May 22.

Sen. Hallock brought to the attention of the committee, the corrections by E & E in SB 487. He was concerned about some of the corrections, which he felt were possibly more than typo errors. He handed the corrections to Sen. Macpherson to check with Steve Hawes as to the validity of them.

SB 849 Sen. Hallock directed the committee to look at SB 849. John Toran was concerned about Sec. 20 "financing bond issue". Steve Hawes agreed that the section of the bill would not be valid. Sen. Hallock suggested the committee further study the bill. Sen. Burns asked if Carl Halvorson had suggested any amendments to the bill. Sen. Hallock answered that Mr. Halvorson's amendments would remove half of the bill and have it apply only to open spaces and not to urban areas.

HB 2504 Raymond E. Corcoran, State Geologist testified in favor of the bill and would like Sec. 9 re-inserted.

Senate Bill 100

SENATE COMMITTEE ON ENVIRONMENT AND LAND USE

Feb. 1, 1973

3:00 pm

315 State Capitol

Sub Committee Meeting *COGS*

Members present: Senator Hector Macpherson, Chairman
 Senator Michael Thorne
 Senator Jack Ripper

Senator Macpherson explained the function of the sub committee was to look at the direction the COGS should take.

Robert Logan, Local Government Relations, gave a general picture as to the function of COGS as they exist. He gave each member a map showing the 14 administrative districts for the state of Oregon. He stated that in counties where COGS are not functioning no federal funds are available and if Economic Development program is dropped, the money will probably go to HUD. There are 800 units of local government in the Willamette Valley. The Governor's office has done a major study of each COG with a complete break down of each, what each does, number of staff, and number of dollars each has. This should be ready in about two weeks.

Mickey Moffit, County Commissioner from Coos County, not a member of COG. He said they are opposed to a council that takes over the authority of county government or city government. He thinks a council should be voluntary thing. The distance of cities should be better planned. 70% of their liveable area is in the critical area.

Senator Macpherson asked Comm. Moffit "If you have problems coordinating, how do you propose to do it if you don't have any form of unit which does it and if you do have a unit that only has review and comment; how are they being over burdening in their decisions?" Comm. Moffit said it would take much back ground to explain, They had applied for a juvenile program and were told it would be administered by COG, an agency which was not even legally alive.

Richard Pearson, COG Director, District 9 of Wasco County, a district of over 8,000 square miles and 53,000 people. COG has been very successful. All of his districts qualify for Title Four money. 150 citizens are helping plan programs with public officials.

David Mc Grath, County Commissioner, Clatsop County. He is Chairman of District 1 COG, but wanted to speak only as a County Commissioner. He said COG was very successful and he would credit it to the director.

Comm. Mc Grath said he cannot support SB 100 as to proposed authority to COG. Any regional authority should be established by constitutional amendment or by vote of the people. We support COGS as we now understand them. The voluntary membership should have its own set of by laws.

Senator Macpherson asked Comm. Mc Grath, "What if all the volunteers decide to leave?" He answered, "By making it mandatory would certainly precipitate a negative reaction on the part of the members." The authority of COG should be limited to review and comment and in the absence of COG the state should deal with existing government bodies. State and Federal assistance should not be denied in the absence of COG.

Larry Rice, Director of Lane COG (8 years). Said he is not sure which side he is on. He submitted written testimony and submitted a proposal for SB 100 in writing.

Frank Elliot County Commissioner of Lane County (11 years in county government) believes in land use planning. COG is not that satisfactory as cities are afraid to pull out for fear of losing funds. Sees no need for COG's except on advisory position. Average people have no voice in COG's.

Senator Macpherson asked if he were opposing COG.

He answered, only if they are mandated. You can qualify for federal money if you have an advisory type council; and he would challenge any state office shut off Lane funds because they by pass COG.

Ellen Lowe, City Council member for Salem, testified in favor of SB 100 and submitted written testimony. She was on the Salem Planning Commission for 4 years and appeared as an individual. She helped write SB 100.

Dr. Russell Beaton, Professor of Economics at Willamette Un. said he thinks with respect to Section 16 and 17 it would be desirable to give OCC & DC considerable autonomy. He did a study for Mid Willamette COG.

Senator Ripper stated he felt SB 100 (speaking for his own region) is directed to the poor job being done in the Willamette Valley and Portland area and now we are trying to do it state wide. OCC & DC have done a tremendous job.

Bud Bailey, Commissioner Tillamook County is opposed to SB 100 and feels it is too all encompassing. Would rather see COGS be more neighborly rather than someone saying "come on and do some things together or you are not going to get any money."

Albert Strand, County Commissioner for Lincoln County said COGS would function so much better if we could be a separate

entity in our own county. He would like Lincoln County to be considered for District 15 rather than be included in the 14 districts.

Senator Macpherson asked, "If there could be a new grouping would you like to be grouped with Tillamook and Clatsop and coastal towns?" Comm. Strand answered, "It would be better with the coastal area."

Senator Macpherson announced further work sessions would be planned soon,

The meeting was adjourned at 5:15 pm.

Respectfully submitted,

Hector Macpherson
P.H.

Senator Hector Macpherson
Chairman, Sub Committee

Log to Recordings

Tape 4, Track 1
0024 Robert Logan
0371 Micky Moffit
0416 Sen. Macpherson
0455 Richard Pearson
0541 David Mc Grath
0640 Larry Rice
0863 Frank Elliot
0944 Sen. Macpherson
0990 Ellen Lowe
1064 Dr. R. Beaton
1138 Sen. Ripper
1169 Bud Bailey
1200 Comm. Strand
Tape 4 Track 2
0000
Comm. Strand
0013

SENATE BILL 100

SENATE COMMITTEE ON ENVIRONMENT AND LAND USE

Feb. 9, 1973

11:30 AM

315 State Capitol

Members present: Senator Hector Macpherson, Chairman, Sub Committee
Senator Jack Ripper COGS
Senator Michael Thorne

Senator Macpherson to the committee, " Are we going to use any kind of regional set up to go with SB100 between cities and counties and state-- this is one of the decisions we have to make."

Robert Logan, Local Government, gave the committee copies of HUD area wide planning requirements. He said, " Under the HUD requirements, the governor is allowed to draw boundaries and HUD has to agree, in these sub stated districts, with the boundary."

Sen. Macpherson to the committee, " We've had a tremendous amount of objection to COG in some areas of the state and none in others."

Sen. Thorne, " I'm searching for something beyond the COG concept."

Sen. Macpherson, "Do we agree we need something between the state and the locals?"

Sen. Ripper, " I'm concerned about the distance in COG's, City Councilman's participation which is non salaried, and they have to travel so far for meetings which take time and money. Should plan regions that have something in common. Smaller regions and closer to the people."

Sen. Thorne, "What if COGS get into the picture and they have become a vehicle to get money, do we ignore that and go back to counties with the comprehensive plan?" What are the models currently used to deal with problems that exist in local and of statewide concern and also have some national implication?"

Robert Logan, " Most all the states as to sub districting on common geographical point where federal, state and local can all develop their own interest and can bring the programs closer together." Mr. Logan stated he wasn't sure he interpreted Sen. Thorne correctly.

Sen. Macpherson to committee, " We have had two direct suggestions we might want to look into further-- A direct county -state relationship. A state area- county relationship, maybe could tie OCC & DC in as a planning for the coast as we now have and something for the valley, eastern Oregon, sub unit of the area in effect planning done by the counties."

Sen. Thorne to committee, "COG could be created and could be destroyed at some point, changed, could be altered-"

Sen. Macpherson to committee, " We have two different concepts plus whats in the bill, let's explore all three."

John Toran asked Mr. Logan what criteria was used for choosing the 14 districts.

Mr. Logan answered that the file of 1968 would be made available to committee.

The meeting was adjourned at 12:30 pm

Respectfully submitted,

Senator H. Macpherson
Senator H. Macpherson, Chairman

Peg Henwood, Committee Clerk

Log to recordings

Tape 5 Tr 2

0525
0551 Robert Logan
0585 Robert Logan
0606 Sen. Macpherson
0613 Sen. Thorne
0627 Sen. Macpherson
0636 Sen. Ripper
0720 Sen. Thorne
0740 Sen. Thorne
0853 Sen. Thorne
857 R. Logan
0990 Sen. Macpherson
1047 Sen. Thorne
1063 Sen. Macpherson
1066 John Toran
1095

SENATE BILL 100

SENATE COMMITTEE ON ENVIRONMENT AND LAND USE

Feb. 12, 1973 11:30 AM 315 State Capitol

Sub Committee COGS

Members present: Senator Macpherson, Chairman
 Senator Michael Thorne
 Senator Jack Ripper

Robert Logan, Local Government Relations, presented a chart to the committee; the description dealing with each individual government unit with 36 counties, 237 cities, about 1200 special service districts. A second chart, in Oregon we have 36 counties, 5 counties that have home rule. One of the thoughts that could be used, the county could be the agency of blending some of this planning together. Instead of the state dealing with 237 cities, we could attempt to have the county and give the county statutory power. It might require a vote as you get into the constitutional question. Third Chart would cut the state into 7 areas, this is what Sen. Ripper was speaking to; it recognizes the Portland metropolitan area as being a separate area. There are about 400 units of local government in that 4 county area. 3rd district would be the remainder of the Willamette Valley. Southern Oregon group would be made up of Douglas, Jackson, Josephine. 5th group would be Deschut Basin. 6th, Wheeler, Gilam, Moro, Umatilla, Wallowa, Union. 7th, Lake, Harney, Malheur, Grant and Meeker. Mr. Logan gave the committee copies of OCC & DC bill.

John Toran was asked to check as to whether a county could be a coordinating unit for all the sub units of government within it, particularly the cities who have home rule powers.

Sen. Ripper suggested Sen. Macpherson take both plans back to the committee. Sen. Thorne would rule out plan 1.

Sen. Macpherson hearing no objections would rule out plan 1 and present plan 2 and 3 at the full committee meeting.

Robert Logan hoped the committee wouldn't rule out the 14 districts, as he feels there is merit in them.

Hazel Stevens Clackamas wanted to testify as to the including the Clackamas River in SB 100. Sen. Macpherson informed her she should speak to the full committee

The meeting was adjourned at 12:30 pm.

Respectfully submitted,

Sen. Macpherson PH

Sen. Hector Macpherson
Peg Henwood, Clerk

Log to recordings:	0936 John Toran	0988 Robert Logan
Tape 6 Tr 1	0950 Sen. Ripper	0997 Hazel Stevens
0811 Robert Logan	0964 Sen. Thorne	1006 Sen. Macpherson

MINUTES

Senator Hector Macpherson called the February 18, 1973 meeting of the SB 100 Ad Hoc Committee to order at 1:00 p.m.

Those attending were: Senator Macpherson, Dean Brice, Ward Armstrong, Martin Davis, Nan Dewey, Hal Brauner, Gordon ~~Faultz~~^{Faultz} and Fred VanNatta. The purpose of the meeting was twofold: (1) to consider the progress made by the Drafting Subcommittee's and (2) to provide the subcommittee with additional policy direction.

The drafting subcommittee (members: L.B. Day, Messrs. Armstrong, VanNatta and ~~Faultz~~) met twice during the week working through section 30 of the bill. Mr. Brauner outlined the comments and recommendations of the subcommittee:

- 1) Throughout bill, it should be emphasized that local government should retain planning authority, with county governing bodies serving as coordinator of plans for areas within the particular county;
- 2) A state level agency should be created to fulfill state planning responsibilities;
- 3) The Commission set up in SB 100 should be retained, but the number of LCDC members should be increased from five to seven (one from each congressional district and three from the state-at-large.) Also, the LCDC members should, as provided in SB 100, serve at the pleasure of the Governor.

At this point, Mr. Davis asked if the subcommittee had given any consideration to adding a further qualification for commission membership: preventing appointment where there is a conflict of interest. Mr. VanNatta responded that it had not, but noted that he wouldn't oppose language which would prohibit the participation of a commissioner who had a "direct" financial interest. Mr. Armstrong urged that any language concerning conflict of

interest be equally applicable to local planning bodies. Following a short discussion, it was agreed that further study should be given to the qualification; Mr. Davis offered to work on an appropriate amendment.

Mr. Brauner continued:

- 4) LCDC responsibilities should include the review and coordination of, especially, state agency planning activities.
- 5) Though the concept of "critical" or "priority" areas should be kept, the role of local governments in those areas should be more clearly explained.
- 6) Any ~~xxx~~ form of LCDC planning directives (objectives, guidelines, etc) should be applied to all lands, and that such directives for critical areas would be merely more intensively and more immediately developed.

Mr. VanNatta noted that there had been quite a bit of confusion and misunderstanding because of the language in and structure of the bill; he explained that the work of the subcommittee had been directed at clarification and not so much at developing new concepts and philosophy. Mr. Armstrong added that the bill really says a lot less than many people think and that any revision now should be aimed at restoring the intent of Senator Macpherson's Land Use Action Group.

Mr. Brauner concluded his review of the subcommittee's work, suggesting that Senator Hallock be asked to postpone the date of the Ad Hoc Committee's report in order to provide the subcommittee with more time for study and writing amendments.

Mr. Armstrong, in requesting policy direction from the Ad Hoc Committee, asked if there was any feeling on whether the Joint Legislative Committee should be kept in the amended bill. Mrs. Dewey said that she favored having an "advisory" body such as that for the State Land Board. Senator Macpherson noted that a role couldn't really be determined until the powers and functions of the LCDC had been clearly spelled out.

Regarding the role of OCCDC, Mr. Brauner said that the present

provisions of the bill would be retained, although further study ~~is~~ was needed. Similarly, the language in Section 12 (relating to interstate compacts) should be given additional consideration by the subcommittee.

Senator Macpherson opened discussion on the designation of critical areas. Mr. Brice said that he could support listing general, "unspecified" areas (e.g., floodplains, wetlands, etc.), rather than specific geographic areas as described in the current bill. Mr. Brauner handed out copies of the Battelle study being conducted in relation to "environmental concerns of critical priority"; he explained that the study listed various, general areas of the state which have "critical," "short-range" or "long-range" priority status. Mr. Brice responded that, whatever route is taken, areas must be properly designated and detailed, whether in the bill or via the "planning guidelines," to sufficiently assist the local officials charged with preparing comprehensive plans.

Mr. Armstrong turned to the fiscal impact features of a new agency. He warned that, unless something more is provided for (allowing agency planning consolidation, for example), the cost of an effective, meaningful state-wide program may be prohibitive. Senator Macpherson suggested, instead of having money and expertise distributed at the local level, having the staff build-up concentrated at the state level and having this staff available to work with several local planning bodies.

Mr. Fultz expressed his concern about citizen participation at the initial stages of guideline making. Mr. Armstrong said that the drafting subcommittee had considered, but hadn't ~~is~~ really refined its thinking on, advisory groups at both state and local levels guaranteeing maximum public input. Mr. Keith Bauer of Corvallis was invited to share his views on local advisory committees and their impact on planning programs in the Benton County area.

In closing, Senator Macpherson announced that the next meeting of the Ad Hoc Committee will be Wednesday, February 21, at 1:00 p.m.

GARY HILL

Senate Bill 100

Ad Hoc Committee

February 23, 1973

1:00 p.m.

315 State Capitol

Members Present: Senator Macpherson
Earl Pryor (for Nan Dewey)
Fred Van Atta
Dean Brice
Martin Davis
L. B. Day
Gordon Fultz (for Mel Gordon)
Hal Brauner

Absent: Ward Armstrong

Senator Macpherson stated to the committee that the purpose of the meeting was to hear the philosophy of SB 100 to the language.

L. B. Day said that a clean bill should be ready by Monday, February 26, and with that a budget of two million that will be used for the counties to carry the requirements in SB 100.

L. B. Day told the committee that citizen participation is not only at county level, but at state level, and said that the bill should take effect January 1, 1975. He stated that once all 36 counties have submitted their plans to the state they become a state plan, retaining permit system--not a building permit--but a planning and siting permit, critical activities, issued by the county subject to review prior to issuing by the state. He further stated that if this bill is to pass, there ought to be sound funding, and it should not be tied to a real estate tax, but ought to be general fund money. He believes that land use planning is important enough to spend 3.5 million in the next two-year period. A legislative committee should be made up of seven members; the Chairmen of the Senate and House Environment Committees with other members appointed by the President of the Senate and the Speaker of the House. This committee would plug into this and review how things are moving; they would not have veto power over the action of the commission.

Fred Van Atta said there are three magic words throughout the bill which are planning, goals and guidelines.

Senator Macpherson asked if goals were defined and said that we have goals in the statute now. The bill calls for taking the goals already in the statute and applying them to comprehensive planning. He asked Mr. Day if he accepted this.

L. B. Day answered yes, plus additional goals. He would abolish the idea of referring to guidelines.

Fred Van Atta remarked that the goals we are talking about are on page 29 ORS 215.515. These remain the goals for comprehensive planning until the commission supplements, replaces, amends, adds to them.

Senator Macpherson asked if he could develop a time table and if the emergency clause is to be used.

L. B. Day replied yes, if you are going to have a department starting the biennium, you have to use the emergency clause that will take effect July 1, 1975. First, the department is created, staff hired, and require the counties in 60 days to submit to the department through the State Advisory Comm. an action plan to develop citizens' participation. (90 days, rather than 60) he was corrected.

Senator Macpherson asked if the goals become effective on "day 1" to which L. B. Day replied absolutely.

Martin Davis asked about the criteria for citizens' participation.

L. B. Day (reading from printed new bill) to assure widespread citizen participation in all phases of the planning process, the committee shall appoint a state citizen advisory committee broadly representative of geographic areas of the state and of interest relating to land use...

Senator Macpherson asked from the citizens input from below meeting the state input--how to get the two together.

L. B. Day replied that first the department is going to develop a set of goals, and they have to hold at least 10 public hearings throughout the state on those goals.

Senator Macpherson asked if there is a time table on these goals, to which Mr. Day replied that the date is January 1, 1975.

Hal Brauner said that what they have to do by January 1975 is not only have a set of goals adopted, but they also have to say why they do or don't have a comprehensive plan.

Martin Davis asked what happens to that year after the year the goals and guidelines are adopted.

Hal Brauner replied that it is done in the year's time from the date the goals have been adopted by the committee, and they must adopt them prior to January 1, 1975; to be reviewed by the counties at the time the goals are adopted.

L. B. Day said that if they show cause for a need for an extension, they can be granted an extension, but they have to show just where they are and what a justifiable extension is going to be.

Senator Macpherson remarked that 90 days have been mandated, and that it may be a year and a half after that before they get the goals and guidelines down from the state to know what they are supposed to do with them.

Hal Brauner said that within 90 days the plan for citizens' involvement is submitted to the commission for approval. That does not mean that it is going to be implemented on that day. Planning efforts are going on now with goals that are in the statute, which become effective under SB 100 immediately, until the commission approves the goals and guidelines that may modify them. The planning effort is still continuing all the time until the point they start bringing up and revising to bring their planning up to within these goals and they have one year after that in which to bring it into compliance.

Senator Macpherson asked what happens when the citizens get involved and get their plans, then get the goals from the state, and there is a clash.

L. B. Day said that first of all a minimum of 10 public hearings is required. The citizens will assist the state through public hearings. Once the state goals are adopted, how do we mesh what has been done so far. The state would be placed in the posture of reviewing each one of the comprehensive plans that come up from the county to find out if they conform with the goals and see if there are conflicts with other counties, and eventually adopt the plans. Our 36 counties are going to have help to solve those conflicts. We will look at 36 county comprehensive plans and call that a state plan.

Senator Macpherson said that each county will be submitting its plan to the state for determining its compliance for the goals. He asked if each county will be submitting its regulations that implement that plan whenever the zoning fits the plan. How does it come about?

L. B. Day replied that it has an opportunity for review. First of all, if the state has reason to believe that there is a series of activities that transpire that show that the ordinance making power or activities are starting to violate the comprehensive plan, there are going to be seven district offices of this department that are going to work closely with each one of these counties and review actions.

Fred Van Atta said that critical areas have been rephrased to priority considerations that apply to both the commission in adopting its goals and guidelines and to the local jurisdictions in preparing and revising and whatever they do to their comprehensive plans. They should give priority consideration to the following areas and activities: Areas first, (the list in SB 100) and rather than specify them geographically "They shall give priority to land adjacent to freeway interchanges..." see printed new SB 100. When adopting comprehensive plans, these are the most important things to plan for and you start out by looking at these areas.

Martin Davis said there is no distinction between these areas; we moved into a lower level, we moved into the regulation level rather than the goal level.

L. B. Day said that once the goals are adopted and are sent from the state to the county and they develop their comprehensive plans and their approval by the state, that in effect would be a regulation if that comprehensive plan is violated.

Martin Davis asked what happens if the state rejects the county plan--what power does the commission have to review actions?

L. B. Day said that they have no injunctive relief, and that he had been talking with lawyers to work on the section with a better relief, which will stop the action.

Martin Davis asked about amending the comprehensive plan.

L. B. Day answered that it can be amended by approval of the state. They have to come in and review every year, even if they have not altered it.

Martin Davis said the point of the critical areas are more than local concern because of the nature of them; therefore he thinks the state should have some power in those areas and these are the areas to concentrate on now.

Senator Macpherson asked what the areas of high priority critical activities are--not sure he understands them.

Fred Van Atta replied that critical activities have been set aside differently; we required the planning and siting permits, planning and siting of public transportation facilities, planning and siting of public sewage systems, water supply systems, solid waste disposal sites facilities, the planning and siting of energy generators and transmission facilities and the planning and siting of public schools.

Senator Macpherson asked if he wanted to build a school, how would he go about it, where to start.

Dean Brice said that the agency or person who would be doing the planning and siting submits a plan to the county. The county would review that, see that it fits in their comprehensive plan and forward it on to the state agency. The state agency would have the power to veto that if not in compliance with the state goals or the plans. On approval of the state agency, the county would issue the permit.

Senator Macpherson asked to be taken through the steps of getting a nuclear power plant.

Dean Brice answered that with a nuclear power plant there is another consideration because we have a state agency responsible for siting of nuclear power plants. It doesn't have the authority necessarily to look at all comprehensive plans.

Martin Davis asked if the county would have veto power on a nuclear power plant.

Dean Brice replied that if it violates the plan, it does.

Senator Macpherson asked if plans are made with nuclear plants in mind.

L. B. Day said that he thought we need power plants, but the counties have a right to determine what they do and don't want in certain areas.

Earl Pryor wanted someone to explain what the seven district function is.

L. B. Day said let's call seven field offices to coordinate the activities. If adopted, it is a state plan, and the police power of the state is there, and what the Federal Act says is that the state would have authority over Federal lands.

Senator Macpherson asked if this committee should endorse the philosophy or not and wanted to know what is the pleasure of the committee.

Earl Pryor stated that he liked giving the county authority and starting from the bottom up, rather than from the top down.

Senator Macpherson announced that the ad hoc committee will meet Tuesday at 1:00 p.m. when the bill is completed, and go over it before the committee meeting at 3:00 p.m. The prepared budget will probably be the responsibility of Ways and Means, according to Mr. Day. Funding not to be in the bill.

Hal Brauner is doing the drafting for the committee.

Senator Macpherson asked if anyone wanted to speak to SB 100.

Joan Norris, Tri County New Politics, said she is interested in the citizens participation.

Stan Church to Mr. Day asked how this budget was proposed to be funded.

L. B. Day replied that he proposed the money from through general fund revenue, at least that will be his recommendation.

Don Barney to Mr. Day, asked what is the difference between counties and the existing COGS?

L. B. Day said that it would be to encourage wherever various cities and counties want to join together on a voluntary basis to perform that service.

Jim Allison asked, now that the committee has changed the state-wide guidelines, under the proposed bill will it be legally possible for the commission to adopt, following state-wide planning goals, in areas where no public sewer system exists, density of single family dwellings shall not be increased to exceed an average of one in every 40 acres.

L. B. Day replied in the affirmative.

Ken Bonem said that the only plans that worked in citizens' involvement are the ones that were based on geographical area.

Senator Macpherson announced the following meetings:

2/27	4:00 p.m.	SB 100
2/27	7:00 p.m.	SB 77

The meeting was adjourned at 2:45 p.m.

Respectfully submitted,

Sen. H. Macpherson P.H.

Sen. H. Macpherson, Chairman
Peg Henwood, Clerk

Log to recordings:

Tape 9

February 27, 1973

Minutes of Ad Hoc Committee on Senate Bill 100

Members present:

Senator Hector Macpherson, Chairman
Dean Brice
Fred VanNatta
L.B. Day
Gordon Fultz
Ward Armstrong
Nan Dewey
Martin Davis

Also participating:

Hal Brauner, legal drafter of amendments
Steve Hawes, legislative counsel

Purpose of meeting: Explanation of revised SB 100 by Hal Brauner. Review of amendments by Ad Hoc Committee for discussion and comment in preparation for taking back to Senate Committee on Environment and Land Use.

Day: Correction of statement he made in previous meeting. Counties do NOT have power to overrule state in matter of nuclear plant siting. In such matters the counties act in an advisory capacity only. The state agency issues the permit and has veto power subject to appeal procedures. The effort was to recognize the role of the counties as much as possible.

Macpherson asked Brauner to redraft this part of Revised SB 100 before full committee meeting.

Brauner: Reference to COGs deleted from Sect. 2. Several definitions - areas of statewide significance, development, and planning districts - deleted.

Brice: Objected to the fact that some elements are missing from list of definitions under activities of significant concern - such as natural resources and economic needs of the state. Discussion followed with point made that the language "including but not limited to" keeps list from being exclusive, that "sound economic development of the state" might be included. All agreed the list could not include everything but agreed to add the term "natural resources".

Brauner: Sects 4 thru 7 make minor changes in the Commission. Commission expanded to seven. The provision that allowed the Commission members to be removed by the Governor for any reason changed to "for reasonable cause"

Hawes objected, said language should be "for cause" not "reasonable cause".

Davis concerned about conflict of interest on the Commission, proposed an amendment requiring a member to disqualify himself from voting on a particular issue if he has a financial interest.

Hawes: Governor's right to remove "for cause" takes care of this.

Day: Are you asking for a public declaration of financial interest or should the member disqualify himself from voting? Suggests looking into this and developing language for full committee's consideration.

Brauner: Sect. 11 Word "regional" since the COGs have been removed from the bill, now refers to the OCC&DC and voluntary associations of counties. The smallest unit for reviewing and issuing permits now recognized by SB 100 is the county.

Sect. 12 deals with interstate compacts. Recognition by committee members that this could be controversial but that it is a necessary tool.

Sect. 19 Mandates counties as regional planning bodies, allows voluntary association of counties.

Day: Counties must accept leadership, cities must cooperate with counties and vice versa.

Brauner: Sect. 23 mandates that for the next interim the Chairmen of the House and Senate Environment and Land Use Committees be two of the members.

Day: This insures continuity.

Brauner: Sect. 25. Areas of "critical state concern" are now called "areas of statewide significance" and rather than designated explicitly are spelled out very generally. General discussion of what should be considered an area of statewide significance.

Brice asked if elementary and high schools should be so considered, doubted that they should.

Day said yes because they affect transportation systems for instance.

Davis: Schools can be the nucleus of new communities.

Comments that regional shopping centers and industrial plants, which are not listed, should be of statewide concern

Brauner: Just governmental activities have been listed.

Fultz made strong comment that land use decisions start at local level, then go to the state, but always go back and forth for local input.

Davis recommends that an amendment be added to Sect. 26, a directive to the Commission that it shall recommend areas of statewide significance, going through the same process, to the committee for the approval of the next session of the legislature. Much discussion followed:

Day concurs with Davis' recommendation and comments that this still keeps decisions in the legislative area.

Armstrong : With direction from the state agency, best done at local level.

Fultz nods head.

Armstrong: OK for Commission to study areas and make recommendations.

Macpherson suggests language "develop criteria and then recommend".

Fultz wants it to go through local process, submit recommendations to local areas.

Hawes suggests we build determination in one of the last sections also into Sect. 26.

Day: You need to be redundant to make bill clearer.

General agreement that language in this vein be incorporated into the bill.

Brauner: Sections 27 through 31. Permit system for areas of statewide significance. County issues permit which is reviewed by the state. The state may veto - back to county for review and appeal.

Brice objects to fact that in Sect. 34 that among the list of those criteria to be given priority consideration "prime agricultural land" is the only economic consideration. He also is concerned about goals in SB 10 versus possible future goals. If SB 10 goals are not reiterated, wouldn't a change be assumed?

Much discussion with some saying that SB 10 goals would serve as a basis for any future goals and would remain in effect till they were supplanted by new goals, that the Commission would "mold and prefect" SB 10.

Davis suggests Commission prepare model ordinances for critical areas for counties' use and guide.

Fultz agrees. Fairly general agreement on this.

Day comments that in Sect. 35 committee incorporated into the bill the requirement that citizen's advisory groups be mandated, such groups to be composed of people in the geographic area involved.

Macpherson invites Ken Bonnem of Feedback to comment. Bonnem approves of advisory committees being based on geographic area but wonders if those with specific land use interests should also be included.

Fultz questions why Sect. 43 is there.

Brauner: Sect. 43 brings bill into conformance with Sect. 42.

Day: If Sect. 43 is deleted, there will be problems.

Brauner: Sect. 44 sets review process, one year after plans have been developed.

Davis suggests that the words "ordinances and regulations" be inserted after "comprehensive plans". Objection that this is too broad.

Armstrong and Macpherson suggest words inserted be "zoning and subdivision ordinances". Concurrence by full committee.

Hawes: In sect. 45, objects to fact that bill amends existing ORS instead of repealing them. Brauner explains that there was not time to research the statutes for this draft.

Brauner: Governor's power under SB 10 has been repealed and is replaced by Commission's authority.

Sect. 51: Appeals process goes through county governing body instead of COG. Compliance with goals, not guidelines, subject to appeal. If goals are reached by a different route, that's OK.

Davis suggests goals and guidelines be defined for clarity.

Sect. 52, subsection 3: Discussion on whether only an "affected person" or "any person" may make an appeal. Consensus that term "affected person" should be left in.

Hawes suggests the insertion of an amendment on page 27, new subsection 6 to Sect. 53: "The Commission may enforce orders issued under subsection 3 of this section in appropriate judicial proceedings brought by the Commission". This was adopted by the committee-

Respectfully submitted,



Sen. H. Macpherson

Mrs. Macpherson, Clerk

Log to Recordings:

Tape 9 Track 2

0000

0990 Sen. Macpherson

0023-0200 L. B. Day

1070 G. Fultz

0168 Hal Brauner

1195 H. Brauner

0240 Dean Brice

1283 M. Davis

0206 H. Brauner

1300 S. Hawes

0325 M. Davis

1350 S. Hawes

0450 H. Brauner

1459

0550 D. Brice

0610 G. Fultz

0695 M. Davis

0748 G. Fultz

0750 S. Hawes

0885 D. Brice

0942 M. Davis

SENATE BILL 100

SENATE COMMITTEE ON ENVIRONMENT AND LAND USE

Feb. 8, 1973

7:45 AM

315 State Capitol

Sub Committee, Areas of Critical Concern SB 100

Members present: Senator John Burns, Chairman
Senator George Wingard

Excused Senator Victor Atiyeh

Richard Emigh, a graduate student in the Urban Planning Program at the University of Oregon at Eugene. Ed Rhodes from the same department presented testimony in favor of SB 100 with Richard Emigh. They asked for clarification of SEC. 31, 13 a, page 14.

Hal ~~Browner~~, Local Government, answered the question thus: The drafters did not intend to include the total lands administered by the State Forestry, but those park and recreation areas they had developed on those lands and the buffer strip around those lands.

Roger Emmons, legal counsel for the Oregon Sanitary Service Institute, and also having the authority to speak for six other trade associations in the refuse collection field. He testified against SB 100 and presented written testimony and a chart showing regulations in obtaining a permit. He said Kessler Cannon had suggested a look at the same concept the State of Oregon has in hazardous waste disposal sites where the state owns the property and where the site is then franchised out for private operation.

Walter Brown, Lake Oswego, President of the Clackamas County Citizens Assoc., PO Box 701, Oregon City 97045 and he represented 100 residents of Clackamas County. He spoke in favor of SB 100 and presented a written proposal. He stated that in the last general election the voters in Clackamas County voted to designate a certain part of the Clackamas River as a natural river area. The planning commission had the jurisdiction to implement it, but that the County Commissioners had the final say.

Sen. Burns asked if he agreed with that.

Mr. Brown said "No."

Sen. Wingard to Mr. Brown, "Some people who oppose SB 100 are especially opposed to the areas of critical concern- the taking of land without compensation."

Mr. Brown to Sen. Wingard, "From a constitutional standpoint if the land is vacant and if they haven't established a use on that land the zoning can be changed without any deformation of property rights within the constitution."

Sen. Burns to Mr. Brown, "Would you provide the committee with some authority on the statement you just made. Give it to John Toran.

Mr. Brown further testified he would in Section 4, page 14, like the 1/4 mile extended to 1/2 mile at interchanges.

Martin Davis, Oregon Environmental Council, testified in favor of SB 100.

Sen. Macpherson to Martin Davis, "Do we really need 1/4 mile buffer zone around all the different types of parks and recreation areas we have designated."

Martin Davis to Sen. Macpherson, "We are giving a blanket 1/4 mile around the state."

Sen. Burns announced another meeting of the Sub Committee, Feb. 12, Monday, 7:45 to 10:00.

The meeting was adjourned at 9:30 AM.

Respectfully submitted,

Senator John Burns
P.H.

Senator John Burns, Chairman

Peg Henwood, Clerk

Log to recordings
Tape 4 Track 2
0956
0972 R. Emigh & Ed Rhodes
1000 Hal Browner
1105 Roger Emmons
1244 Walter Brown
1285 Sen. Burns
1300 Walter Brown
Tape 5 Track 1
0000
0203 Sen. Wingard
0222 Walter Brown
0234 Sen. Burns
0241 Walter Brown
0427 Martin Davis
0483 Sen. Macpherson
0494 Martin Davis
0596 Sen. Burns
0608

SENATE BILL 100

SENATE COMMITTEE ON ENVIRONMENT AND LAND USE

Feb. 12, 1973

7:45 AM

315 State Capitol

Sub Committee Areas of Critical Concern

Members present: Senator John Burns, Chairman
Senator Victor Atiyeh
Senator George Wingard

Steve Schell, Director of the Oregon Shores Conservation Coalition, representing approximately 300 members and in contact with about 1,000 people through co-operating coastal organizations. Mr. Schell submitted written testimony. George Diehl, Secy. of OSCC presented slides, showing the areas of critical concern, land fills, natural areas to be preserved spoil areas and coast erosion.

Senator Atiyeh to Steve Schell, "Are there cities in the set back area and if there are, what's the home rule aspect?"

Steve Schell answered, "There are incorporated areas and we think those should remain in there and the home rule aspect seems to me what we are talking about, areas of state wide concern. The state has a valid interest that's contrasted to local interest. If there is a state interest, and it is justifiable, the state should take precedent and should be able to sustain its regulations in that area.

Sen. Burns asked Steve if the DEQ's mandate to get the logs out of Coos Bay, and if DEQ has jurisdiction over log rafting, and if they are enforcing in some places, why is it necessary to particularize this kind of authority into another agency?

Steve answered that it is a matter of DEQ saying, "get the logs out of the water" and that's the limit of their jurisdiction. We need to be able to look at the whole concept and provide guidelines on the over all use and I think the Land Conservation Development Commission could do that.

Sen. Burns said he didn't agree with vesting authority over discharge permits with this other agency. He asked Steve if he would propose guidelines in respect to discharge, you'd leave that with DEQ?

Steve Schell answered, "no."

Sen. Burns asked one final question in respect to the last paragraph of Steve's testimony, on the citizens suit and the petition procedure; is there a type of procedure in practice, the type of initiating procedure. Steve answered that the closest precedent lies in the rules published by the Attorney General under ORS 183.

Sen. Burns asked if you have to have standing to bring a suit. Steve said they would prefer a citizens suit, where they would have a petition where by they could file with LCDC if they thought there was a public nuisance and they would make the determination.

Sen. Macpherson asked Steve what different he was proposing than we all ready have in the appeal Section , page 31, sec. d.

Steve answered that this was neither a plan nor an action taken by a district council, this was something that occurs in the area of critical concern. We don't have any permit procedure in the area of critical concern, just activities. If in fact some particular activity that occurs in that area of concern; that wouldn't fall into the definition of activities. There's great outcry about sub divisions or some kind of smaller development, it would be in the the best interest of the state to resolve that conflict.

Sen. Macpherson suggested we possibly broaden the language .

George Diehl, resident of Tillamook County feels the critical areas should include cities, flood plains and agriculture areas.

Earl Sykes, Reedsport feels the whole county of Douglas is an area of critical concern. Commented Sec. 31 land 32 doesn't reflect enough local input.

Wilford Sulzbach, Sandy testified in favor of SB 100 and feels it would bring much needed order to his county and the rest of the state. He would suggest the Barlow Trail be included in SB 100.

Sen. Burns to John Toran," could you get a list of Scenic Highways under SB 77?:"

Craig Markham, Sierra Club, said he was appearing for the second time on SB 100 in order to change part of his original testimony, regarding scenic waterways. He presented written testimony and referred to Sec. 31, sub 1.

Sylvia Murthe, Oregon city presented a map showing the Clackamas River stream flow and the legal water rights. She is a member of Clackamas County Citizens and they are interested in having the Clackamas River protected.

Richard Emigh And Ed Rhodes, Eugene presented two drawings as to the area SV 100 covers. They presented graphs showing that 64.65 % of the entire state land, 54% US Forest, National Park Service, BLM land, State Parks and the County and City Parks, only adding about 10% more land under the control of the state under the areas of Critical Concern under SB 100. They also showed maps of the scenic waterways, scenic highways and recreation areas.

Sen. Wingard suggested they write their ideas in amendment form as to the Critical Areas defined in SB 100. Also could present ideas on the activities of the critical areas of concern.

Sen. Burns asked them to think as they prepare the amendment how it would lend itself to the concepts for sound planning and implementation.

Sen. Wingard suggested John Toran might be able to help them with drafting amendments.

The meeting was adjourned at 9:45 AM.

Respectfully submitted,

Senator J. Burns P.H.
Senator John Burns, Chairman

Peg Henwood, Committee Clerk

Log to Recordings:

Tape 5 Tr 2

1096

1097 Steve Schell

1250 Sen. Atiyeh

1273 Steve Schell

Tape 6 Tr 1

0000

0015 Sen. Burns

0023 Steve Schell

0075 Sen. Burns

0081 Sen. Burns

0106 Steve Schell

0116 Sen. Burns

0131 Sen. Macpherson

0133 Steve Schell

0148 Sen. Macpherson

0153 Steve Schell

0160 Geo. Diehl

0185 Earl Sykes

0395 Wilford Sulzbach

0442 Sen. Burns

0449 Craig Markham

0514 Sylvia Murthe

0638 Richard Emigh and Roger Rhodes

0649 Ed Rhodes

0762 Sen. Wingard

0770 Sen. Burns

0792 Sen. Wingard

0795

ANALYST: Lynn Frank

DATE COMPLETED: January 17, 1973

1. Number of Measure SB 100	2. Status Original	3. Class of Bill Fiscal <input checked="" type="checkbox"/> Non-Fiscal <input type="checkbox"/> Organizational <input checked="" type="checkbox"/>		
4. Subject Creates Department of Land Conservation and Development and regulates land use				
5. Government Unit or Program Affected Local governments; Oregon Coastal Conservation and Development Commission				

OREGON STATE ARCHIVE
S
S. ENV. & LAND USE COM.

6. Fiscal Impact

Effect on Revenue

None

Effect on Expenditures

\$1,800,000 for the 1973-75 biennium

General Fund - \$ 300,000 (included in the 1973-75 Governor's Recommended Budget, p. IV-32, HB 5082)

Other Funds - \$1,500,000 (not included in the Governor's Recommended Budget document)
\$1,800,000

Organizational Impact

SB 100 establishes a five-member Land Conservation and Development Commission, a seven member Joint Legislative Committee on Land Use, and one position as director, who shall appoint subordinate officers. A suggested budget proposes appointment of 19 subordinate officers.

Discussion

SB 100 would provide for the creation of the Department of Land Conservation and Development, the Land Conservation and Development Commission and the Joint Legislative Committee on Land Use.

Estimated expenditures include funding for department, commission and committee expenses, and state-wide planning assistance.

The Other Funds expenditures, discussed above, are estimated on the basis of expected revenues from currently proposed legislation. This legislation would impose a transfer tax of \$0.50 for each \$500 of the selling price on each sale of real property, generating an estimated \$1,500,000.

LF:dd

Comments of Legis. Fiscal Office: SB 100 does not of itself propose any budget. The above expenditure level represents the Governor's recommended program level. The bill creates a commission, a joint legislative committee, and a director's position. The bill does not specifically provide for grants to local planning agencies which amounts to \$822,572 in the proposed budget.

Analyst: Stinson Date: January 22, 1973.

Amendments to SB 100, prepared by Kessler Cannon, and offered to the Senate Committee on Environment and Land Use

January 25, 1973

On page 21 of the printed bill, line 31, add the following:

All lands and water lands under the control of the State Land Board are excluded from this Act upon action by the Land Board within one year of passage in developing and presenting to the commission its own comprehensive plans for such lands.

JANUARY 25, 1973

OREGON STATE ARCHIVES

7

SENATE BILL 100

S. ENV. & LAND USE COM.

Mr. Chairman, and Members of the Committee, my name is Bud Svalberg and I'm the Director of the State Soil and Water Conservation Commission.

My comments are brief, I'll try to keep them concise, and I will be glad to respond to any questions you may have.

First, I want to say that I am in complete agreement with the objectives of this Bill and the need for strong legislation that will give maximum guidance to problems of proper land use in relation to all the component parts of our Society.

This is an act relating to "Land Use", and I suggest again as I did to Senator Macpherson's ad hoc committee last July, that the proposed department should be called "Land Use Commission" or "Land Use and Development Commission".

The terms "Conservation" and "Use" are not the same, and this is evidently recognized since the Joint Legislative Committee ^{referred to in the Bill} /is on "Land Use", and not on "Land Conservation and Development".

I point out that the State Soil and Water Conservation Commission and the Districts organized within the State have been given responsibility for the conservation of natural resources under ORS 568.210-568.800.

I'm sure the proposed name for this Department is certain to lead to confusion between our agency and the proposed Department. It already has caused confusion in the minds of many people around the State.

Since the whole proposal is about "Land Use" and "Land Use Development", this is what the Department should be called. Legislation is more acceptable if it is clear, concise, and has no hidden motives. People will think you are trying to hide something whether you are or not!

8

This concern is not only mine. The Oregon Association of Conservation Districts at their Annual Meeting held in Lincoln City last November adopted a resolution to the effect that the proposed Commission and Department "be given a name more descriptive of the actual purpose". A copy of this resolution is attached to my written remarks pertaining to SB-100.

S. ENV. & LAND USE COM.

ORS 568.410, a part of the Oregon Soil and Water Conservation District Law, and pertaining to the procedure to constitute a Soil and Water Conservation District as a public body, states in sub-section 4:

If the Secretary of State finds that the name proposed for the district is identical with that of any other soil and water conservation district of this state or so nearly similar as to lead to confusion and uncertainty, he shall certify such fact to the commission, which shall thereupon submit to the Secretary of State a name for the district which is not subject to such defects.

I am not sure that you will want to consider this as a precedent, but I can assure you it has helped to eliminate confusion and uncertainty concerning the names of the 56 Soil and Water Conservation Districts in the State.

It appears to me that Section 20, concerning the membership of a district Council of local governments has some built-in problems in regards to a uniform approach in making land use decisions across the state. The way I read this, in Lane and Douglas County the council could conceivably consist of only two people--the chairman of the county commission and the Mayor of the largest city in the county. If they wish, they could compose the council in this manner and adopt by-laws to this effect. Similar consequences could be a problem in the other planning districts too.

My point is that I think that the membership of this council should be spelled out and made more definite. I very strongly urge that a representative of the Soil and Water Conservation Districts in each planning district be made a member of the council. I recommend this because Soil and Water Conservation Districts have had 34 years of experience in weighing alternatives and making land use decisions at the local level. It is through these districts that Soil

Surveys and Soil Interpretations, the most basic tools we have in making correct land use decisions, are available. Soil and Water Conservation Districts are the best source of Natural Resource information input available to the planning districts. I think it would be a mistake not to require that this vast amount of information be made available to each of the planning districts in this manner.

If you have any questions, I will be glad to respond to them.

Thank you

RESOLUTION #20

(RESOURCE PLANNING AND DEVELOPMENT COMMITTEE)

S. ENV. & LAND USE COM.

Pertaining to the use of the term "Land Conservation and Development" as applied to State land use planning in LC 100.

The Oregon Association of Conservation Districts at the annual meeting held in Lincoln City, November 8, 9, and 10, 1972, determined that:

WHEREAS, Soil and Water Conservation Districts have been authorized under State Law for over 30 years and over 98 percent of the State is now included in such districts, and

WHEREAS, the State Soil and Water Conservation Commission has also been established for over 30 years, and

WHEREAS, the Soil and Water Conservation Commission and the Soil and Water Conservation Districts have been given responsibility for the conservation of natural resources of the State under ORS 568.210 - 568.800, and

WHEREAS, use of the words conservation and development in the name of a proposed land use planning agency will cause confusion between the two agencies in the minds of many people;

NOW, THEREFORE, BE IT RESOLVED, that the proposed "Land Conservation and Development Commission" as provided in LC 100 or any other similar legislation be given a name more descriptive of the actual purpose of the proposed Commission and less likely to create confusion with other State agencies, and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to Governor McCall, Senator Hector Macpherson and any other appropriate individual or office.

Motion for adoption by Don Fisher, North Lane SWCD
Seconded by George Nicolescu, Eagle Valley SWCD
Passed

January 24, 1973 11

Page 1.

Gentlemen:

I am Lonnie Van Elsberg, Chairman of the Coos County Board of Commissioners. I am here today to offer testimony opposing SENATE BILL 100 as it is presently proposed. Since the adjournment of the last Legislature, Local Governments have been coerced into accepting the Executive Order, creating Fourteen (14) Administrative Districts. I am not opposed to a voluntary Association of Governments to review and comment on proposed plans within a given area. I am however, opposed to a regional association having veto power over Local Governments. This BILL in it's present form will establish Fourteen District Councils, giving them the power to Veto plans of Local Governments. We have been told Councils are necessary to avoid dealing with the large number of local agencies, yet State Government continues to grow as witnessed by the proposed Land Conservation and Development Department and Commission.

As proposed in SENATE BILL 100 the Department of Land Conservation and Development shall prescribe planning objectives and regulations to be applied by all Governmental bodies. The five members of the Department of Land Conservation and Development will be appointed by the Governor. This in effect puts all Land Use Planning in the State under the control of one man. Any activity construed of State concern requires a permit issued by the State. I feel Local Governments are capable of properly preparing plans and issuing permits to insure the orderly growth and development of the Counties and of the State. This proposed BILL allows the Councils of Governments NOT Local Governments to appoint the District Advisory Committees. I feel in order to retain local control, Local Governments must make these appointments.

This BILL also allows the Commission to perform any other function it considers necessary, which I believe is to open ended. This BILL would require each County and City in the State to adopt comprehensive plans consistent with the State wide objectives. We in Coos County are concerned with

Page 2.

the orderly development of the State of Oregon but we feel it must be done at the local level by local people.

I cannot find anything in this BILL that leads me to believe that the people of this State are going to have anything to say about the development of their areas. The continued reference to District Councils being the decision making authority, the reference to all local plans being in conformance with the State plan, Counties and Cities have spent thousands of dollars developing plans which they feel are adequate and acceptable to the people. Now we are told this is for naught & all plans must be revised in conformance with the State guidelines. I will explain to you why I am concerned about Councils of Governments being given decision making authority. First, of all, the members are not elected to serve in the position they hold as Commission Members. Let me sight an example, the Coos-Curry Councils of Government is composed of Coos and Curry Counties, all of the incorporated cities of both Counties, three Port Districts and one Water District. A total of sixteen (16) local government agencies, each member having two representatives making a total of thirty-two (32) voting members. Let us assume that you live in a city in Coos County within a Port District, you as a voter could vote on six of the thirty-two members. If you live in the County outside the City and Outside of a Port District you could only vote for the Counties representatives which would be two out of thirty-two. I hope that you can see that there is no way Councils can be controlled by the voters. They are strictly a body dictated to and controlled by the State. In summation, I would like to say that we in Coos County as well as other areas of the State are concerned about the loss of local control. We feel that the people should have a voice and a choice in the formation of regional government, otherwise it will not work.

We are concerned about the powers given to a five man committee appointed by the Governor, whereby they will be the final authority in all matters which they determine our State concern. We feel matters of State concern should be more clearly defined. We are concerned about individual property rights. What happens to a person's property if he lives in a area determined to

Page 3.

be a State concern and he is restricted in the use of his property? I feel that if the State is going to legislate people from their property then the State should be prepared to purchase the property as is being considered in Tillamook County at Cape Kiwanda.

Thank you Gentlemen, for your time.

SB #100

January 25, 1973

14

S. ENV. & LAND USE COM.

Questions from Jim Allison, President, Oregon Rural Landowners Association:

- 1--Are the regulations to be adopted by the Commission (section 44, page 23, line 7) governing land conservation and development proposals to be carried out within areas of critical state concern to be approved by the Legislature before they are implemented?
- 2--If the answer is "no," then isn't the summary on the bill which reads: (8th line down) "Requires commission, subject to approval of the Legislative Assembly, to promulgate and implement state-wide objectives and regulations for such areas..." incorrect?
- 3--On page 15, starting on line 22, section (8), the bill seems to state that all lands situated within 200 feet of the right of way of a highway declared a scenic highway under ORS 377.530 shall be considered as an area of critical state concern--if this land is within the boundaries of an incorporated area. Am I correct?
- 4--If "yes" then is not this in direct conflict with ORS 377.530, paragraph (2) (a) which states that the Scenic Area Board shall not have the power to establish as a scenic area in any area along a public highway within the boundaries of an incorporated municipality?
- 5--Is it possible, that if SB 100 were to become law in its present form that a stock farmer owning 80 acres currently zoned F-1 in Washington County could be forbidden to add onto his barn because of a prohibition on building in an area of state critical concern--yet be permitted to build a brand new one just 100 feet from the one he wished to enlarge?
- 6--Does the bill grant authority to the commission to regulate the cutting or harvesting of timber on land within an area of critical state concern?
- 7--If the commission did enact such rules and the landowner were to be forbidden to harvest his timber or was permitted to cut only a portion of it when good forest management called for clear cutting, it follows that a serious loss of net worth would occur. Has Legislative Counsel asked the Attorney General if it violates the U. S. Constitution for the legislature to give the Governor the power through an appointive board to destroy the net worth of a rural landowner by creating a Scenic Park for tourists to look at as they drive by?
- 8--On page 14, line 11, what does "recreation area" mean? Could this be construed to include the "Tualatin Hills Park and Recreation District" in the Beaverton area?

SB #100--Questions from Jim Allison--page 2

Jan. 25, 1973

S. ENV. & LAND USE COM.

- 9--On the subject of state-wide planning guidelines (section 46, page 23) may the commission in adopting state-wide guidelines provide different guidelines in different portions of the state? May the guidelines for constructing a new comprehensive plan for the development of District 2 be different than the guidelines for the development of District #11?
- 10--May the state-wide planning guidelines adopted by the commission be made applicable to a single county? In other words, could the commission adopt guidelines that would only effect Lincoln County?
- 11--Is it legally possible for the commission to adopt the following state-wide planning guideline:
- "In areas where no approved public sewerage system exists, the density of single family dwellings shall not be increased to exceed an average of one per each 40 acres?"
- 12--Assume SB 100 is adopted in its present form. Could the Commission adopt rules that would prevent a landowner located within the city limits of down town Coos Bay and within 1000 feet of the Coos River estuary from continuing to use his land adjacent to the estuary and the estuary as a log dump?
- 13--Again referring to downtown Coos Bay, could the commission enact rules that would prevent a landowner whose land is currently being used as a site for a warehouse from tearing down the building and constructing a marina?
- 14--Am I correct in my interpretation of lines 14 and 15 on page 5 of the bill that if it appears to the Governor that the five members he has appointed to the Land Conservation and Development Commission weren't going to enact the type of regulations he wanted, he could fire all five and start over with a new commission?
- 15--On page 10, section 22, lines 24 thru 27:
- A--May we have an explanation of precisely what powers are granted by the statement:
- "Each District Council shall COORDINATE land conservation and development by the cities, counties and special districts within the planning district.

SB #100--Questions from Jim Allison--page 3

Jan. 25, 1973

S. ENV. & LAND USE COM.

- 16--Does this bill propose to grant to this regional government the authority to approve or disapprove the comprehensive plan of development for Clackamas County?
- 17--Will this regional government have the authority to change the boundaries between urban and rural development? Will it supercede the Metropolitan Boundary Commission?
- 18--Is it possible that the Mayor of St. Helens could cast the deciding vote involving some land use in the extreme southern part of Clackamas County?
- 19--On page 10, lines 14 to 18, assume the voters in Klamath Falls decided they would like to initiate a measure to change the number, qualifications and manner of selecting the district council for district #11. Let's further assume that their proposal called for the District Council to consist of three people--the Mayor of Klamath Falls, the chairman of the Board of Commissioners of Klamath County and Agricultural County Agent for Klamath County. Would the voters of Lake County be permitted to vote on this initiative measure? Assume it was adopted by a two-county vote with Klamath County outvoting Lake County. What recourse, if any, does Lake County have?
- 20--Is it no possible under this bill for the city of Portland to take over complete control of all planning in the four-county area comprising District #2?

TO: SENATE COMMITTEE ON ENVIRONMENT AND LAND USAGE

S. ENV. & LAND USE COM.

SUBJECT: SENATE BILL 100

Testimony of: Kenneth Alexander Brown, Ex. Dir.

FARMER'S POLITICAL ACTION COMMITTEE, Inc. Gervais, Ore

At the outset I will agree as to the desirability of the sloganized objectives of Senate Bill 100, better known as the MacPherson Bill....."Orderly area development --- Wise land usage --- Safeguard of livability --- Preservation of prime farm land ---" Few indeed would question these as ideals.

Those of us who have been close to the land have for many years watched with concern as the square miles of prime farm lands disappeared under buildings and hard surface. And also for many years those of us who have had the sewage from Valley towns oozing through our drainage ditches have wondered just how long it would be before such situations became a matter of much needed official concern. The calls for wise land usage and livability, although certainly without hard definition have had an emotional appeal to many people. In a general sense it speaks well that law makers address themselves to such problems. In this discussion I do not question the motives of any sponsors, but I do believe the idealistic glitter is blinding many people to some hard realities.

The question which I am posing: Will SB 100, or any other land control act, achieve these utopian objectives? The news media, through a continuing hard-sell propaganda campaign for land controls, attempts to convey the implication that all of these good things will come to pass if only we surrender ourselves to the bureaucratic structure proposed in such measures as SB 100.

Senate Bill 100 establishes a police action bureaucracy without guide lines or limits of action. It places unlimited power in the hands of yet to be appointed people who will not be answerable to the electorate. This bill institutionalizes the Council of Governments concept (COG) --- This is yet another layer of government, not provided for by the Constitution nor bound by Constitutional safeguards. Officialdom created by SB 100, operating under police statutes, will not be servant of, but rather master over the people.

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Senate Bill 100 holds high the holy banner of ecology and then blasts a way clear for its operation without concern or provision for the rights or well being of the individuals injured by actions taken. Yes, the stated objectives are meritorious; but with Senate Bill 100 we are cutting off the feet to cure the bunions.

And indeed it is more than that.....Those who heard Sen. MacPherson state that they had drawn many of their ideas from the measures adopted by other states (in a previous meeting of this Committee) were given a peep-hole view of its true origin. Even without his having said so it is apparent that this proposed legislation follows the pattern of the "heat and serve laws" that have been disseminated all over the nation from the fountain head of Metro government located at 1313 E. 60th St., Chicago....AA Socialist well-spring of influence for city, county and state and national legislation --- financed by the great tax exempt foundations

Senate Bill¹⁰⁰ does fit the pattern, and is similar to legislation that is being pushed throughout the entire United States. The so-called "public demand" for land use controls is an end product of that hard-sell campaign on the part of the news media. We have seen this graphically portrayed here in the mid-Valley with newspaper editors pointing out with almost daily repetition the "most urgent need for land controls".

I believe that Marion County can provide something of a window upon the practical operation of so-called land controls. Marion County's three gung-ho Commissioners, at the first possible moment, slapped interim zoning on the rural areas of Marion County, and denied the people any right to vote upon the subject. The Planning Commission appointed by these Commissioners has been beligerently high-handed and arbitrary. Public hearings have, in many cases, more nearly resembled star chambers than a democratic procedure....We have seen witnesses brow beaten and intimidated with police action in open hearing when they insisted on speaking contrary to Planning Commission views. We have seen meetings recessed and ~~another~~ abruptly adjourned when opposition speakers attempted to state their case. Very little of all this has been mentioned by the press which has instead devoted its "news" to

to making land controls look good in the public eye.

And also in Marion County we have seen the ugly head of "influence" raised in the granting of zoning variance....I am referring now to the Chinano Center variance granted at Gervais where the rules were covertly changed to make that variance "permissible". The revelations about that grotesque transaction, although brought out in public hearing, went unnoticed by the press.

In our area we saw a widowed farm lady forced to sell her farm for not too much more than the mortgage because the planners said it was Willamette silt loam and therefore prime farm land and should be so retained. What the planners did not understand was that this farm was cut at numerous angles with deep ravines and unsuited to modern large scale farming methods. It was made to order for building sites and would easily have sold for an additional thousand dollars an acre if it could be so used. And from what we have already experienced we know that it is only a matter of time until someone else, with "influence" will get a variance on that property and collect a financial windfall that should rightfully have gone to the farm widow.

Oregon's farm population is in its sixties --- the young men have largely left the land. Within the next 10 to 15 years there will be a vast turn over of farm lands either by forced sale of ageing farmers or the settlement of estates. As long as farming remains in bankruptcy much of that land will barely bring mortgage and back taxes when it is sold --- as farm land. And we know too that syndicates will secure vast areas of this cheap land, get their variances as needed, and dole this land onto the building market in a tightly controlled monopoly --- truly what is taking place across the nation with such measures as Senate Bill 100, is the greatest land steal in history; and at the expense of America's long suffering farm population. This is the premise upon which our organization stands in saying that such measures as this, enacted into law, constitute the greatest injustice yet inflicted upon America's farm people. This measure reaches beyond the farm and imposes its control upon city people also.

There IS a way to preserve the farms and the open country side --- that is to provide hope once more for the farmer.

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Hope that will encourage the young men to stay on the farm --- when such hope is present few farmers would yield to the developers. But this is a solution that neither the all wise newspaper editors or the graduate planners can be expected to comprehend as they fashion Socialist stocks and chains for the farmer to hold him to the land --- quite as galley slaves were chained to their oars a couple of millennia ago. What we see in this disappearance of farm land is a reflection of the national farm problem....There is a solution, a political one, perhaps not germane to this discussion

I would urge you to consider well before you say yes to Senate Bill 100. This is a solution in the Soviet pattern, not in the American tradition of free men. We have seen a microcosm of its performance here in Marion County --- not a democratic procedure, but a Commissariat in action.

To those who argue that the individual must be set aside in the name of the greater common good -- which is the basic tenor of SB 100-- I would like to remind you that every blood purge that old Joe Stalin ever conducted was also in the name of the greater common good.

The motives of those promoting SB 100 are no doubt sincere and certainly they are ideaistic; but the land control measures now being pushed so vigorously throughout the nation actually have a sinister design....Behind a facade of meritorious purpose they represent a move to set aside the basic right of private property. This drive on land control has its counter part in the attack now being leveled against the Elks Lodges. There too an attack upon the principle of private property, that one behind a smoke-screen of racial discrimination charges. I would urge you to contemplate the fact that destruction of private property rights is one of the basic dogmas of World Socialism.

SB 100 is carte-blanche, a blank check power grant over the property, the lives and the savings of countless Oregonians...A power grant that flies in the face of Constitutional concepts and American tradition. Beneath a sugary coating of lefty intent it is the embodiment of an alien and a viscious philosophy and I urge you to reject it.

Kenneth Alexander Brown
Ex. Dir. FARMER'S POLITICAL ACTION COMMITTEE, Inc.

Gervais, Oregon

My name is Helen Glenn, Realtor and a lifetime resident of Douglas County, Oregon and I have been in the real estate selling business for 18 years. I have seen what is happening to the land in Douglas County, Lincoln County and many other counties of Oregon by developers and people who have little concern about the livability of Oregon for us, for our children and for our grandchildren. I have attended Planning Commission meetings for the last couple of years and observed the pressures that are brought at the county level by developers, by attorneys, by sellers of land. I have had a night call from a big California developer threatening to drag me through the mud and a lot more like me if I don't stop fighting against subdivisions with no roads adequate-no adequate sewerage, no adequate water-perhaps no water. Here in Douglas County we have many places where the soil will not permit septic tanks to operate satisfactory. The rivers and streams of Douglas County, outside of the famous North Umpqua river which heads at Diamond Lake, are over subscribed-water districts are in dire trouble, lack of proper sewerage is creating very bad problems. Something has to be done at the State level with sets of laws and regulations. The present State Board of Health are helpless to enforce the present regulations and laws-who really enforces any of the laws pertaining to land development-to the preservation of the future of Oregon?

We are indeed very fortunate to live in Oregon but it won't be the Oregon we love if developers, selfish interests, greedy sellers are allowed to continue to cut up the land without proper laws to protect our State of Oregon. The time to act is ^{now} while the legislature is in session. If you love Oregon-you will do something about preserving the environment and livability of Oregon. You will make stiff laws on the development of subdivisions-making the developers provide adequate roads, sewers and water and not cut up the land-flee from the state and leave the overburdened taxpayers to pick up the tab for roads, water and sewerage-think about it! Also the schools, fire districts, water districts, sewer districts that will have to be provided by the influx of population into Oregon.

The whirlwind economic and population boom so willingly endured for so long by our neighbors to the south is ~~only~~ coming here. A recent public opinion poll

January 25, 1973 Helen Glenn, Realtor, Roseburg, Douglas County, Oregon #2

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conducted in California revealed that 29% of all California want to leave their state. And Oregon was their first choice for a new location. Think about it!!!! Based on California current population of about 20 million people, that's about 6 million dissatisfied Californians who would like to move to Oregon-nearly triple the present population of our entire state. We are fast running out of available land for parks, agriculture, green belts, recreation, housing, schools and industries. Our fast growth and predictions for the future clearly indicates that comprehensive land use planning is the key to preserving the livability of our state.

When it comes to environmental planning and responsibility Oregon is a mess-our subdivisions in a big percentage of cases are a mess! Do you want urban sprawl that we see in California and other states? If you don't-then support land use planning and provide legislation at this term of the legislative session. Senate Bill 100 is a step in that direction. As a realtor who loves Oregon, and wants to see our livability saved, it has been a struggle to fight for the cause-for many real estate brokers, many attorneys, many people do not seem to be concerned about tomorrow-

In the last 5 years, I have made 4 trips to Europe, two were to the International Real Estate Congress of 26 countries attending and each trip, my main concern is to see how Europe has provided laws to save the livability of their cities, the green belts, the agriculture lands, the farms, and the very, very beautiful parks and countrysides-I come home actually sick at heart to see how Oregon is going-how California has gone-how the State of Washington and the other states will go if we don't have land use planning-The time is now-Time is of the essence-Europe is much older than we-and they have beautiful countrysides-no urban sprawl-no subdivisions like we are scattering throughout Oregon without proper planning, proper roads, proper water planning and sewer planning- By 1990 state officials estimate Oregon's population will have grown by more than 1 million people-think about it? Many real estate brokers seem only to be concerned with the "fast buck" -if they would only stop to think-if they go for first class the first round-it will be first class all the way-Let's have land use planning!

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Mr. Chairman or Mr. McPherson, Ladies and Gentlemen:

I am Robert Davis, from Douglas County. I'm employed by the Veterans administration in Roseburg, I've lived in Douglas county for 14 years, my family and I have lived for the past 11 years on a small ^{irrigated} ranch raising wanuts, berries, vegetables, and some livestock.

I would like to present a brief summary of an attempt for orderly and legal establishment of comprehensive planned and zoned area in a small part of Douglas county--and the ensuing epic journey we took which ended nowhere. If you will ~~hear~~ bare with me I believe this is pertinent ~~for~~ regarding legislation on Senate Bill 100. *because of time constraints & people involved this is very condensed.* Approximately six years ago ~~in~~ the summer of 66, in an attempt to aborate the developemant of a large trailer court next to our property, we iniated the first petition to retain our place and surrounding farms and ranches in an area of Agriculture, Grazing and Timber. This was the first zoned area ~~in the county~~ and the largest section of agriculture grazing and timber land without subdivision ^g in the county. We had 95% of the residence signing in favor of the petition. We subsequently followed the steps and hearings Before the planning commission and county commissioners. With the final approval in 1969, we were given to understand that this area was inviolate, unless at the direct wish of the residence, a petition was again circulated to change the status and nature of our zoned area, known as The Fair Oaks.

In 1971 two farms in the area were purchased ~~with~~ by individuals for the purpose of breaking up the land into parcelization and subdivision. ~~Neither~~ speculator lived in the area or were concerned with or respected our zoning.

We went again to the planning office, were told to circulate another petition, which we did and again had over 95% of the residence signatures. We presented our petitions to the county commissioners. They took it under advisement. In the interim, a Mr. Bullock, ~~one~~ of the speculators appealed to the planning commission. Residence of the Fair Oaks Area were at the meeting protest in the approval of zone change. His request was denied. Two weeks later he again appealed to the planning commission and it was approved. Members of the Fair Oaks area appeared before the board of commissioners to protest this action. At this time the commissioners stated they did not know if the Douglas county zoning ordinance was legal. We then traced the origin of the ordinance, the DA office declared it a valid and legal ordinance,; he also ruled that it was illegal to parcel AGT land.

Disregarding these opinions, AGT land was subdivided and trailers were moved onto the land and Mr. Bullock continued with his parcelization.

In an effort to retain what we believed fundamental land use conservation at this time we began a search for advice, aid, and appeal. We were joined by other citizen groups in other parts of the county, all trying to extricate themselves out of the same predicament.

We made trips to Salem and talked to Bob Olliver, and Robert Logan. We talked to Mr. Black, then with the state reality office, Mr. LBDay, The state health department. We wrote letters to a number of officials including Lee Johnsons As well as inviting an investigation by member of OSPRIG.

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Always things were suggested. We get an attorney and take it to the local authorities.

So We retained an attorney, Keith Rodman of Eugene, (other groups retained several attorneys.) We appealed our case before one other than the county commissions, who again ruled against us.

It was suggested we contact Jason Boe, wh in turn arranged a meeting at the Fair Oaks Grange with the governors executive officer, Robert G. Davis, and with our citizen group, OSPRIG and other groups from other areas of the county, ~~OSPRIG~~ representative who are proponets of zoning, land conservation and orderly growth. This was December 1971.

Mr. Davis promised within a few weeks to send a number of state officials to meet with us. He left and I was not able to contact him through his office again, or did he ever contact us again.

At no time through these years did anyone ever suggest that we were not going the proper route, all agreed that something should be done.

Therefore I feel that Bill 100, through its preable ^{vm}
especiall ~~xxxxx~~ page 2, lines 13 and 14, and through the
policy statement, specifcally ~~xxxxxx~~ ~~xxxx~~ page 3 lines
4, 5, and 6, as well as the stated desires and steps for
implimentation to conserve prime farm lands, provide for direct
and effective intervention by a less than highly prejudice
local government, is certainly a step forward in securing what
I believe to be Oregon's fines asset, the land and the land use.

Thank you

SUMMARY OF STATE OF HAWAII LAND USE PLANNING
LEGISLATION AND ITS IMPLEMENTATION

S. ENV. & LAND USE COM.

Oregon State University

Legislation:

The Hawaii State Legislature passed the Land Use Law in 1961.

Problem:

Agricultural interests represented the main force in fostering the 1961 land use control law. Concern was centered on the limited amount of tillable cropland for the primary crops of pineapple and sugar cane which could be lost to urban sprawl (1/10th of their 4 million total acres). The tourist boom, which started in the late 50's and was intensified by jet aircraft, triggered tremendous pressure on open space land. The worry was that permanent limits would have to be set to prevent Los Angeles type urban sprawl. The fact that Hawaii's agricultural industry is characterized by a small number of large plantations was undoubtedly a major factor in the ability of the agricultural interests to organize rapidly to foster the legislation.

Action Authorized:

The Land Use Law authorized a Land Use Commission and provided for the state to be divided into land use districts or classifications -- conservation, agricultural, rural, and urban. The Commission consists of seven private citizens plus the directors of the Departments of Land and Natural Resources and Planning and Economic Development. The Department of Planning and Economic Development provides the statewide administration for implementing the law.

In regard to the classification of land into four districts, the law authorized land in the urban district to be used for whatever purpose was permitted under local zoning regulations. The lands that were in the agricultural and rural categories would be used only in compliance with the regulations of the Land Use Commission and local requirements. The lands placed in the conservation category were to comply with regulations of the State Department of Land and Natural Resources. The legislation provided for shifting land from one district to another, agricultural to urban, for example, but set up constraints so this shift would be more logical and orderly.

Progress to Date:

In 1964 the Land Use Commission had completed the assigned task of dividing the state into four districts. Their initial actions provided that 1) urban districts included existing urban areas plus a reserve of land sufficient to accommodate urban growth for the next ten years; 2) rural districts included low density residential development with lots at least a half acre in size, all outside of Oahu; 3) placing crop and grazing lands, plus agricultural processing areas, in the agricultural district; and 4) pulling state owned lands that had been restricted for conservation purposes by earlier legislation into the conservation category. Private land, now comprising 1/3 of the area in the conservation districts, most of it in hilly areas with more than a 20 percent slope, was subsequently added. And a 1970 statute has added a 40 foot strip back from the shoreline around the coast of the islands to the conservation classification.

Since the legislation was passed in 1961, tremendous development has occurred in tourism in Hawaii. As an indication of the intensity of this boom, hotel rooms in Honolulu increased from 8,700 in 1961 to 21,200 in 1970; in neighboring islands the increase was even greater -- from 1,470 to 9,100. With this development, concerns are shifting from the preservation of land in agriculture, on the part of the large landholders, to utilization of the land for tourist related activities.

To shift land from agricultural into urban districts, petitions for rezoning are filed with the Land Use Commission. Through 1970 some 200 requests had been considered for some 100,000 acres of land to be reclassified by the state Land Use Commission. Of this amount some 30,000 acres were shifted to the urban classification. It is reported that only some 3500 acres of this amount was prime agricultural land. County approval must also be obtained before development occurs. Procedurally, the petitions are referred to county planning commissions for suggestions, followed by a public hearing held by the Commission in the county in which the land is located. Six members of the Commission must vote favorably on any change in land use classification.

In addition to acting on individual applications, the Commission is directed to undertake a comprehensive review of district boundaries every five years. The first review was conducted in 1969 with certain land reclassified as a result of this review.

A major policy issue currently centers on whether urban developments should be confined to a gradual enlargement of existing boundaries of the city of Honolulu (the only major urban complex in the state) or whether it should be allowed to expand throughout the island of Oahu. Narrow urban limits and higher densities are favored by urban planners on the basis that they promote efficient use of public facilities, reduce automobile traffic, create a more favorable urban situation, as well as preserve the amenities of the surrounding environment.

The policy of the Land Use Commission has been to favor reclassification of land adjoining existing urban districts while opposing developments further from existing centers. Developers have the burden of proof to show why it is not possible to use existing land in the urban district for development. A trade-off is involved with this policy in that land that is available for development increases in value more rapidly because of its scarcity. This has penalized the development of low cost housing. Some have criticized the emphasis placed on land planning at the expense of "planning for people". Clearly, the most difficult conflict facing the Commission is between the goals of minimum urban sprawl and a counter goal of lower housing costs.

Three basic policies appear to have been implicit in guiding the administration of the Land Use Law. These were that (1) prime agricultural land should be preserved; (2) tourist attracting developments should be encouraged without disturbing natural landscape; and (3) compact urban areas should be provided.

SUMMARY OF VERMONT LAND USE PLANNING
LEGISLATION AND ITS IMPLEMENTATION

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Oregon State University

Legislation:

The Vermont Legislature passed their ground-breaking Environmental Control Law (Act 250) in 1970. The legislation was based on a report by the Commission on Environmental Control, a body of prominent citizens and legislators appointed by the Governor in May, 1969, to address itself to the problem of land use control. The Environmental Control Law was accompanied by companion legislation dealing with water quality, dedication of open space, mandatory shoreland and flood control zoning, and mobile home park controls.

Problem:

Starting in the late 1950's, a boom had developed in the state for second homes and ski resorts. The demand was primarily from out-of-staters--- from populated New England areas and New York. Construction of an interstate highway system had been a factor in fostering this pressure. Concern centered not only on possible unwise land use decisions and environmental degradation (especially eutrophication of lakes from septic tanks) which would result from a laissez-faire policy, but also secondary impacts in commercial and industrial development which might stem from the initial land use decisions.

Local authority to control the use of land had been broadened by the 1967 Vermont legislature with increased flexibility of zoning and planning commissions. Certain added regulation was authorized, also, for dealing with large subdivisions. But in the summer of 1968, International Paper Co. proposed a recreational and second home development involving some 20,000 acres. This proposed development stimulated public debate that triggered governmental action.

Action Authorized:

The Vermont Environmental Control Law created an Environmental Board with two areas of responsibility: 1) issuing development and subdivision permits and 2) preparation and adoption of statewide comprehensive land use plans.

The Environmental Board is an independent regulatory body associated with the newly created Agency of Environmental Conservation, comprising all state departments dealing with natural resources. The nine members of the Board are appointed by the Governor to serve four year terms (except the chairman who serves only two years). The law also authorized district commissions to be composed of three members each, to work with the development and subdivision permit program. They are the local implementation units each covering a number of townships and subdivisions.

Permits under the legislation are required for residential, commercial, and industrial developments; housing projects (such as condominiums) other than subdivisions of 10 or more units, within a radius of five miles; and developments, regardless of acreage or number of units, for commercial, industrial, or residential use on lands above an elevation of 2500 feet. Farming and logging developments were exempted. Developments by municipal and state agencies were also brought under regulation.

The district commissions are authorized to grant or deny permit applications for the use of sites for developments and subdivisions. The permit applications must include complete details on the layout of the proposed development, purpose or use, statements of costs and financing plan, proposed utility system and adjacent land uses. The district commission must be assured that the development will not cause undue water or air pollution; have an adequate water supply without robbing others, will not mar amenity values, that it will not place undue impact on roads, educational facilities and municipal services, and that it conforms to the land use plan when adopted. District commissions function as a local hearing body in the initial stage of the permit issuing process. Regional coordinators from the Board's regional offices, serve as administrative officers. Other support is available from the regional offices.

A key feature in the processing of permits is the so-called Act 250 Review Committee. A copy of each application is submitted to the responsible state official and to other appropriate state and local agencies for review and comments. Then a positionpaper is prepared representing the agency view and reflecting comments from the review. This paper is a vital input into the decision process by the Commission. It also affords "an opportunity for various state agencies to exchange views on policy and coordinate other related activities." Published notice of intent is also required so adjoining property owners are informed. Appeals from district commission decisions go to the statewide Environmental Board. Further appeal to the state Supreme Court is authorized.

Three types of land use plans were provided for in the law to be adopted by the Environmental Board. (1) An Interim Capability Plan --- a catalogue of current land uses and capabilities; (2) a more permanent Capability and Development Plan; and (3) a Land Use Plan. After these plans are completed and adopted, the law provides that applicants be required to show that their development is in accordance with the plan. They are intended to guide the judgments of local planners, the district, and the state commission.

The capability and development plan is intended to be a statement of basic goals, objectives and policies for "a coordinated, efficient, and economic development of the state, which will, in accordance with future needs and resources, best promote the health, safety, order, convenience, prosperity and welfare of the inhabitants, as well as efficiency and economy in the process of development..." Planning criteria is to be provided. Statutory standards include population distribution and consideration of waste handling and disposal.

The land use plan is to consist of "a map and statements of present and prospective land uses based on the Capability and Development Plan, which determines in broad categories the proper uses of the lands whether for forestry, recreation, agriculture, or urban purposes..."

Two types of areas are to be delineated in the Land Use Plan: (1) those generally suited for development, subject to conditions that will assure environmental compatibility, and (2) those not suitable for development except under very special circumstances, because of their vulnerable ecological character or their historic or aesthetic value. Prior to adoption, the land use plans are to be widely publicized and comments obtained from other public agencies and from public hearings. Final approval is through the legislature and the governor.

Progress to Date:

The Interim Land Capability Plan has been completed. The permanent Capability Plan and the Land Use plan are scheduled for completion in 1973. The Environmental Board has set up regional offices to work with the district commissions. These commissions are now receiving and rendering decisions on all applications for permits for residential, commercial, and industrial development under Act 250. As of October 1, 1972, 1059 permit applications have been made to district commissions, 936 for developments and 123 for subdivisions under the Act. A total of 890 have been acted on with 30 denied and most of them appealed to the Environmental Board.

Legislation:

Prior to 1972, Florida adopted a "State Wilderness System Act" which established a system of wilderness areas to be set aside in permanent preserves "forever off limits to incompatible human activity." The Board of Trustees of the Internal Improvement Trust Fund was authorized to acquire title to lands by any lawful means other than through the use of the power of eminent domain, and a state agency was authorized to regulate such lands.

The Wilderness Act served as the catalyst, showing the need for the Florida Environmental Management Act, passed in 1972. It establishes state responsibilities to designate and regulate both "areas of critical state concern" and "developments of regional impact." While the act gives the state a degree of control over growth and development in these critical areas, the authority of local governmental agencies is retained to a great extent. The state's role focuses in on decisions of land uses having impact beyond local government boundaries.

Action Authorized:

Areas of critical state concern are defined as those involving environmental, historical, or archeological resource of regional or state-wide importance. Any existing or proposed major facility or public investment or any proposed area of major development potential can be designated also. The administrative commission, composed of the Governor and his cabinet, designates areas (not to exceed five per cent of the state's land) after receiving recommendations from regional and local agencies. The designation of an area as "environmentally important" is not effective as an "area of critical state concern" until the voters have approved a state bond program for the acquisition of such lands.

After the critical areas have been established, the administrative commission must adopt planning principles with which the local governments must comply in writing up their local land development regulations for those areas. If, six months from the adoption of planning principles, the local government has not approved satisfactory land development regulations, the administrative commission may, by rule, establish regulations applicable to that local portion of the area of critical concern.

The act further requires that any person undertaking a development project in an area of critical state concern first secure a development permit from the appropriate local government. The definition of "development" comprises:

1. A reconstruction, alteration of the size, or material change in the external appearance of a structure on land.
2. A change in the intensity of use of land, such as increase in the number of dwelling units in a structure, or on land, or a material increase in the number of businesses, manufacturing establishments, offices, or dwelling units in a structure or land.

3. Alteration of a shore or bank of a seacoast, river, stream, lake, pond, or canal, including any coastal construction.
4. Commencement of drilling (except to obtain soil samples), mining, or excavation on a parcel of land.
5. Demolition of a structure.
6. Clearing of land as an adjunct of construction.
7. Deposit of refuse, solid or liquid waste, or fill on a parcel of land.

As a separate activity, certain developments may be classified by the administrative commission as a "development of regional impact." Such classification shall be made where a development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county.

Guidelines and standards for regulating developments of regional impact are written by the administrative commission, subject to review by the legislature. Such development may be undertaken only where it complies with local regulations drafted in accord with the commission's guidelines and standards. Where a developer is in doubt concerning the status of his proposed development, he may request a determination by the state agency.

The Florida legislation also provides for an appeals program. After a development permit has been granted or denied for either an area of critical state concern or a development of regional impact, a developer, property owner, or planning agency may file a notice of appeal with the administrative commission, which doubles as the Land and Water Adjudicatory Commission. The notice of appeal shall stay the effectiveness of the order until completion of the appeal process.

11/6/72

A SUMMARY OF S. 632
THE NATIONAL LAND USE POLICY ACT OF 1972

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S. ENV. & LAND USE COM.

Legislation:

During the last congressional session, the Insular and Interior Committee of the Senate conducted extensive hearings on national land use policy legislation. The result of those hearings was a proposal (S. 632) incorporating various features of bills introduced by the Administration, Senator Henry Jackson, and others. However, though the committee's proposal ultimately received favorable action by the Senate, a similar bill in the House of Representatives (H.R. 43320) was stranded in the House Interior Committee when the Congress adjourned last month.

Action Authorized:

The bill would have required states to establish authority in a state agency to implement land use programs. This authority could have been exercised by use of one of three methods:

1. direct state land use planning and regulation; or
2. state administrative review (with full power to approve or disapprove) of local land use plans and their implementation; or
3. state establishment of criteria and standards coupled with review and enforcement of local compliance by the judiciary.

States would have been given five years from enactment of the Federal law to demonstrate to the Office of Land Use Policy Administration (as created by S. 632) that they had developed a land use program which vested the necessary implementing authority in the state. Where the program, as reviewed and evaluated by the Land Use Policy Office, had not satisfied the federal criteria, sanctions were provided for phased reduction (7% the first year after the five-year period; 14% the second year; and 21% the third year) in development portions of three grant-in-aid programs -- the Airport and Airway Development Act, the Federal Highway Act, and the Land and Water Conservation Fund.

Where a state had developed a satisfactory program within the five-year period, it became eligible for grants (90% Federal share during the first five years and 66 2/3 thereafter) from the \$100 million per year authorized in the bill. In addition, procedures were provided for situations in which an approved program subsequently became deficient.

Though Federal review was largely limited to determining whether the state possessed necessary implementing authority, S. 632 required the states to address themselves to certain "critical areas and uses" in their programs. These areas and uses included:

1. areas of critical environmental concern (coastal zones and estuaries, shorelands of major lakes and rivers, scenic and historic districts);
2. key facilities (siting and construction of airports and highways);
3. developments of regional benefit; and
4. large scale development.

Finally, in order to better identify these areas and uses, the states were required to conduct various inventories: of the states land and natural resources; of governmental organization and financial resources available for land use planning and management within the state; of ecological, environmental, geological, and physical conditions (including soil types) that influence the desirability of various types of land use, etc. After conducting the inventories and identifying the "critical areas and uses," the states were to have developed their land use program for review by the Land Use Policy Office.

11/6/72

Dear Silverton Citizen:

October 5, 1972

The overthrow of the United States Constitution is a very serious matter, but this is happening right before our eyes. Unelected, appointed layers of government like COG (Council of Governments) and the Marion County Boundry Commission are parts of a Regional Governance that is replacing our Constitutional self-government.

The biggest power-grab in American History is being attempted by this 'new government', Regional-Metro, through innocent-sounding 'Comprehensive Plans' that are aimed at total control over our lives and property. This is BEING AIDED BY SOME OF OUR RESPECTED NEIGHBORS IN SILVERTON'S CITY HALL. This new government is to replace our supposedly outdated Constitutional checks and balances. The experts believe they will be able to work more efficiently for the 'Common Good'. But there is really nothing new about this ancient idea. Socialist Russia has 10 Regions, with no elected city, county, or state self-government to bog down the machinery of 'social change' and 'land reform'. Cuba was regionalized before the take-over. Now it comes to us and we are lulled to sleep by fears of urban sprawl which has been created to force this control upon us. HUD finances developements AND COG!

Socialistic 1313 E. 60th Chicago, a Rockefeller Metro brain-trust, has spawned 23 known interlocking agencies whose goal is to promote World-Regional Government. One such parasite is the Council of State Governments. Increasingly, it is seen to usurp power from elected government in whatever ways possible. Locally, this extra layer of appointee-experts have even threatened to illegally withhold water and sewer grants unless so-called Comprehensive plans are adopted. These 'plans' come with built-in 'advisors' who exert maximum control over local decisions. They have moved cautiously. They can afford to delay a one-way grid for awhile. Their goal is total Metro control.

(Does terrible 1313 really exist? Alan Hershey, COG planner from Salem, said in a public meeting in Silverton that there is nothing at Thirteen thirteen, but an empty building. COG's puppet, Jack Brown, denies he has ever heard of the book 'REGULATORY DEVICES', (before witnesses). Enclosed is proof that Jack Brown ordered this book himself; he cannot deny it. Our Mayor says that APPOINTED Regional Government is the only way to solve our problems. Our Constitution was written for 13 Colonies and is no longer workable, he Says. The local editor attacks viciously all efforts to expose Regionalism. A Metro deciple (G.H.) on the City Council adds his voice (and aspires to be the next Mayor.) Maybe a few influential citizens who applauded the earlier efforts to Mastor Plan the valley are squirming. They know now! The odor is beginning to seep from under the lid and it is time for the ones responsible to get us out of the Metro trap.

One thing must be made clear: METRO*REGIONAL GOVERNMENT IS NOT A MATTER OF OPINION. IT IS UNCONSTITUTIONAL. Anyone working either privately or openly to destroy our Constitutional safeguards clearly does not have our best interests at heart. As long as our Constitution stands (praise be to God!) no such usurpation of power by Metro agencies or Appointees is legal and cannot be held, because no Legislative Act or Executive Order aimed at the destruction of the Democratic process has the authority to knock down the Constitutional Law that forbids it. We can reject Metro rule by the experts. They CANNOT overthrow the law that protects us, the Constitution itself. They are bluffing.

This is your valley, your town, and your country, as much as it is mine. You've lived here longer, so you should have a bigger stake in it. If you haven't the guts to demand to examine this book that came from an 'empty building' to a liar find out for yourselves if people we have trusted have manuevered us into an equal puppet-government position, you deserve to lose everything. Freedom is wasted on those who will not guard it prayerfully and carefully and tears will not help when it has gone.

Rs. Oregon Statesman Oct. 4 '72: COG is asking for veto power over city and county government!

For God and Country;

Ruby Nichols

Proof that what we have said about COG is true. They never intended to, only advise.



W. J. KVARSTEN, A.I.P.
DIRECTOR

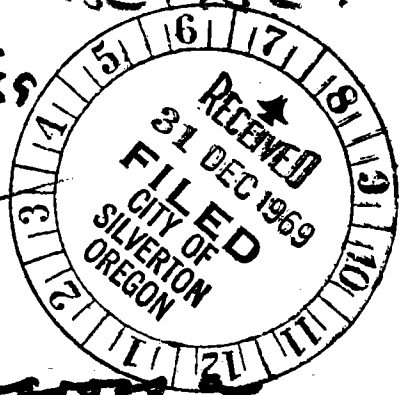
MAKE A PD
MID-WILLAGETTE VALLEY
AND GET CHECK
COUNCIL OF GOVERNMENTS
FROM ALTHEA

Room 19 / Marion County Courthouse, Salem, Oregon 97301 / Telephone AL 503/581-1574

ENV. & LAND USE COM.

Dec, 22, 1969

Ordered



Dear Jack:

I just came across a

publication that would be of
value in your Silverton

Planning Commission Library:

American Society of Planning Officials

"Regulatory Devices," (Chicago, 1969)

68pp. The price is \$4.00 and

the address: 1313 East 60th Street

Chicago, Illinois 60637.

Merry Christmas,

Have much

P.S. Enclosed in your Citizen's Guide to Planning

COPY

The above letter has come into our hands. It will not shock the members of the OREGON LEGISLATIVE & RESEARCH COMMITTEE or the FARMER'S POLITICAL ACTION COMMITTEE. They already know of the powerful Syndicate 1313, brain child of the subversive Council on Foreign Relations and parent of unconstitutional Metro Government now being foisted upon the American people.

"Jack", is Jack Brown, City Manager of Silverton. Dave Mac. is no doubt, Dave MacDonald presently pushing Mass Transit thru COG(Council of Governments).

This damning evidence definitely proves that at least one City Manager and one COG planner are fully aware of the "Regulatory Devices" being used to persuade Americans that so-called Comprehensive Plans are created locally, by local officials & citizens when in truth, these plans are born at terrible 1313. METRO

For information about 1313, send \$2.50 to V.O.L. Post Office Box 16295, Portland, Oregon, zip code 97216. The book, TERRIBLE 1 3 1 3 will be mailed to you.

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S. ENV. & LAND USE COM.

CHARLES WILLIAM KING
ATTORNEY AT LAW
3482 N. E. HIGHWAY 101
LINCOLN CITY, OREGON 97367
TELEPHONE 994-5171
RESIDENCE 994-5164

January 29, 1973

To: Senate Environment and Land Use Committee

Re: Senate Bill 100

Sir:

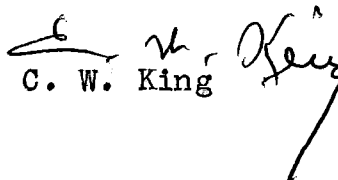
The following views are presented in opposition to the bill.

The bill is very evidently inspired by dissatisfaction with the operation of present zoning laws, contained in Ch. 215 ORS as to Counties and Ch. 227 as to Cities. In our haste to see results right now, we stand in danger of having essentially local matters handled by a central agency or official too far removed from the areas affected. I would foresee not only increased and burdensome cost of government, but an increase in impersonal and possibly dictatorial fiat. A trend toward increasing local responsibility should rather be encouraged.

It has been said that the Devil will gladly cure your chilblains if in return he can give you cancer, and I suggest that the cancer of overgrown and distant central government in essentially local concerns is more to be avoided than the evils sought to be remedied.

Although I am presently a resident in the coastal area, most of my life has been spent in the interior (Corvallis, Portland, Salem), and I am endeavoring, hopefully, to speak as a concerned resident of the state, rather than of a particular area.

Sincerely,


C. W. King



29 January 1973

OREGON STATE ARCHIVES

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SI ENV. & LAND USE COM.

The Honorable Ted Hallock
Chairman, Environment & Land Use Committee
Capitol Building
Salem, Oregon

Re: S.B. 100

Dear Senator Hallock:

It was my intention to personally testify at the 25 January hearing on S.B. 100, but flu problems caused a change of plans so I hope this letter will be given equal consideration.

I am absolutely in favor of S.B. 100 in its present draft form with minor comments as follows:

With regard to Section 16 of the Bill, as a member of the OCCDC I have no personal hang-ups about the L.C.D.C. giving prior approval to any actions of the OCCDC, but I really don't think it necessary. True, OCCDC got off to a slow start, but once we selected our Director we have been making good headway, I feel. I would hope that review by the L.C.D.C. would be adequate and would not cause unnecessary hard feelings among coastal residents.

I particularly like the designation of areas and activities to be designated for State concern (Sections 31 and 32) and hope that you will not back off of these provisions.

Section 34, Paragraph (7) could perhaps be a bit stronger, so as to provide a uniform and composite application and impact form. On behalf of our clients, we often have to fill out two or more environmental impact statements when it seems that one uniform type of statement really could suffice.

Section 58 should contain a separate paragraph on the preservation of wildlife and wildlife habitat, including animals, birds and fish.

I am sorry that I was unable to give this testimony personally, but I will be willing to testify at future hearings if given the opportunity.

Respectfully yours,

John W. Broome

Partners:
John W. Broome
Charles E. Selig
Robert E. Oringdulph
John L. Henslee
Dennis J. O'Toole

Associates:
Robert Belcher
Heinz A. Rudolf
Donald T. Ross
Richard K. Spies
Charles G. Petersen

cc: Members of the Senate Environment & Land Use Committee

January 29, 1972

OREGON STATE ARCHIVES

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S. ENV. & LAND USE COM.

Senator Ted Hallock, Chairman
Senate Environment and Land Use Committee
and

Committee Members: Senators; John Burns, Victor Atiyeh, Hector McPherson, Jr.,
Jack D. Ripper, Michael G. Thorne and George Wingard

Gentlemen:

In 1916, New York City adopted the first ordinance in this country for the express purpose of regulating land use. They have had some form of land use planning, and have tried to implement the plans by zoning for the last fifty-seven years.

Have you been to New York lately?

We have had land use planning and zoning in some parts of this state for more than thirty years.

Have you visited any of Oregon's three metropolitan areas lately? Portland, Salem and Eugene?

Were you generally pleased with what you saw? You must not have been if you are now energetically involved in a statewide effort to get localities to correct some evils you have observed.

Zoning has almost totally failed as a tool to effectively implement land use plans, wherever it has been used. We say almost totally, because it may have worked somewhere, but not any place we have studied.

Some of us fly quite a bit, and have watched with interest the growth of most of the cities in the West during the last twenty-five years. As we look down on them, and drive through them, we are unable to distinguish between the ones that have had planning and zoning, and the ones that have not. We are not very proud of what is to be seen in any of them. Are you? Can you picture in your mind's eye a city you know that has avoided strip development, spot zoning, urban sprawl, overextended utilities and services, ugly deteriorating

central section, continuing expensive running warfare between the land-owners, planners and other interested groups? Has the city you are thinking of used zoning as the primary means of implementing their master plan?

If you know of a single place in the United States that you can show us that zoning has effectively produced an area of which you are proud, take us there, for it is a place unknown to us.

All rational people recognize that long range plans are sorely needed for the use of our lands and the natural resources they contain. Once the plans are made, we will need land use controls that are effective, uniformly applied, and are fair.

Zoning, as traditionally administered, has been none of these, resulting in a continual erosion of land use plans so that they are not recognizable within a few years. If you doubt this, we suggest you discuss it with planners and zoners in your home area.

In the past few months, in the process of developing a land use plan for the area near Eugene's airport, some of us have had an opportunity to visit with planners and zoners, public officials, and property owners in several states. We have asked each of them why we need land use planning, and have perservered until we have received thoughtful answers.

Specifically, the needs seem to be:

1. Make the wisest possible use of our land areas and the associated natural resources by providing adequate space and plans for:

Services and Utilities

Transportation

Recreation

Homes

Agriculture

Timber Production

Business

Industry

Mineral Production

- 2. Achieve a reduction in cost of publicly supported utilities, services, and transportation systems.
- 3. Protect adjacent property values by limiting activities which might adversely affect adjacent land users; such as noise, traffic, air and water pollution, and reduction of aesthetic values.

Developing a plan acceptable to most of the people affected is difficult, but seems to be within our abilities. Apparently no one, and we repeat no one, has learned how to make zoning, administered in the traditional way, effective. None of the people with whom we have visited, including the planners and zoners and their professional staffs, feel that zoning, even though administered in the best way we know how, has been effective in accomplishing these desirable purposes.

Why?

It might be because our present system of zoning and the administration thereof has created conflict and has not set up satisfactory ways for the resolution of that conflict.

Conflict may develop each time zoning is imposed, and each time a zone is modified or changed. Historically, zoning has regularly been modified and changed, and conflict has been the continuing result.

Conflict, because of zoning, seems to develop between the following:

Landowners and the Planning Commission:

Property values are affected by zoning and landowners who believe their values have been reduced, or whose intended use is curtailed, are brought into conflict with the zoning

authorities; who at present have no satisfactory way to pay
for losses even if losses are real.

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S. ENV. & LAND USE COM.

Landowners and tax authorities:

Tax authorities have not been tied by law to zoning restrictions,
and therefore are often more effective architects of changes
in land use plans than are the planners.

Landowners and "Pressure Groups" of citizens who want the land used
for purposes other than that intended by the owners.

"Pressure Groups" who advocate one use and other groups who advocate
a different use.

In our opinion, all too often the resolution of these conflicts occurs
in the political arena or in the courts, and the loser usually has been the
weaker of the adversaries in terms of economic resources or political power.

Rigidity in the system itself and the resultant potential for insensi-
tivity to changing public needs may be another reason why the results over a
period of years have not been satisfactory.

The system has perhaps endured as long as it has because the aggrieved
have usually been standing alone, one at a time, and have lost their battle
with the overwhelming power of the opposition.

We won't be facing this situation if we try to apply zoning on a state-
wide basis. We will be dealing with almost all the landowners in the state
at the same time. Many of them are already angered by past effects of
local zoning and are suspicious of statewide efforts that follow the same
pattern. They are well organized, well financed, and represent substantial
political power. We are not at all sure that a head on conflict with this
group will turn out well for the future of effective land use planning.

Senate Bill 100 suggests zoning as the means of implementation and con-
trol. We are becoming increasingly aware of a rising resistance around the

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S. ENV. & LAND USE COM.

state to the concept of imposing zoning on a statewide level. It may be difficult to get Senate Bill 100 through the legislature. In our opinion, it will not be effective if it, or a modified version, should become law. We believe it would be futile to set up a massive state agency and depend on a system of controls which has almost universally proved ineffective.

It would take millions upon millions of dollars to administer and enforce such a law, and it might take us ten or fifteen years before we could look back and realize we weren't accomplishing what we had set out to do.

What can be done?

We suggest that some other, perhaps innovative ways are available, and must be used to eliminate, resolve, or minimize to an acceptable level, the conflict that will develop between various individuals and groups who feel damaged when a land use plan is put into effect. We must find a new and effective, uniformly applied, and fair way to resolve these conflicts, or our best conceived plans will not be realized. Land use planners and zoners throughout the state, as well as all of our citizens, deserve a system of controls that will assure the realization of their dreams rather than add to their past frustrations.

We believe that satisfactory solutions are available. We doubt that there is time to crystallize them and get the necessary public approval before this legislature adjourns.

At least three things need to be done:

1. We need to identify and tabulate land areas and activities which properly are of statewide concern.
2. We need an inventory of land and the natural resources it contains, as well as a clear understanding of what our future needs will be. With this in hand, we can proceed with statewide planning.
3. We also need to develop an effective form of land use controls that

will be acceptable and effective in making the plan work.

S. ENV. & LAND USE COM.

The first two efforts might be accomplished by the skilled staff of an agency. The third might better be done by a group of skilled citizens who are sensitive to the needs and wishes of the people, and who can develop controls that will be fair, uniformly applied, and therefore effective.

Would it make sense to set up a commission with a comparatively small staff to get started on the inventory, and set up an interim committee to develop the effective controls? The two could jointly draft the appropriate legislation for the next session.

Interim committees have sometimes been suggested by those hoping to merely delay any action for a couple of years. This is not our purpose. We think there is time to move in this manner, but perhaps not much more. We therefore feel we should begin now and complete the organizing within the next two years.

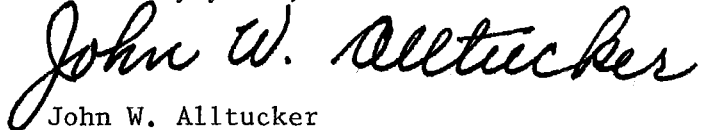
This would be one of the most important legislative efforts attempted in Oregon. The appointments should be from people who are knowledgeable, and who are willing to invest a lot of time in the effort. They must also be open minded and sufficiently respected that the results of their work will have the public support needed to carry their recommendations through the legislature, and into effective law.

Such people are available.

Let's get them started.

We are ready to help in any way you feel is appropriate.

Sincerely yours,



John W. Alltucker

Speaking for A.O.I. Land Use Planning Committee

JWA/bjh

Oriental Motif Shop

OREGON STATE ARCHIVES
Jan. 29, 1973

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S. ENV. & LAND USE COM.

Send copy to...



725 N. W. 23rd Avenue
PORTLAND 10, OREGON
Cable Address ORTIFCO
CApitol 3-4978

GEORGE & WING HOI
AUCKLAND

1. The problems mentioned by the proponents of this bill regarding the ruthlessness of some developers, the arrogance of large industrial corporations, and the problems associated with "urban sprawl" are common to many of us. Not mentioned thus far has been the short sighted, equally arrogant, and jerry built policies of the State Highway Department. In our area of north Multnomah County we have fought the county commissioners who wished to establish a garbage dump, the S.P.&S. Railway advocating another dump. We have been successful in combatin all such efforts except the State Highway Department which bulldozed a limited access through our magnificent area in an exercize of engineering stupidity which cost the local landowners tens of thousands of dollars, the taxpayers millions, and set a mountain ^{in motion} which is covering up their highway.

2. Now ~~is~~ is important. We have learned a lesson, or re-learned a lesson, lesson learned by our ancestors in 1776 and which we seem to have forgotten today. So long as the power rest in the hands of our duly elected officials we can assure that our needs are met or we can change ~~to~~ officials who will meet our needs. We cannot ^{neither} protect our interestn nor meet our needs when our voting power is delegated ^{to} members of a distant beaurocracy, financed from the ^{of another Beaucracy} fereral treasury, and who ultimately depend upon large financial interests for their job security. A simple historical maxim is that those who serve the community must be answerable to the community. Those who must serve the communit and are not answerable to the community must ultimately end up by serving themselves. Senate bill 100 provides for a political pork barrel of over a dozen such groups answering only to each other or to the various beaureaucratic groups in the governor's office.

3. As pointed out previously many local planning commissions have been ineffectual. Local conditions have changed rapidly giving rise to ^{problems} conditions which they could not, or would not meet. Because of this many would dispense with the local commission in the hope that a beneficent, paternal state government would provide them with some magic, medicinal, sinicure. Unfortunately, this father image ^{sets} itself. There is no Santa Clause. Despite the protestations of the much vaunted, over publicized ^{Urban Planners} themselves a generally poorly educated group of Sunday supplement pseudo scientists, the county unit provides all of the best ingredients for urban planning, a planning commission responsible to directly el-



725 N. W. 23rd Avenue
PORTLAND 10, OREGON
Cable Address ORTIFCO
CApitol 3-4978

GEORGE & WING HOI
AUCKLAND

~~lected~~
representatives, an electorate inhabiting the area for which the plans are being drawn, a prosecuting attorney to prosecute any infractions of rules evolving from the plan, a sherrif to enforce judgements eminating from infractions of the plan. All of these are within one county unit encompassing both the plan-
ned area and those affected by the plan. Appeals from the plan are made im-
mediately back to officials responsible to the concerned electorate.

3. How different is this from SB 100 where appointed ^{boards} not elected boards, preside over a multiplicity of counties in which they need not live and in which they need not have any interest, to the population of which they are not answer-
able. Their only responsibility is to a politically sensitive board appointed by the governor's office. If past practice is any indices this board will be headed ~~this board will be headed~~ by a strong, arrogant "planner" and staffed by
(the beaurocracy of political hacks previously rejected by the voters.

We have a choice between the autocracy of the beaurocrats with its rapid unscrup-
ulous results fast, ~~instant planning~~, or by the more slow, arduous, humane
democratic process. I prefer the latter. With certain aberations as the ex-
ception it has been the traditional American way. To abandon this system
for instant planning, or instant anything else, to me is an aberration. We
shall burn the barn to kill the rats only to find ^{them} on the public payroll.

4. To comply with a previous legislative regulation many counties have sub-
mitted "comprehensive plans" to the state. Under SB 100 these "comprehensive
plans" would become part of Oregon State's Comprehensive Plan, then part of a
federal comprehensive plan making federal monies available to the state.
Once having obtained this state and federal aura of sanctity changes in such
plans would become impossible except for the largest corporations with names
like John Gray, Hayden Island, Benjamine Franklin Savings and Loan, General
Acceptance Corporation all of whom are interested in this bill. How accurate
are these "comprehensive plans"? How well do they fit the areas they are
supposedly designed to govern? I requested a copy of such a plan, together
(the pertinent studies upon which it was based, for a small area of north
Multnomah County in which several of us were interested. I was told by the
Multnomah County Planning Commission that the only plan (the one approved by
the state, incidentally) was pasted on the wall of the Planning Commission
office. It was, a crude montage pasted over a whole wall. The Planning

Commission had zoned our area "agricultural, parks, and open spaces" without having ever made a study of the area. They were ignorant of the population count, future projections of populations of population trends, means of fire protection, availability of schools, surface or sub-surface soil, availability of water, traffic count or future projections thereof, wishes or desires of the people of the area. They had no knowledge of other studies made by the private sector in that area, and these were quite considerable. Despite our protestations they insisted the land was "agricultural" and must remain so even though a large segment of it was covered with water, some as much as seventeen feet, in June of each year. If a local board, located less than a 30 minute drive from its office to the land in question, can exercise such fatuity imagine what a large board located at great distances from its field of interest accomplish! Now, compound this by adding other state boards and we have a farcical comedy equal to the greatest Greek playwrights. The county tax assessor, also directed from Salem, made a true comprehensive study of the area. They found the area to be commercial, rather than agricultural, and raised the taxes one thousand percent in one year! Now, many of us have commercial land we can't farm economically and farm land we can't use commercially. Senate bill would freeze this structure into a permanent conglomerate mass. We will all be forced to either sell our land to the state at a fraction of its value, because it has become unuseable to us. The State Highway Department can then, by law, re-sell the land to any of the large developers who are interested in it, but who ~~do not~~ refuse to pay the market price. I believe similar transactions have already taken place at Charboneau and again at Fallon Creek in Washington County. It may be coincidence, but less than two months after we received our tax statements, state highway department appraisers were swarming over the land in this area. More coincidence may be that one land owner has already received an offer from the state highway department for his land at less than one eighth of its privately appraised value and less even than its tax value.

Senate Bill 100 would institutionalize this chicanery, wipe out the equity savings of tens of thousands of people, place a cloud over every urban real property holding in the state, ~~please~~ replace the democratic process of determining land use, institute instead autocratic boards of young messiahs to dictate land policies, permit the introduction of large land developers to rape our prime land through its low cost, high profit architectural abortions such as trailer courts, high rises, condominiums, aquaminiums etc. In short Senate bill 100 introduces, rather than prohibits, the very evils we are attempting to remedy.

Please, table, or kill, this bill. There are too many feet in the trough already. *Absolute Power to non-elected officials, Power Corrupts, Absolute Power corrupt absolutely.*

January 25, 1973. Senate Environment and Land Use Committee

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Testimony in favor of enactment of Senate Bill 100.

S. ENV. & LAND USE COM.

Presented by Joyce Cohen, 2680 S.W. Glen Eagles Rd, Lake Oswego.
 Representing, Tri County New Politics; Land Use Task Force.

Tri County (Multnomah, Clackamas, Washington) New Politics, a non-partisan citizen organization, is in support of land use planning at the State as well as local levels of government. We believe that orderly growth is necessary for preservation of a liveable environment. The legislature must act now, to insure adequate land use planning, before the concentration of urban Oregon is so great as to exert irreversible pressures on the surrounding environment. As demand for land surrounding urban sites increases, so do the land values, dictating more and more congested uses of the remaining land, and almost no possibility of land of such high value being left for parks and green space. We have a chance now to preclude "Urban Sprawl and Trend Development", by substituting a rational planned development.

We also believe that Senate Bill 100 affords Oregon an opportunity to develop and institute state and local guidelines with minimal amount of upheaval. We feel this could best be done by including within the statutes a statement requiring the adoption of procedures which would insure citizen input into the initial stages of any County, City, or District Comprehensive land use plan. We believe the public residing within an area of consideration, or area of critical concern should have opportunity to participate in the drafting, as well as review of comprehensive land use plans. This in no way need negate the function of professional planning staff, or the local governmental structure. There must be effort made to educate the public as to the necessity and advantages of participation in land use planning. It is proposed that SECTION 11 be enlarged as underlined below. SB100 pages 6 and 7.

SECTION 11. Pursuant to the provisions of this Act, the commission shall be responsible for:

- (1) Establishing state-wide planning goals;
- (2) Issuing permits for activities of critical state concern;
- (3) Preparing state-wide objectives and regulations for areas and activities of critical state concern;
- (4) Preparing inventories of land uses;
- (5) Preparing state-wide planning guidelines;
- (6) Adopting procedures to insure local citizen input into the initial stages of any City, County, or District Comprehensive Plan and Zoning Ordinances.
- (7) Reviewing comprehensive plans for conformance with state-wide objectives and regulations and state-wide planning guidelines.
- (8) Reporting to the legislature as provided in sections 64 and 68 of this Act; and
- (9) Performing any other duty required by law.

The legislature must act immediately to preserve our unique natural resources, recreational, wilderness and agriculture areas. We request the following areas be designated as of critical concern.

SECTION 31. page 15.

- (9) the Mt. Hood Corridor.
- (10) Flood plains, especially those involving the Willamette greenway areas.

State development should be achieved in an orderly manner with consideration as to where the heaviest population could be concentrated. To better facilitate this, it is suggested the following be included as activities of concern. 49
S. ENV. & LAND USE COM.

SECTION 32. page 16

(h) the planning, siting and construction of major industrial sites.

(i) the planning, siting and construction of regional shopping centers.

The TCNP Land Use Task Force has concerns as to the clarity of SB100 with regard to the responsibilities of Enforcement. Does the Commission have power to enforce the state guidelines in all areas including the local cities and counties? It seems to rely on the petition and review proceedings in Part VI. We would remind the committee that preparation of a petition by "person or persons" is an option open rather exclusively to those with enough unlimited funds to pay such attorney fees. Our organization is in accord with legislation which has enforcement powers to accomplish its purpose.

13704 NW Millcreek Rd.
Portland, Oregon 97229
30 January 1972
(625-6422)

OREGON STATE ARCHIVES

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S. ENV. & LAND USE COM.

RE: SB 100

Senate Committee on Environment and Land Use
Oregon State Capitol
Salem, Oregon

Mr. Chairman:

My name is Craig Markham; I am an ecosystems biologist and live in Sherwood, Oregon. I have been asked by the Oregon affiliates of the Pacific Northwest Chapter of the Sierra Club (1,927 members in Oregon) to present testimony on SB 100 in their behalf. This is on an entirely voluntary, uncompensated basis.

I wish to begin with the comment that in general this bill represents a superior piece of legislative scholarship. It successfully translates into legislation a legal foundation for the broad and elusive concepts of effective environmental stewardship while providing for social and economic justice. The difficulty of such a translation has haunted me personally for several years. I am gratified and relieved that it is finally being surmounted. One needs only to look at the Beaverton area - a virtual Sodom and Gomorrah of land use planning - to realize that to proceed with "business as usual" at this point is a fool's luxury.

I would like to cite just one of many examples in which SB 100 serves to set up machinery which can effectively attack long-standing land use planning problems: I recently attended a hearing in which the Columbia River Gorge Commission described the near futility of attempting to maintain the scenic beauty of the Gorge while having control only over activities on the Oregon side. Managing "half a gorge" or "half a watershed" is much like trying to cure flu in half your body! Sections 22(4) and 23(4), pp. 10 and 11, provide the basis for solutions to such interjurisdictional problems which have traditionally plagued watersheds shared by two or more governmental entities.

SB 100 provides an excellent system of checks and balances for land use planning implementation in Oregon, while promising to be effective and responsive to public needs. The implementation procedures outlined in the bill appear to be set in ample time frames, and are under sufficient public control, to insure a just and effective land use planning system. If there are any "threats" contained in the bill, they are only threats to those who through misunderstanding, intention (e.g., commercial speculators), or tax structure injustices and misapplications, misuse or are forced to misuse the land they own. If enacted into law, SB 100 should lead to a better public understanding of environmental determinism in land use, to restraints on those who would intentionally misuse land for short-term profit, and to a restructuring of property taxes to allow profitable agricultural use of properly agricultural lands.

30 Jan 73

SB 100

51

S. ENV. & LAND USE COM.

I feel that the bill is basically sound and thorough, but I do have some brief comments on the text:

First a question:

Section 55 - pp. 27 and 28. Regarding the prescription and administration of comprehensive plans by the Governor, to local governmental entities delinquent in setting up their own plans. Why does the Governor, rather than the Commission, have authority to prescribe and amend the guidelines; and why is the Department not given the responsibility for administration of the comprehensive plans, etc.?

Secondly, three specific suggestions on the text:

- 1) Section 31(1) - Page 13, lines 29-30. Regarding areas of critical state concern. Some of the scenic waterways may become "scenic sewers" if certain land uses are permitted in upper watersheds feeding the scenic waterway sections. I would suggest that this subsection be amended to read:

"Any scenic waterway designated as such in accordance with ORS 390.805 to 390.925, including any related adjacent land, AND ALL WATERWAYS FLOWING INTO A SCENIC WATERWAY, INCLUDING ANY RELATED ADJACENT LAND."

- 2) Section 34(4&5) - Page 17, lines 24-34. Regarding approval of development permits for activities of critical state concern. In cases of wide interest and/or impact, public hearings should be held before the district council or the Commission.
- 3) Section 34(1) - Page 27, line 21. It appears that the word, "jurisdiction" should read "jurisdictions".

In conclusion, on behalf of the Oregon affiliates of the Sierra Club, I would like to thank the dedicated people who made the introduction of this important bill possible. We offer our continuing support for its passage into law. It will be a milestone in protecting Oregon from many of the agonies being experienced today along the East Coast, and closer to home, in coastal and southern California.

Yours respectfully,

Craig P. Markham
for The Sierra Club

S T A T E M E N T

By

JACK G. JOHNSON
Chief, Advance Planning Branch
STATE WATER RESOURCES BOARD

Presented to the
COMMITTEE ON ENVIRONMENT AND LAND USE
OREGON STATE SENATE

January 25, 1973

Re: Senate Bill 100

Recognizing the serious problems relative to land use and the planning for such use, the State Water Resources Board supports the general intent of Senate Bill 100. Although the Board feels that the bill has certain weaknesses or defects, they are outweighed by the benefits that could be realized by enactment of this second major step at the state level toward improved land use in Oregon, the first step having been Senate Bill 10.

Although we do not like to criticize without offering a positive alternative, unfortunately we will not be able to adhere to this practice totally relative to Senate Bill 100. In such cases, we simply are not able to formulate any viable alternatives but offer to you our perceptions of weaknesses or potential problems in the hope that others can evaluate the item and offer necessary revisions.

As an initial comment, we wish to emphasize the Board's support for definition and designation of areas and activities of critical state concern, coupled with appropriate objectives and regulations relative thereto. Comments on specific geographic

areas initially designated by the bill will be provided later in this statement.

In general, our major concerns are the following:

1. Definition of "land";
2. Interstate responsibilities and authorities;
3. State agency planning, duties, powers and responsibilities; and
4. Areas of critical state concern.

The Board's comments, then, are provided in the same order as the categories listed above.

1. Definition of "Land"

On page 4, lines 10 and 11, "land" is defined to include "water, both surface and sub-surface, and the air." Although this definition pertains basically to the definition and within the context of "comprehensive plan," it is assumed that it applies throughout the bill wherever the term "land" is employed. If such is the case, then the bill also is speaking to water conservation and development and, consequently, is of major concern to agencies such as the State Water Resources Board, State Engineer, State Soil and Water Conservation Commission, Department of Geology and Mineral Industries, and others.

With respect to the Board, Oregon water law clearly and specifically provides the Board with responsibility and authority relative to water resources policies and planning for the unappropriated surface waters of this state. Comparable functions for ground waters rest with the State Engineer. ORS 536.360

specifically directs that every state agency and public corporation of this state is to conform to the Board's statements of state water resources policy.

Section 27 is the focus of our concern. The Board has been engaged since 1955 in diligently responding to the Legislature's directives, particularly:

- (1) ORS 536.300 (1) to study existing water resources of this state; means and methods of conserving and augmenting such water resources; existing and contemplated needs and uses of water and all other related subjects including drainage, reclamation, flood plains and reservoir sites.
- (2) ORS 536.300 (2) to formulate an integrated, coordinated program for the use and control of all the water resources of this state and issue statements thereof.
- (3) ORS 536.430 to devise plans and programs for the development of the water resources of this state in such a manner as to encourage, promote and secure the maximum beneficial use and control thereof.

No redundancy study

Section 27 and Part IV (State-wide Guidelines, Objectives and Regulations) should recognize more explicitly the completed and ongoing state programs and their positive contributions to resource management in Oregon through the years. For example, the burden of preparing guidelines, objectives and regulations should not rest solely with the department and commission as directed in Section 42. Maximum utilization of existing state accomplishments should be sought. Further, the basis of the

commission's authority relative to other state agency planning duties, powers and responsibilities should be more narrowly and explicitly defined.

Lastly, if the term "land," as defined in the bill, is retained to apply broadly to surface and sub-surface water, its definition should be amended to apply only to those aspects of water use, control and development that relate directly to land use planning.

2. Interstate Responsibilities and Authorities

Section 12 pertains to the role of the Land Conservation and Development Commission with respect to any interstate land conservation and development agencies which may be created by an interstate agreement or compact. Specifically, it is proposed that the Commission perform the functions of this state with respect to such agreement or compact.

Existing institutional systems in which the Federal Government is legally involved, bear heavily on the subject of land use. As an example, the Pacific Northwest River Basins Commission represents an agreement by the five Pacific Northwest states and the Federal Government relative to water and related land resource planning. ORS 536.265 states that "The Board is authorized and directed to designate one of its members as the representative from the State of Oregon on the river basin commission established under section 202 (c) of the Act of July 22, 1965, Public Law 89-80 (42 U.S.C. 1962 b-1), of which this state is a member, to act in accordance with the powers and duties conferred on him by law."

Furthermore, Oregon is a member to the Klamath River Basin Compact in addition to California and the Federal Government. ORS 542.630 directs that the State Engineer represent the state in administering the Compact. Also ORS 536.420 directs the State Water Resources Board to represent the state in preparing, entering into and carrying out compacts and agreements with other states or the Federal Government concerning water resources, including Goose Lake.

It is recommended that Section 12 either be revised to specifically accommodate the above situations or be stricken from the bill.

3. State Agency Planning Duties, Powers and Responsibilities

Previous discussion of the definition of "land" (Item No. 1) impinged upon the matter of state agency planning duties, powers and responsibilities. The Board's feeling is best summarized by stating that the clarity of Section 27, particularly, leaves considerable confusion as to its true effect on planning agencies. As an initial response, it appears preferable to either phase-in the intent of Section 27 or to utilize language and methods of a more compatible nature to accommodate other agencies' accomplishments. To illustrate, it is unthinkable that the commission and department could prepare state-wide objectives, regulations and guidelines within one and one-half years in view of the considerable number of years devoted to such matters by individual agencies. The role of the commission and department in this matter, therefore, should be one of coordinating, integrating and providing a state level, state-wide overview.

59a

S. ENV. & LAND USE COM.

4. Areas of Critical State Concern

- (1) Section 31 (6) designates all estuaries as areas of critical state concern. The language, however, does not define the status of the Columbia River estuary which Oregon shares with Washington. Also designation of the easterly point of the estuaries, as defined herein, probably will cause problems and should be simplified, perhaps by employing an arbitrary designation of "head of tidewater." Such a method would be similar to that employed in the "Beach Bill" (ORS 390.605 to 390.770) to designate the "vegetation line."
- (2) Flood plains are broadly recognized as areas of both national and state concern. Accordingly, Section 31 should be amended to include "flood plains," which might be defined as "the lowlands adjoining the channel of a natural stream or adjoining a lake or ocean which has been or may hereafter be covered by flood water."

5. Miscellaneous

- (1) It is quite possible that enough differences of definition may be applied to the term "conservation" as to cause a problem, particularly in cases such as in Section 42 where objectives and regulations are to be prepared and applied to "land conservation and development proposals." If the potential for problems is

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deemed significant, "conservation" should be defined.

- (2) Section 50, subsection (7) appears either to mean the opposite of what we think it should mean or it is meaningless. Regardless, this item must be amended to provide clarification of the intent. As a suggestion, line 10, perhaps, should read "zoning regulations and ordinances are necessary to assist in:".

- o o o -

JJ/jc
SWRB
1/25/73

TESTIMONY BY THE OREGON ENVIRONMENTAL COUNCIL
ON S.B. 100

January 25, 1973

I am Martin Davis, representing the Oregon Environmental Council. The OEC supports S.B. 100 and the approach that it takes. This Bill is the first in Oregon to attack the whole land use problem in a logical and coordinated way.

I represented the OEC on the committee that drafted the Bill and am happy with the general framework of the Bill. Specific sections that we think should be strengthened are discussed below:

Section II. Responsibilities of the Commission

The Federal Land Use and the Planning Assistance Act reintroduced to the Senate on January 9, 1972 as S268 requires states under Section 302(a) to develop an adequate statewide planning process. This process is to include 14 items one of which is "The preparation and continuing revision of an inventory of environmental, geological and physical conditions (including soil types) which influence the desirability of various uses of land."

Perhaps paragraph 4 of section 11 should be expanded to read:

Preparing inventories of the land uses, natural resources and the environmental, geological and physical conditions which influence the desirability of various uses of land.

Projecting the nature and quantity of land needed for recreation and esthetic appreciation; conservation and preservation of natural resources; agriculture; mineral development and forestry; industry and commerce including the development generation and transmission of energy; transportation and urban development.

These planning functions in some cases are being carried out now by the COG's. This could continue but the commission would approve and coordinate their activity.

Section 31. Areas of critical state concern.

We think it is imperative that areas be designated in the Bill to deflate the charges that the state is taking over

all local planning functions. We would suggest the addition of the following critical areas:

1. Flood Plains (as proposed by the Water Resources Board. The Board has sufficient flood plain data to implement this proposal. Also recommended by Game Commission.)
2. Known areas of geological hazard (as surveyed by state geologist).
3. Wetlands
4. The Mt. Hood Corridor from Alder Creek to Government Camp including all land from Highway 26 outwards to the Mt. Hood National Forest Boundary.

Section 32. Critical activities.

The critical activities listed in the Bill are activities over which a variety of state agencies now have some form of control. The land use aspects of these activities now get little attention. Logically, another activity that should be included is city annexations and incorporation as well as the establishment of special service districts. This inclusion would simply mean that any action of the Boundary Commission would need the prior approval of the commission.

Certain private developments too have a statewide impact-- large industrial plants or commercial complexes and large subdivisions. Possible definitions for these critical activities might be "The planning, siting and construction of a building or buildings or other structures on a single parcel of land occupying a total ground area of 60,000 sq. ft." "The planning siting and construction within a period of five years of 25 or more dwelling units on a single parcel of land in an unincorporated area."

Section 40. (1) add "or person or group of persons." after commission.



Wasco County
5TH & WASHINGTON STREET
THE DALLES, OREGON 97058

January 31, 1973

Senator Hector Macpherson, Jr.
District 2
Capitol Building
Salem, OR. 97310


Dear Senator Macpherson:

The purpose of this letter is to express the attitude of the Wasco County Court toward the Council of Governments for Oregon District #9. We believe that our COG has been able to provide a great number of services to the cities and counties of this District that as individual cities and counties we would not be able to finance. They have assisted us with our planning, with applications for funds at both the Federal and state level, have coordinated projects within the District and have provided a forum through which the local elected public officials and the general public can come together to establish the goals and priorities for our area. We are concerned that with the current curtailment of Federal funding in order for our District to survive a greater amount of assistance will be needed from the State of Oregon.

We are extremely concerned over the future control of Council of Governments. Ours has been extremely successful because it has been a tool of local counties and cities. We are adamant that COG policies and decisions be kept in the hands of local public officials and not be subject to direct state control. We thank you for any assistance you may be able to give us.

Sincerely yours,

WASCO COUNTY COURT


O. W. Kortge, County Judge


Ralph M. Stearns, Commissioner


Grant C. S. Cyphers, Commissioner

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JANUARY 30th, 1973

Lincoln City, Oregon

To: Senate Environment and Land Use Committee
From: Twenty Miracle Miles Chamber of Commerce
Re: Senate Bill 100

The Twenty Miracle Miles Chamber of Commerce, at their regular meeting on Monday, January 29th, 1973 reviewed and discussed Senate Bill 100, as proposed, and voted to unanimously oppose the bill.

It was the considered opinion of the membership that the bill, for all intents and purposes, ignores all planning and zoning efforts that have been accomplished by local units of government and rather than provide assistance, both technical and financial, chooses to take a totally different approach to solving the problems.

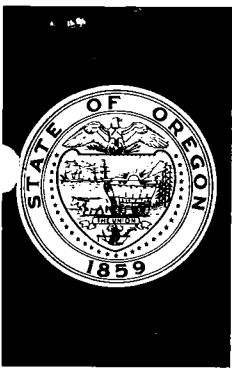
Our primary concern with the solution that Senate Bill 100 proposes is that it is a further erosion of the authority and responsibility of local government in dealing with problems at the scene. President Nixon has recently urged the Congress to make every effort to reduce the size of the Federal Bureauacy and take the Federal Government off the Back and out of the pocket of the local communities. We feel that it makes little sense to take an opposite approach at the State Level.

We certainly don't deny the need for coordinated planning, but to remove local control would virtually mean starting over at an even greater cost to both the local and statewide taxpayer.

We therefore urge the committee to find another means of helping local communities to solve these basic Water and Sewerage problems along with appropriate land use planning and zoning. We feel the Oregon Coast Conservation and Development Commission is making good progress in this direction and should be supported rather than ignored.


Henry G. Florip

Legislative Committee Chairman
Twenty Miracle Miles Chamber of Commerce
Lincoln City, Oregon



EXECUTIVE DEPARTMENT

File

OREGON STATE ARCHIVES

63

S. ENV. & LAND USE DIV.

LOCAL GOVERNMENT RELATIONS DIVISION

240 COTTAGE STREET S.E.



SALEM, OREGON 97310

TOM McCALL
GOVERNOR

CLEIGHTON PENWELL
Director

January 31, 1973

Honorable Ted Hallock
State Senator
State Capitol
Salem, Oregon 97310

Dear Ted:

Subject: SB 100

Last week I met with Neil Goldschmidt and the Portland City Commissioners to discuss SB 100. They spent about 1½ hours going through the bill section by section. Some specific reactions include:

1. That the City of Portland could possibly be void of membership on the Land Development and Conservation Commission and that 40% of the state's population could be unrepresented.
2. That voting privileges on the District Council should be tied to one man, one vote.
3. That the mandatory provision for district planning committees should be changed to discretionary.
4. That the provision relating to state responsibility for lands within ¼ mile of interchanges could regulate the development of downtown Portland.
5. That insufficient money was appropriated to fund both the state and regional functions.

Mayor Goldschmidt and the City Commissioners have instructed Don Barney to work closely with your committee on this legislation.

Overall, there was a very favorable response.

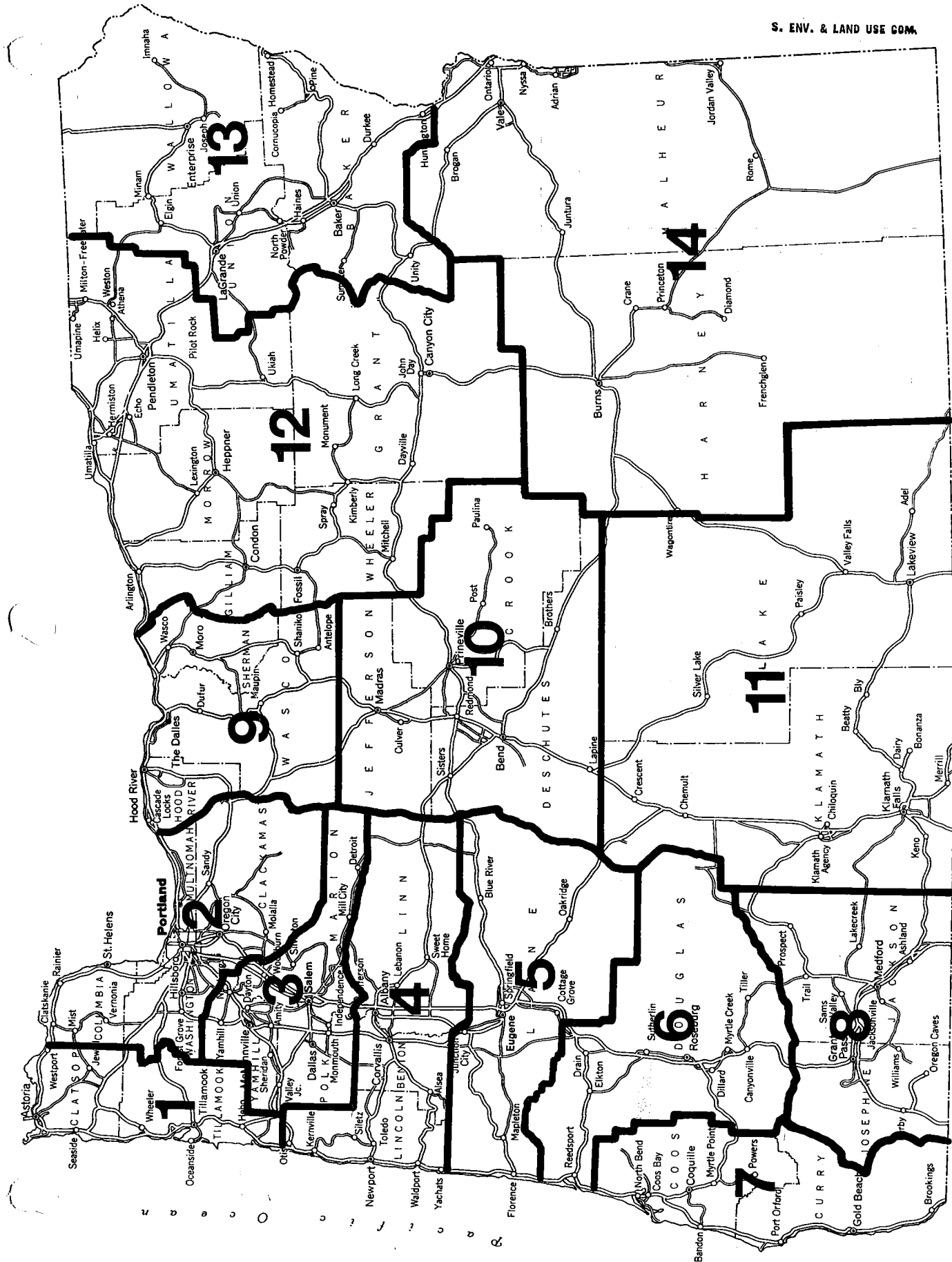
Sincerely,

Robert K. Logan
Administrator

RKL:kw

cc: Honorable Hector Macpherson

S. ENV. & LAND USE COM.



State of Oregon DISTRICTS

Office of the Governor

— district boundary
5 district number

ORGANIZATION CHART OF THE MID VALLEY COUNCIL OF GOVERNMENTS

THE COUNCIL

State of Oregon: Administrator, Local government Relations Div.
 Marion County: Chairman, Board of Commissioners
 Polk County: Chairman, Board of Commissioners
 Yamhill County: Chairman, Board of Commissioners
 City of Salem: Mayor
 City of Woodburn: Mayor
 City of Silverton: Mayor
 City of McMinnville: Mayor
 City of Newberg: Mayor
 City of Dallas: Mayor
 City of Falls City: Mayor, (also represents Independence)
 City of Stayton: Mayor, (also represents Mt Angel & Turner)
 City of Sheridan: Mayor, (also represents Lafayette, Willamina, Amity, Carlton & Dayton)
 Marion County Fire District #1: Chairman of Board
 Polk County IED: Chairman, (also represents Marion County IED)
 Marion County School District 24J: Chairman of Board
 Polk Co. Soil & Water Conservation Dist.: Chairman, (also represents Marion Co. & Yamhill Co. Soil & Water Conservation Districts)

COMMITTEES ESTABLISHED BY COG'S CHARTER AND AGREEMENT

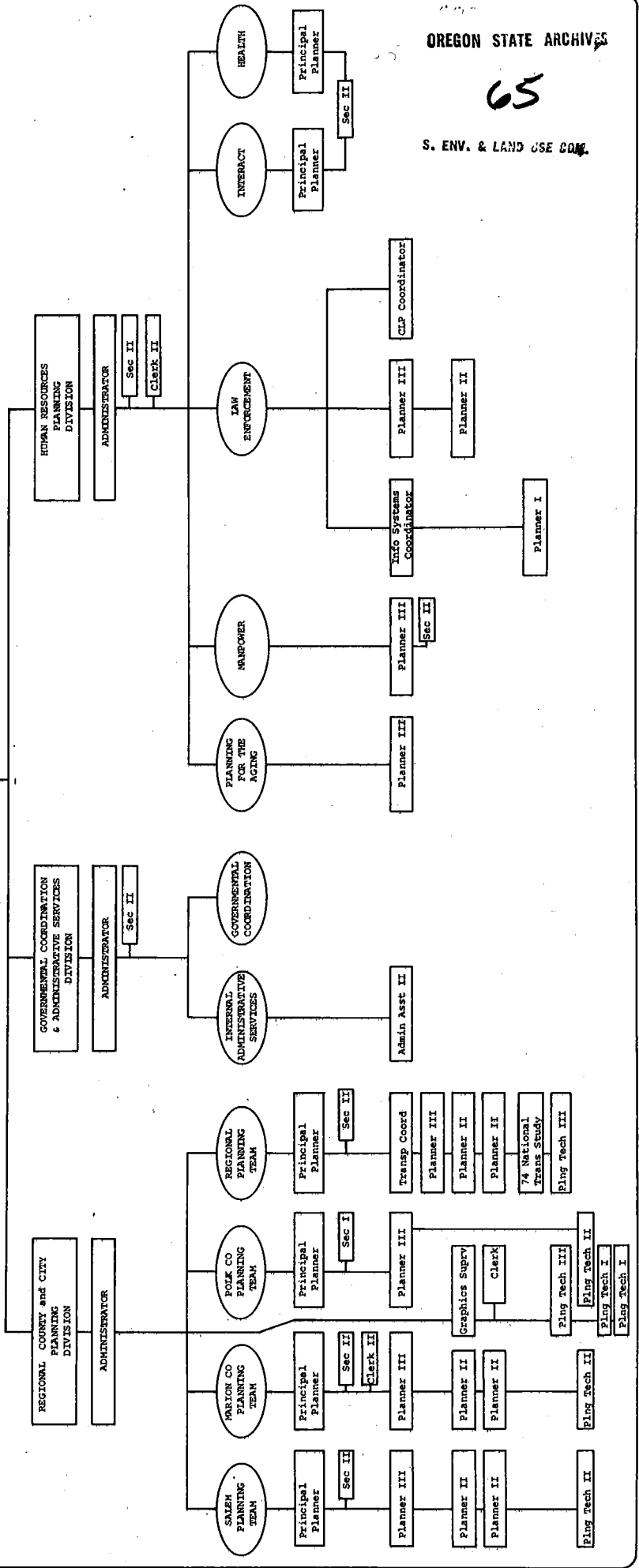
- GOVERNMENTAL COORDINATING COMMITTEE
- REGIONAL PLANNING COMMITTEE

COMMITTEES OPERATING THROUGH COG

- Governmental Services Study Committee (Regional)
- Salem Area Transportation Study Coordination Committee
- Manpower Planning Board
- Law Enforcement Planning Committee
- Comprehensive Health Planning Association
- INTERACT
- Mid Willamette Regional Library Study Committee
- Planning for the Aging

DIRECTOR

- Secretary III
- Receptionist



65

LARRY RICE
2-1-73

66

The Proposal Bill

First - Establishes the existing 14 Adm. District
as Planning Districts (no hang up with cost or LBR Douglas.)

allow for interstate planning

Require that a District Council establish its own
By-Laws including voting procedures. Allow all
cities and counties membership as well as other
governments. Mandates County membership - Requires
 $\frac{2}{3}$ of members voting be from general purpose government.
allow $\frac{1}{3}$ of its members represent special districts or citizens
appointed by the Council.

Establishes that existing COB meeting membership criteria
and adoption resolution be recognized as the council.

If no action is taken for 60 days ^{by existing COB} permit counties
and cities to form a district council.

Provides for the Governor to appoint a 7 person council
composed of elected officials if local governments fail
to act.

Sets forth the duties of the Council as planning
and coordination management.

Establishes the Council as the agency for all required state and federal programs.

Provides contracting authority, other fiscal and legal authority necessary to carry out planning and other responsibilities. (No Taxing power).

Provides for district review of regional plans of all types. Provides a 90 day review time ~~on~~ prior to carrying out any areawide plan. allows for district suspension of ~~plans~~ inconsistent plans which involve federal or state funds until modified. Establishes a public hearing process.

Requires state financial support ^{on a} ~~of a~~ ~~25~~ ~~cents~~ per capita basis. Provides for adoption of a budget, and fiscal management.

In summary the proposed legislation would establish 14 district planning Councils composed primarily of general purpose government. Mandate County government membership thereby providing full state geographic coverage. allows existing COB's to become district Councils and makes them political subdivisions. Improves the existing COB system and ~~prevents~~ ^{prevents} the establishment of other agencies or other planning agencies and district. To do ~~for~~ ^{for} ~~provide~~ ^{provide} planning. Assure, even if governor establishes the district,

that general purpose government will be in the majority on the board of a district. allow great flexibility in membership; (from one extreme of only counties to counties, cities, special districts and citizens.) and in voting power; and in management. Treat the FOD Council like a charter agency except limit powers to planning and coordinative management. Provides no taxing power but does provide a strong measure of control over federal and state assisted interagency programs which do not conform to adopted plans. Does not provide veto power over matters of local concern or over zoning ordinances a level one when no federal or state funds are involved.

Is the draft is designed to meet all existing and proposed federal legislation regulations for area-wide planning and coordinate management. It goes a long way toward placing local elected officials in a strong role in making area-wide decisions on Federal, State and local resource allocations.

The bill does provide a legal substitute mechanism to use in solving interagency problems. It would coordinate fractured area-wide planning agencies and ^{place} ~~place~~ them under the guidance of local elected officials.

~~We think it decreases the whole heated support of all cities, counties and the state. The alternate is a state appointed board or agency.~~

I'm Ellen Lowe, 2010 21 Street, N.E., Salem. I presently serve on the Salem City Council, as a board member of the ~~MV~~ ^{LMV} Air Pollution Authority and as one of Governor McCall's six appointments to the OCCDC. I was on the Salem Planning Commission for 4 years, serving as president last year. I also was chairman of the Salem Planning Area Advisory Committee, a group of county, city, school and boundary commission officials developing a comprehensive plan and seeking an urban growth policy for the Salem urban area. I believe it would have been impossible to have developed a realistic comprehensive plan had we not had the participation of the many local governments which function in our one community.

I should emphasize that I am appearing here today as an individual. In no way do I speak as a representative of ~~any~~ ^{any} board, council ~~or~~ ^{or} commission on which I sit.

It's because I do endorse citizen participation and local direction that I strongly encourage you to retain in SB 100 the sections establishing regional planning districts. ^{I look on it as automatic} These districts provide a mechanism for the sharing of power ...and through this sharing comes a broadened area ~~which~~ in which member governments can participate. To me it expands the opportunity for the citizen to give direction; it doesn't diminish it. A rural resident of Polk County may live right across the river from the city of Salem and ~~Marion~~ Marion County, but he's still part of the Salem community and is influenced by our activities. Likewise I can see the value in having his development plans complimentary to our urban area.

After 4 years on the Salem Planning Commission and a year



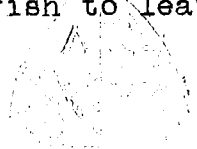
REGISTRATION DEPARTMENT

not mandatory membership

and a half on the OCCDC, I'm severely tempted to interrupt and challenge those I hear rejecting intergovernmental cooperation because it means loss of local control. Local control is a myth and it's one that I believe is perpetuated by my fellow local officials for very self-serving reasons. They too often consider it a face losing act to acknowledge that they aren't self-sufficient. Those of us in local government need to discard our armour of historical suspicion and have disarmament conferences. Only 4 of my 42 years have been spent as a commission member and 3 months as an office holder so I have a long frame reference as a citizen type... and believe me, our publics who pay taxes to the state, county, city or perhaps several special districts and the schools are questioning why cooperation isn't occurring. They believe that governments exist to provide them with needed services not to obstruct or compete with one another. My experience tells me that the best way to achieve this goal of intergovernmental cooperation is to create planning districts by statute as SB100 does.

A word about the opposition to COGs or regional planning districts - As I have talked with people about the state, I have been surprised by some of the shell like structures that are called COGs. They bear little resemblance to what we have operating in the MWV. In many instances their only excuse for existence is to approve and process federal grants. Therefore I believe many are judging regional planning districts on the basis of what some COGs are rather than what COGs can and should be.

I wish to leave with you an organizational chart of the

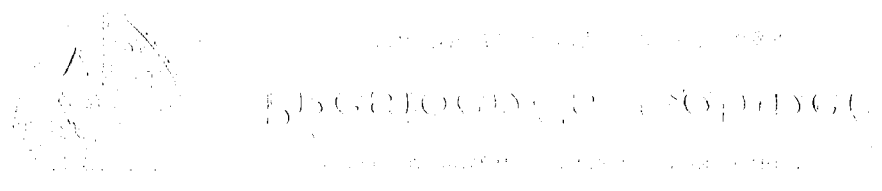


LIBRARY OF THE
STATE OF OREGON
S. ENV. & LAND USE COM.

MWVCOG. It is unique in that member governments contract with COG for planning services; also note that there is a cistrict wide planning commission. I'm proud of our COG for its past accomplishments and excited that our selfappraisal sessions at our annual meeting last night unanimously endorsed its continued need.

A comment about an alternative which I have heard discussed. .. deleting planning districts and going directly from local governments to the state for review and coordination. This I feel would be an abdication of local responsibility and an unnecessary introduction of active state participation in the coordination of plans. Local governments cannot fulfill their purpose in isolation... and they should be able to engage in dialogue without the benefit of an introduction service.

I urge you to give local governments the opportunity within the law to work together to serve their common constituencies and meet their mutual challenges. By officially recognizing these districts you will strengthen the efforts of local governments to work with problems at their source at a neighbor to neighbor level.



1 Feb. 1973

Senator Ted Hallock
Chairman, Senate Environment Committee
State Capitol Building
Salem, OR 97304

c c: Senators Macpherson, Burns, Ripper,
Wingard, Atiyeh, Thorne-
Rep. Nancie Fadelley
John Neilson

OREGON STATE ARCHIVES

S. ENV. & LAND USE COM.

Dear Senator Hallock:

This letter is in support of SB 100. Mrs. Waechter and I are supporting this bill in general because it would make uniform standards and practice in the state possible.

As an ecology oriented architect I may add that the following details ought be considered:

- (1) The Land Conservation and Development Commission ought to be charged with maintaining a complete geological-chemical inventory of all parcels of land in order to determine the food growing potential. We will be running short of phosphorus which is used in fertilizers and needed to sustain all organic life. On an annual cycle we are now depleting the soil and trying to replenish with fertilizers that take phosphates from irreplaceable sources.
- (2) To replenish and recycle phosphorus and other nutrients we should put back into soil what we took where we are taking it. The recycling of organic waste with the help of three-stage treatment could accomplish much toward gaining ecological balance with little power consumption. Present practice takes only sanitary control into consideration. Sewage nutrients are presently not returned to the soil but released into public waters. With the purpose of preventing pollution of rivers and lakes with the result that the nutrients are flushed out into the sea and adding to the eutrophication problem. The answer is that treated effluent must be used for irrigation and fish ponds.
- (3) In my view, it is important that the bill would leave the door open for such practice. It would create a different attitude toward subsurface sewage and related land use. There need be no land that is "unsuitable" for using treated effluent where it is produced; the only answer to the bothersome septic tank problem. Such systems would not need much supervision because they can be fully automated, as is already done elsewhere. We need pilot projects of this kind. If these stipulations would be added, they ought to have corresponding influence on SB 77 (subsurface sewage).

Your kind consideration of these points will be much appreciated.

Sincerely yours,

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MEMBER • AMERICAN INSTITUTE OF ARCHITECTS, A.I.A. — GERMAN SOCIETY OF ARCHITECTS, B.D.A. (HONORARY CORRESPONDING) — AMERICAN INSTITUTE OF PLANNERS, A.I.P. (AFFILIATE) — AMERICAN SOCIETY OF PLANNING OFFICIALS, A.S.P.O. — NATIONAL ASSOCIATION OF HOUSING REDEVELOPMENT OFFICIALS, N.A.H.R.O.
AREAS OF PRACTICE • ARCHITECTURE, COMMUNITY PLANNING, URBAN DESIGN, RESEARCH, PROGRAM ANALYSIS AND DEVELOPMENT, DESIGN CONSULTATION.

OFFICE OF

H. H. WAECHTER • ARCHITECT, A.I.A. • CRESWELL, OREGON 97426 • U.S.A.

34994 EAST DANSTROM ROAD

TELEPHONE 895-4275, AREA CODE 503



[Handwritten signature]

OREGON STATE ARCHITECTS

73

THE AMERICAN INSTITUTE OF ARCHITECTS
S. ENV. & LAND USE COM.

OREGON COUNCIL OF ARCHITECTS, AIA

PORTLAND CHAPTER • SOUTHWESTERN OREGON CHAPTER • SALEM CHAPTER • SOUTHERN OREGON CHAPTER

February 1, 1973

Senator Ted Hallock
Chairman Environment and Land Use Committee
Oregon State Senate
Salem, Oregon 97302

Dear Ted,

At our recent Oregon Council of Architects meeting the architects of Oregon voted unanimously to support Senate Bill 100 on Land Use Planning.

The architects throughout the Nation have been very active in pursuing Land Use Planning, and are available as professionals to be of assistance to you and your colleagues on this important legislation.

Sincerely,

[Handwritten signature: Benny]

A.P. DiBenedetto
President, Oregon Council of Architects

Columbia Gorge Guardians

P.O. Box 8912
Portland, Oregon 97208

OREGON STATE ARCHIVES

74

S. ENV. & LAND USE COM.

February 2, 1973

Senator Ted Hallock
Senate Environment and Land Use Committee
Oregon State Senate
Salem, Oregon

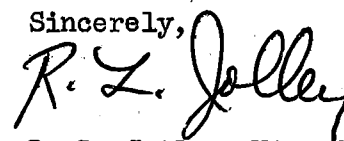
Dear Senator Hallock:

Ours is an organization of concerned citizens from Multnomah and Hood River Counties in Oregon, and from Clark and Skamania Counties in Washington. We have joined to work for the protection of the scenic beauty of the Columbia Gorge between the Sandy River and The Dalles. We believe that we speak for the thousands of sightseers, picnickers, fishermen, hikers, and campers, and for literally millions of highway travelers who will be enriched by this magnificent scenery if it can be preserved and who would be the losers if ugliness is allowed to prevail.

In recent years the scenic character of the Gorge has been marred by instances of careless and uncontrolled use, and unless meaningful steps are taken by the State of Oregon and by the State of Washington to assure scenic protection through land use controls, the situation is certain to become worse. We feel that the logical time to do something about it is now, before more damage is done. It is for this reason that we fully support the MacPherson Land Use Bill, particularly the provision which designates the Oregon side of the Columbia Gorge an area of special state concern.

We also firmly support State Treasurer Redden's proposals for creation of a Department of State Lands and Waters as probably the most effective way to achieve good management of areas such as that adjacent to the Columbia River and to Interstate 80 N. This is precisely the area about which we are concerned.

Sincerely,



R. L. Jolley, Vice-Chairman

cc: Sen. J. Burns
Sen. J. Boe
Sen. V. Cook
State Treas. Redden

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PACIFIC NORTHWEST CHAPTER
AMERICAN SOCIETY OF LANDSCAPE ARCHITECTS

519 S.W. Second Avenue
Portland, Oregon 97208

February 2, 1973

Senator Ted Hallock
Oregon State Capitol
Salem, Oregon 97301

Dear Senator Hallock:

The Oregon Section of the American Society of Landscape Architects wishes to offer our support and help to your efforts to establish a land use planning system for the State.

Our Society in Oregon has a membership of about 70 professional Landscape Architects in both private practice and governmental service who have been engaged in land planning for many years. Landscape Architects are registered in Oregon under O.R.S. 671.310 to 671.480.

From our experience and training we know that comprehensive land use planning is essential if we are to preserve the kind of livable environment we all desire while providing for the inevitable growth facing our State. Although Senate Bill 100 as introduced may not be a perfect answer, we feel it is on the right track and are convinced your committee will eventually come up with a workable answer to this difficult problem. The members of our society stand ready to assist you in anyway we can.

Sincerely,



RONALD M. WALTERS
First Vice-President

2680 S. W. Glen Eagles Rd.
Lake Oswego, Oregon
February 7, 1973

OREGON STATE ARCHIVES

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S. ENV. & LAND USE COM.

Senator Ted Hallock, Chairman
Senate Environment and Land Use Committee
State Capitol Building
Salem, Oregon

Dear Senator Hallock:

On January 30, 1973, I presented testimony at a public hearing on SB 100 on behalf of Tri County New Politics concerning citizen participation in the initial stages of land use planning. At this hearing Senator MacPherson expressed an interest in our ideas. However, he wished to hear more precise wording as to how this could be accomplished in SB 100.

I am therefore submitting for the Committee's appraisal the following changes in Section 11, Page 7.

Section 11. Pursuant to the provisions of this Act, the commission shall be responsible for:

- (1) Establishing state-wide planning goals;
- (2) Issuing permits for activities of critical state concern;
- (3) Preparing state-wide objectives and regulations for areas and activities of critical state concern;
- (4) Preparing inventories of land uses;
- (5) Preparing state-wide planning guidelines;
- (6) Insuring widespread citizen involvement and understanding in all phases of the planning process by:
 - (a) Establishing guidelines for the designation of geographical areas or neighborhoods within which citizens participate directly in the planning process.
 - (b) Establishing procedures whereby citizens are presented with planning alternatives, for the purpose of promoting public participation in the initial stages of the formulation of comprehensive plans and zoning ordinances: as well as the initial stages of the periodic review of such comprehensive plans and zoning ordinances.
- (7) Reviewing comprehensive plans for conformance with state-wide objectives and regulations and state-wide planning guidelines.
- (8) Reporting to the legislature as provided in sections 64 and 68 of this Act; and
- (9) Performing any other duty required by law.

If there is a need for more specific information regarding citizen involvement in land use planning during subsequent work sessions, we would suggest the committee call upon the following persons:

Larry Bauer, Benton County Planning Director

Wilbur Bluhm, Marion County Extension Agent. Developed area advisory committees for the Marion County Interim Zoning Program.

Ken Bonnem, Executive Director of Feedback. Developed and coordinated citizen involvement program for all Salem Public Schools.

Herb Riley, Local Government Relations office. Assisted Wilbur Bluhm in Marion County Interim Zoning program.

James Ross, Executive Director, Oregon Coastal Conservation and Development Commission. Strong supporter of citizen involvement. OCC&DC Estuary Planning Guidelines rely on widespread participation.

Connie Veek, Executive Director, District Planning Organization Task Force. Commissioned by Portland City Council to research and recommend neighborhood planning groups for City of Portland.

Thank you for your consideration.

Sincerely,



Joyce Cohen,
TCNP Land Use Task Force

cc: Senate Environment and Land Use Committee Members

February 8, 1973

Roger Emmons

Senate Environment and Land Use Committee
SB 100 Subcommittee on Activities of Critical State Concern

Proposed Amendments

(1) Solid Waste Disposal Sites and Facilities. On page 16, delete lines 3 and 4. See attached chart for present overcontrol of these facilities.

(2) Alternate amendments:

(a) On page 16, line 3, after "The", delete "planning".

(b) On page 16, line 3, after "siting", delete "and construction".

(c) On page 16, line 3, after "disposal sites", delete "and facilities"

and insert "as defined by ORS 459.005 (4)".

("Disposal site" means land used for the disposal or handling of solid wastes, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, salvage sites, incinerators for solid waste delivered by the public or by a solid waste collection service, and composting plants; but the term does not include a facility subject to the permit requirements of ORS 449.083 or a landfill site which is used by the owner or person in control of the premises to dispose of soil, rock, concrete or other similar nondecomposable material, unless the site is used by the public either directly or through a collection service.)

(d) On page 16, line 3, after "disposal site", insert "except transfer stations as defined by ORS 459.005 (12)".

(e) On page 16, line 3, after "disposal site", insert "used by the public either directly or through a collection service".

(f) On page 16, line 3, after "disposal site", insert "serving a population of at least _____ (25,000 to 100,000) people".

SSI

Research
Standards
Service

Oregon Sanitary Service Institute

1755 John St. So., Salem, Oregon 97302 Phone 364-1505

S. ENV. & LAND USE COM.

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February 8, 1973

SB 100 Critical Activities

Section 32 (d), page 16, lines 3-4. "The planning, siting and construction of solid waste disposal sites and facilities."

- (1) There is no demonstrated need for another layer of government to review what is already being done. See attached chart. Delete activity.
- (2) Alternatives:
 - (a) Planning. The Environmental Protection Agency has already spent some \$125,000 to \$150,000 on planning in Oregon. The Emergency Board has added more than \$1,000,000 in pollution control bonds to that effort. Studies are under way now. Most of the decisions on regional sites will be complete before this bill becomes effective on developments 90 days after the effective date.

Of the reduced number of sites now open, 126 of 188 will be closed, many of them this year and many of them before this bill becomes effective.
 - (b) Construction. The word "development" is so broadly defined in Section 3. (7), page 4, lines 14 ff, that putting in a new trench, land clearing, construction of a shed to protect the D-8 cats against vandalism, any work at all would require a permit.
 - (c) Facilities. The term is so broad that it might even include a 40 yard capacity drop box that is rolled off a truck and left at a rural site for neighbors as a portable disposal site. It might even include truck parking facilities. Define disposal site.
 - (d) Transfer Stations. These are subject to local planning and permits and are placed on the basis of need. No additional review is necessary. DEQ permit also required.
 - (e) Industrial Waste Sites. "Disposal site" as defined by ORS 459.005 (4) includes waste disposal facilities at industrial plants (except certain incinerators). There is no need for a development permit from the new Dept. for temporary bark storage or disposal area at a Boise Cascade plant.
 - (f) Small Disposal Sites. Only major regional sites such as the Portland Metro area (only 2 open to public, 1 to private operator, a few demolition) should be of really critical concern. Even these are adequately covered by existing laws and regulations.

Summary We believe the sponsors should prove in what way the existing system is failing to meet public needs and should land use planning before superimposing another new, and expensive, agency. Will the delays in achieving sound new solid waste management facilities and practices be justified?

By Oregon Sanitary Service Institute

S. ENV. & LAND USE Dept.

Need

Marion County Solid Waste Committee
(Includes COG-Planning member)

Marion County Health Dept.

Marion County Planning Commission

A

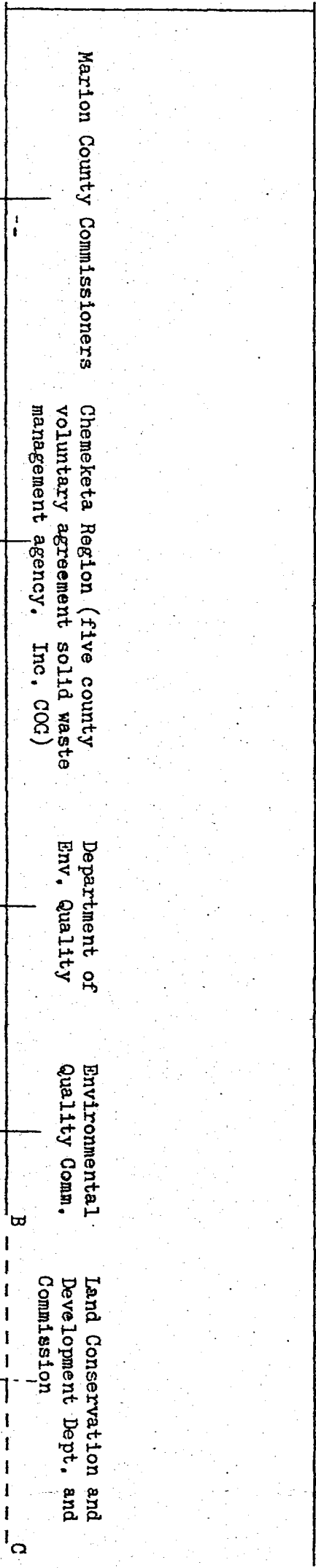
Engineering Studies
Land Available
Probable Public Reaction
Alternatives

Franchise and Rate Subcommittee recommendation on franchise.
Full Committee Recommendation.

Recommendation

Conditional Use Permit application
Conditional Use Permit Hearing.

Conditional Use Permit with conditions attached, Right of entry for County to correct violations, lien to recover costs.



Franchise for site.
Conditional Use Permit for the site.

Operations Committee review for compliance with Regional Solid Waste Management Plan.

Chemeketa Region (five county voluntary agreement solid waste management agency, Inc. COG)

Department of Env. Quality

Environmental Quality Comm.

B

Land Conservation and Development Dept. and Commission

B

????????????????????

C

Engineering Site Evaluation
Water Quality check
by State Engineer
Compliance regional plan
Alternatives
Ultimate Land Use.

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S. ENV. & LAND USE COM.

*Clackamas**County**Citizens Association**WALTER BROWN*P.O. Box 701, Oregon City, Oregon 97045

"Seventh, we propose as to Part III -- Areas and Activities of State Concern -- the following additions to Section 31 on page 15:

(9) All privately-owned land in the Sandy River-Mount Hood Corridor.

(10) The Willamette River and all privately-owned lands which are eligible for public acquisition through the assistance of Willamette Greenway funds.

(11) The Clackamas River from 300 feet above the Carver Bridge to River Mill Dam at Estacada and all lands described in the Clackamas County Natural Rivers Measure Referendum of November 7, 1972.

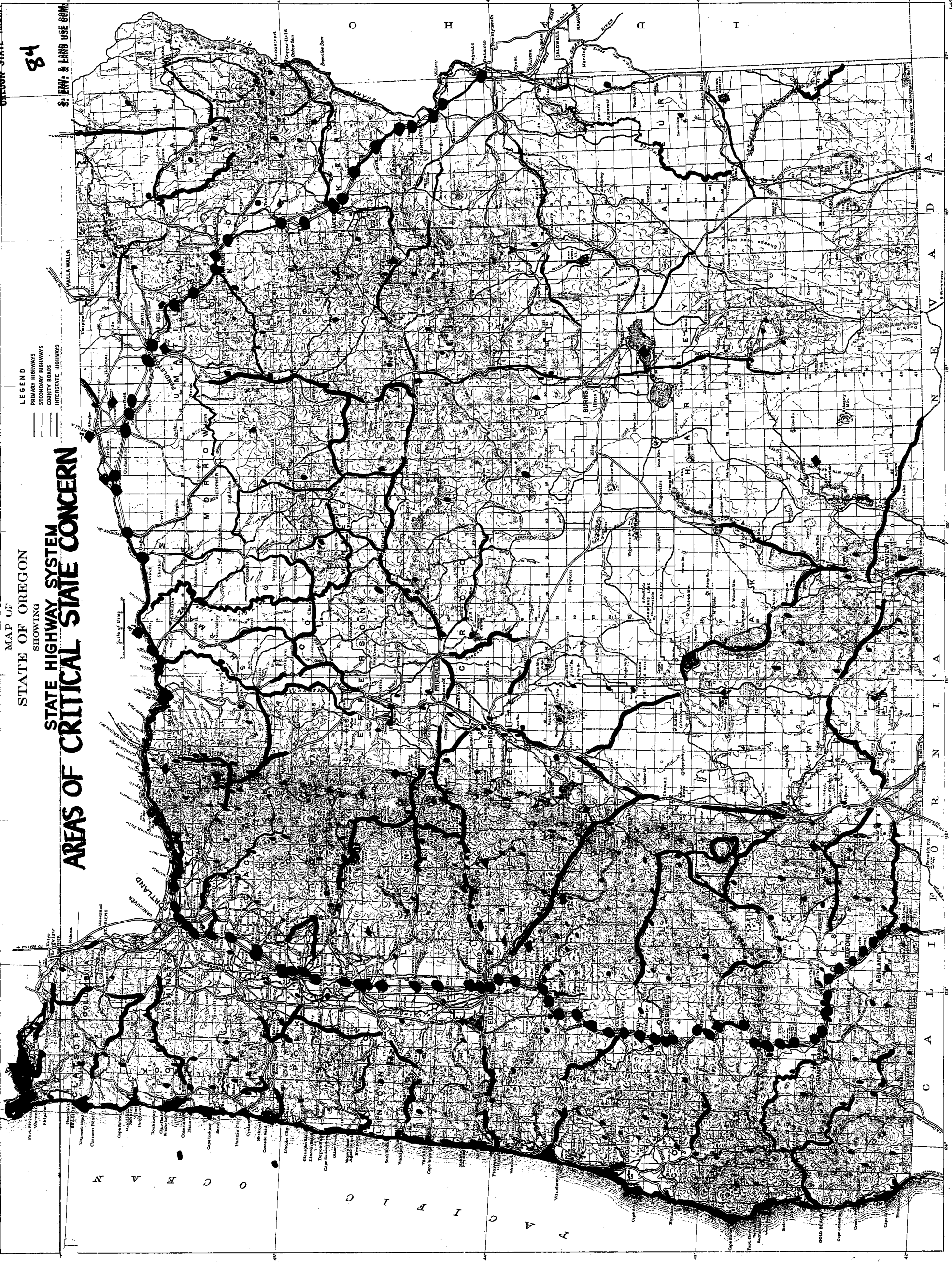
(12) All portions of the Old Oregon Trail and the Barlow Road not under Federal jurisdiction, including any related any related adjacent land."

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S. FHW: & LAMB USE 69M

MAP OF
STATE OF OREGON
SHOWING
STATE HIGHWAY SYSTEM
AREAS OF CRITICAL STATE CONCERN

LEGEND
 PRIMARY HIGHWAYS
 SECONDARY HIGHWAYS
 COUNTY ROADS
 INTERSTATE HIGHWAYS



TO: Members of the Senate Environment and Land Use Committee

FROM: George Diel, President of the Twin Rocks-Watseco Defense Committee;
Vice President-North, Tillamook Tomorrow, Inc.; PO Box 404, Rockaway, Ore. 97136

RE: Your Opportunity for Pioneering in Land-Use Legislation

S. ENV. & LAND USE COM.

Many of us who are residents and/or homeowners on the Coast agree that a state land-use policy is urgently needed to stop ruination of the coastal zone at the hands of land merchants and developers who have long dominated "planning" and zoning and who now are leading the fight to scuttle the Macpherson-Hallock bill, tightening of subdivision control and overhaul of outdated statutes related to planning commissions.

The "front" organizations and shells being used to conjure up visions of state control and loss of local control are courageously chronicled in the North Coast Times Eagle, a copy of which I am enclosing.

We in the Twin Rocks area know how self-serving the efforts and pronouncements of the real estate-related bloc are -- for we played a key role in breaking the domination of the Tillamook County Planning Commission by a self-interest group. But the struggle continues in our county -- and in Lincoln City and elsewhere on the Coast -- as the same crowd tries to recapture control of the planning-zoning mechanisms to perpetuate quick-profit exploitation of the land resources.

It is important that you realize that:

--- It was local coastal people who repeatedly sent out SOS's to the state to intervene in Tillamook County, in Lincoln County and elsewhere when it became clear that local and county officials were either helpless to cope with land-use crises or were in sympathy with the special-interest bloc.

--- It was local coastal people who two years ago started the ball rolling for adding public members to OCC&DC to save it from similar domination.

--- It is local coastal people who have worked for planning reform who see the tremendous need for passage of SB 100 and supplementary coastal zone management legislation -- to bring about local-regional-state teamwork and coordinated planning and coastal protection to replace the fragmented, developer-dominated game that has so long been played in our communities.

The alligator tears being shed for "local control" are really for domination of land-use decision-making for and by the forces which were in almost complete control until the citizenry here and there became sufficiently aware and aroused.

Your committee has the opportunity to pass out strong and much-needed legislation to protect both the state and local stake in land-use matters. All of us veterans of coastal battles against unfettered exploitation and waste of coastal resources hope you will not be dissuaded by the phony pleas for "local control" and the equally phony picture of the state grabbing up private lands as part of a sinister plot.

If SB 100 and some specific coastal zone protection legislation (establishing interim permit authority to be assigned to OCC&DC) are not enacted, more chunks of our coastal resources will go down the drain. And that prospect is truly a matter of statewide -- and national -- concern.

Enclosure
2/8/73



DO: DONALD E. CLARK

MULTNOMAH COUNTY COMMISSIONER



OREGON STATE ARCHIVES

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S. ENV. & LAND USE COM.

February 8, 1973

TO: ✓ SENATE ENVIRONMENTAL COMMITTEE
HOUSE ENVIRONMENTAL COMMITTEE
MULTNOMAH COUNTY PLANNING COMMISSION
CITY OF PORTLAND PLANNING COMMISSION
PORTLAND DEVELOPMENT COMMISSION
MR. CHARLES SAX
MR. ROBERT N. McDOUGALD

FROM: DONALD E. CLARK *Don*

I thought the attached newsclipping
would be of interest to you.

Cities over nation complain of conflicts

U.S. laws foul up state clean-air thrusts

By Lance Carden

Staff writer of

The Christian Science Monitor

1/30/73

Boston

"We'd like to obey the federal law telling us to clean up our air. But we keep running into other federal laws that encourage the use of more and more cars."

That is the essence of a complaint just made in a preliminary Massachusetts report to the federal Environmental Protection Agency (EPA) — a protest being echoed in cities across the United States. Boston is one of 28 cities that must develop special traffic-control strategies to meet federal air-quality requirements by 1977.

The Clean Air Act requires that national air-quality standards be met. But, says the Massachusetts report, while the state is trying to comply, federal laws and regulations now on the books:

- don't provide money to develop mass transit, which would get commuters out of their cars or at least provide an alternative;
- do support economic and other policies which foster auto production;
- encourage investment in new roads,

while the Highway Trust Fund remains unavailable for mass transit;

- do not subsidize states trying to make up mass-transit deficits.

Financial aid lacking

The Massachusetts report says the federal government encourages states to provide strict motor-vehicle inspection, maintenance, and emission-control programs, but does not provide financial assistance for such programs.

In addition, the report complains, EPA suggests that states set road and bridge tolls to reduce automobile use, despite most highways on which pricing controls might be successful were at least partially paid for with federal dollars and must therefore remain toll-free.

The report comes only two months after Republican Gov. Francis W. Sargent rocked Massachusetts by announcing his decision not to build any new major highway projects and to promote greater reliance on public transportation in the Boston metropolitan area.

It also coincides with considerable concern

in New England that fuel shortages in the region might persist, despite recent federal action to temporarily remove oil-import restrictions.

Noting that the federal government has not acted to raise federal gasoline taxes, the Massachusetts report to EPA maintains that such action could:

- "assist in the effort to discourage unnecessary use of the private automobile."
- conserve scarce petroleum resources.
- "facilitate tax reform by relieving the highly regressive local property tax."

"To be effective, such a policy would have to be national in scope," the report contends, pointing out that — like the gas-rationing policy recommended for the Los Angeles area by EPA — a gasoline tax in Massachusetts would not be effective unless also applied in adjoining states. "The New England region is interstate in character," the report maintains.

Suggested strategy

The preliminary Boston traffic-control strategy includes:

- A strict vehicle inspection and maintenance program to achieve maximum benefit from federally required vehicle-emission-control devices.

— Rapid implementation of portions of the Governor's proposed \$1 billion transit improvement program.

- Excise taxes on downtown parking.
- Stringent highway-management actions to control motor-vehicle activity whenever a regional air-pollution surveillance system indicates the need.

These contingency actions might include restricting from city roads all "non-essential" traffic on days of heavy air pollution. The report says automobiles might be assigned windshield sticker priority codes to limit, when necessary, the number of vehicles entering the metropolitan area.

Based on available data, it would appear that such contingency restriction would be necessary only about 10 to 15 days a year — primarily in the summer.

The draft plan is subject to review and possible modification, pending a formal public hearing Feb. 27.

Bill Catvall 92
RT. 1, Bx. 233
Amity, Ore
Feb. 9, 1973

S. ENV. & LAND USE COM.

Dear Senator Meeker

It has come to my attention that there is a bill before the legislature that would end the division of our farms into city suburbs. I urge you to support this bill in my interests and for the general welfare of the state of Oregon.

Oregon has long existed as a rural farming state. but its continued existence as such is threatened by land developers for the profit they can take. I don't feel that anyone should have the right to change the

way of life of an individual simply because he has the money to speculate. As the ~~the~~ Willamette valley can't support a larger population without a severe pollution problem I don't see how further divisions of our farmland can improve the quality of life. Such speculation can only serve a few people.

I find it necessary to tell you my feelings on this matter. To me it is the most basic issue at hand, concerning my way of life directly. It is my hope that I can continue to farm the farmland I own. If there is action now we may be able to continue to enjoy the Oregon way of life.

Sincerely
Bill



Sun Country Realty

297 WEST THIRD ST. PRINEVILLE, OREGON 97754

Phone 503-447-4433

Jan. 12, 1972

Mr. Sam Johnson, Oregon State Rep.
House Office Building
Salem, Oregon

Dear Sam:

Would you please send me a copy of Senator McPherson's Senate Bill 100. I attended a meeting in Portland last week where Senator McPherson was one of the speakers. He said there had been some modifications to the Bill and that the final draft would appear as Senate Bill 100, and copies should be available about this time. At least, that's the way I understood it.

I was very interested in a couple of his comments. The program was limited for time; consequently, Senator McPherson did not go into specific detail. However, he dwelt on the philosophy of the Bill. His primary statement was that his intent through the Bill was to leave approximately 90% of the land use decisions with counties, cities etc. 10% of the decisions concerning critical areas, such as scenic water ways etc, should be made at the state level. At that point, the Senator was challenged by more than one individual with a good reputation in the land use field. The spectators submitted that they could not discover this philosophy in the Bill. It appeared to them that if these regional boards were set up, they would ultimately expand their activities to the point of dictating land use policies down to the lowest level.

The Senator said that councils of government would be used to implement land use planning in their respective areas. This was also challenged by more than one person who is noted for their expertise in land use planning. I can't quote them exactly, but they left the impression that the responsibility for land use planning



Johnson
Jan. 12, 1972
Page 2

should not be left with cog's. They implied that cog's already messed up land use planning, so why give them further responsibility. They thought that it was a dangerous situation, because cog's could blackmail areas when disagreements came up using their association with federal matching funds as a means to satisfy their decisions.

The Senator agreed in part, but suggested the point that why not use cog's when they were already set up. In other words, you have to start with some kind of organization. There was some further argumentation.

It would appear that when the meeting was over Senator McPherson really wished that he hadn't shown up at the meeting.

There was also the observation regarding the changes in the make up of the '73 legislature. The comment was made that there was a large number of legislators under 40 years of age and some under 30. The Senator suggested that he felt the environmentalists in the legislature or those who might become environmentalists would want decisions made this session that might be too abrupt. He said that this was primarily a structural Bill and he was hopeful that level heads would prevail. He said he wasn't too sure that his philosophy written into the Bill would be carried out.

These are just comments I thought you might be interested in. I am not a student of Senate Bill 100. I have deliberately waited until a final draft was available.

When you visited our house during the holidays, we talked about land use planning and subdivision per se. If you will recall, I suggested that one of the major problems with subdivision development was based on the fact that fast buck developers could take an option on a piece of land, buy an interest in it or buy it outright and then proceed with subdividing without a license to sell from the state. As you know, steps have been taken, and even more emphasis will be placed in the future on the expertise of licensed real estate brokers and salesmen. This is a good move. Real estate people in general could be more professional. If real estate people do not conduct their affairs according to laws, statutes, rules and regulations of the state that they represent, they could be fined and lose their license. This is of course a logical protection for the buyer and the seller against the minority of real estate operators who might have a tendency to skirt the law.

I would think that it would follow that anyone in the business of subdividing should be required to obtain a license or act through a licensed real estate office. This should only be applied when land is subdivided or partitioned as the regulations are now set up. In other

Sam Johnson
Jan. 12, 1973
Page 3

words, a man could divide his property into three parcels without going through the subdivision procedure and without a license to sell. But when four or more parcels become involved, he would then be a subdivider and should be licensed

I would imagine that there would be repercussions from the legal profession, because they are very active in representing subdividers and developers. They like to think that they can interpret the law better than the real estate people. In too many cases this is not true. Most lawyers do not take the time to keep up with the latest laws, rules and regulations and spend little time at planning, zoning and land use meetings. On more than one occasion, I have pointed out to friends of mine who are in the legal profession where their clients are not being represented to the degree that they should be. It is obvious to me, and I am only one individual, that we have a better real estate law than we realize. It is just not being enforced.

I don't wish to make any charges, but it appears that the Real Estate Division prefers to extend waivers of a public report on subdivisions for two reasons. They are understaffed to prepare public reports; and in the event they do ask for a public report, their department can be sued by a buyer who has been inconvenienced in some fashion as a result of the subdividers improper use of the public report. I believe that the State of Oregon should be willing to stand along with the real estate people and developer in a public report. We know perfectly well that the Real Estate Division does everything it can to protect the buying public. They should not be afraid of legal action because they have discharged their duty. If litigations arise as a result of mishandling of a report by the developer, then the responsibility should be shifted to the developer. Of course, there is nothing to stop an irate buyer from enjoining both the Real Estate Division and subdivider. But I think after a few cases were settled, and the responsibility pinned down specifically, legal actions would take a different course.

One thing that makes land use and the subdividing thereof so complicated is the fact that we are going through so many rapid changes. We pride ourselves in the proper representation of a subdivision, even though we discover from time to time something that could be done more adequately. As long as there continue to be moratoriums, edicts, cease and desist orders etc. there is going to be considerable confusion. I am certainly hopeful that this session of the legislature will serve to isolate our most basic problems, and that they be acted upon without proliferating too far into 'what will things be like in 1985'. I think excellent progress is being made, and that some of our problems are not as big as they appear.

As you will recall, Sam, I made the statement that I thought that local areas, such as counties and cities did not have the people to implement land use planning, zoning etc. I still agree with this in principle, but by the same token, I do not believe that the state could do a better job. I think counties would be much further down the road on their planning if county courts were held more responsible for the actions of the people that they assign to planning, zoning etc. There are too many decisions being made at the lowest possible level of planning that do not coincide with the best interests of the community and the state in relationship to the authority vested in the county court itself.

Speaking for the east side of the mountain, it would seem to me that money could be appropriated by the state to provide counties with planners from the private sector who would be commissioned by the counties to pull all the strings together as soon as possible. Their tenure would be brief, up to the point where useful decisions could be made at the proper level of local government. This would be far less expensive than setting up boards who would certainly perpetuate themselves for all time.

In closing, I have never understood how the state could take on the obligation of demanding a comprehensive plan of zoning, subdivisions and sanitation ordinance from a county before the state-at-large had solidified a comprehensive plan for state wide zoning etc. The state of Oregon has still not proven to me that it has any idea where it is going, except that they are going to shut the state down till they find out.

Sincerely,



Mike Miksche, Sales Mgr.
Sun Country Realty

MM:sj

P.S. Elise is feeling better and says, howdy!

1654 Camino Drive
 Forest Grove, Ore. 97116
 February 5, 1973

S. ENV. & LAND USE COM.

cc to all members

Senator Ted Hallock, Chairman
 Oregon State Senate Committee
 on Environment and Land Use
 State Capitol
 Salem, Oregon

Dear Senator Hallock:

As a newly-elected councilman in Forest Grove, one of my main concerns is the problem of land use planning and protection of the environment right here at the municipal level. I am concerned that the League of Oregon Cities has chosen not to support SB 100, and I would like to express my personal opinion on that legislation to your committee.

1. Criticisms have been raised to the effect that SB 100 does not go far enough in delineating the problems of critical state concern. I have heard this stated twice during the past week-- once by Portland Commissioner Anderson at a LWV-OEC Land use Workshop, and again by Donald Jones, Exec. Sec. of the League of Oregon Cities, at the League's legislative meeting in Portland.

While I would certainly like to see SB 100 strengthened in some of these areas-- particularly concerning jurisdiction over State Highway Dept., and relationship to D.E.Q.-- I do not regard such objections as valid reasons for holding up progress on passage of SB100. I feel the same way about criticisms that the proposed level of funding is inadequate. In both cases it is hard to see how something can fail to be better than nothing.

2. With COG membership voluntary, some of the cities which most need a stimulus to planning would not choose to belong. On the other hand, if the rest of SB100 stood as is, these same cities would find themselves subject to sanctions administered at the State level. This would detract from co-ordinated regional planning efforts, and at the same time cause the imposition of the very sort of higher-level coercion that "local control" proponents deplore.

Voluntary COG membership would also be likely to perpetuate disputes over control within the COG, in my opinion. This is because member units might conceivably use their option to withdraw as a source of leverage. The withdrawal of Washington Co. from CWAPA shows that this is a realistic expectation; and neither Washington County or CWAPA has profited from this action.

Therefore, I urge COG membership be mandated.

The next four comments concern several aspects of the "local control" objections that have been raised in opposition to SB100. As a councilman with an obviously strong stake in the maintenance of effective local government I feel qualified to refute some of the arguments.

continued

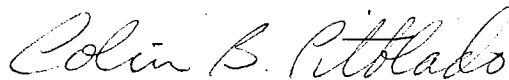
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S. ENV. & LAND USE COM.

3. Local control has a poor history of dealing with land use problems. One reason that urban sprawl has reached its current proportions is that it has met little or no resistance at the local level. In fact, I would submit that sprawl has been invited rather than resisted, by the misguided belief that growth inherently reduces taxes, creates jobs, and increases revenue. It is my belief that if localities had not failed so miserably in handling their land use problems in the past there would be less need today for a measure like SB100.
4. Because of low-cost land, lower taxes, and often, lack of any master plan, the small rural community has been the principal target of uncontrolled development. The developer who works at it full time, with significant financial resources has a great advantage over the part-time councilmen and planning commissioners in such communities.
By setting standards for land use plans and requiring all cities to develop such plans, SB100 actually gives the smaller community a weapon for self-defense that it might not create for itself otherwise. It also provides the kind of procedural framework within which the citizens and officials of the municipalities can meet some of the pressures imposed on them from the outside.
5. All too often the cry of "local control" is used as a euphemism for "private control" which many vested interests in the cities have achieved to further their own aims.
6. Ultimately uncontrolled growth is a regional and not a local phenomenon. The best master plan a small city can devise can do nothing about what happens right outside that city's borders.
SB100 deals properly with this problem, I feel. Rather than dictate detailed regulations from the state level, SB100 strengthens the role of the various COGs in Oregon. Providing that the geographical and other criteria for COGs are rationally related to the patterns of growth that require planning, this provision faces up to the regional nature of growth.
While this next observation may sound a bit cynical, it is realistic to expect that for the foreseeable future, the substantive guidelines adopted by any COG will represent only a diluted common denominator of what the member units will mutually tolerate anyway. Anyone who has witnessed the provincial paranoia about who controls the COG should not expect such a unit to become a powerful entity overnight. The upshot of this will be that the local government will continue to bear the prime responsibility for the substantive details of its own plan. SB100 merely creates pressure for the cities who have been lagging to exercise that responsibility.

Please count me in favor of SB100. As a councilman I feel that it strengthens my hand in facing the problems of planning in my own city.

Very truly yours,



Colin B. Pitblado
Councilman, Forest Grove

CLAUDE H. HALL
JUDGE

WALLOWA COUNTY COURT

COMM. WM. DeGROFFT
COMM. CLIFFORD JOHNSON

State of Oregon

Office of the Judge
Phone: 503-426-3586

Enterprise, Oregon 97828

OREGON STATE ARCHIVES

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February 8, 1973


S. ENV. & LAND USE COM.

Senator Ted Hallock, Chairman
Senate Committee For Environment and Land Use
Room 401 State Capitol
Salem, Oregon 97310

Dear Mr. Chairman,

Request that the attached comments in
opposition to SB - 100 be entered into the record
of testimony on the Bill.

Sincerely,


Claude H. Hall
County Judge

CHH:lf

CC - Senator Hector MacPherson, Subcommittee
Senator John Burns, Subcommittee



Switzerland of America

A

LAND OF OPPORTUNITY



SCENIC MOUNTAINS - DEEPEST CANYON IN AMERICA - RICH VALLEYS - SPORTSMAN'S PARADISE
CLEAN AIR - LAKES - STREAMS

COMMENTS ON SB 100

BY

JUDGE CLAUDE HALL, WALLOWA COUNTY COURT

This Bill is a giant step in which the State and The Governor intends to do land use planning in the State of Oregon. It really does not solve the state-wide problem of land use; in fact it will complicate the process because the state will be part in and part out. The Bill is oriented to maximum protection of the environment with little consideration for socio-economic values.

Granted some local planning agencies may not have done a professional job of land use planning in the eyes of the Governor - - - but did they have guidance or professional assistance from the State?

I maintain that the State of Oregon presently has the tools to do the job without a new land use law and an expensive new department (\$300,000.00 initial expenses).

Presently the State can control land use along certain Scenic Highways, Scenic Waterways, State-owned land, State Parks and recreation areas, certain lakes and some of the Oregon Coast. In addition, through the Department of Environmental Protection, State Health Division, State Water Engineer and the Highway Division the state is already in the land use business.

I think that a better approach would be to leave land use planning at the local level and provide professional assistance to those rural areas that need it. Also, the State should promulgate guidelines, goals, and broad land use policies, and most of all, clean up and clarify the State laws governing the partitioning and sale of real property. Provision

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should be made for the purchase of lands or payments to offset loss of income or property values when lands are restricted in their use or set aside for open space under a comprehensive plan.

I object most to the AREAS of State concern. This gets the State into too many local decisions and will create problems. Because many local areas are "adjacent to" a critical area, the State is right down into local business.

I do not oppose the Activities of critical state concern; however, these Activities fall or could fall under the jurisdiction of existing departments. Most of the items fall to DEQ. Why have all this expensive and time consuming duplication of effort?

I do not oppose the Council of Governments concept and have worked with our COG; however, I think a COG should stick to the first "C" of the acronym - Coordination. I think the COG planning function in SB 100 should be taken out of the Bill. If the Governor desires to require COGs by law rather than by Executive Order, then it should be expanded into a separate bill.

Action on SB 100 seems premature during this Legislative Assembly, since the U.S. Congress has yet to pass the National Land Use Policy Act. This Act will give states 5 years to implement after making a thorough inventory of State-wide resources and the identification of critical areas and uses. It appears that the cart is before the horse.

As SB 100 stands, The Wallowa County Court opposes it and requests your support.

Previously submitted technical comments dealing with the construction of the Bill are repeated below:

1. Page 13, Section 31, the word adjacent should be clarified. With respect to a stream it should be about the same terminology as in the Oregon Scenic Waterway Act. It should be limited to 1/4 mile. On

page 14 (3) adjacent is inferred to be 1/4 mile. This part will cause a problem at the head of Wallowa Lake as it will take in all that C-2 Resort Zone. I would like to see this part modified in some way. 91

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2. Page 14 (3) (b) Can the State of Oregon do this to Federal Land?
3. Page 14 (3) (d) I object to the State getting into local parks - only if it is within 1/4 mile of one of their critical areas.
4. Page 15 (8) Delete: lands within 200 feet of highways through incorporated cities. (where a city did not have an active planning commission.)
5. Page 16 (d) and (f). These items should only be there if they are handled under Section 34 (7) on Page 18.
6. Page 18 and 19, Section 36. From my experience on a COG it would be better for a negative approach than positive. I recommend it state "will not have an unfavorable impact".
7. Page 19 Section 37 (1) A statement should be added similar to those in Scenic Waterway Act which gives the person a favorable decision after 60 days.
8. Page 21, Section 41, line 29 after the word guidelines, insert: "for areas and activities of critical state concern."
Reason: Ties this down to intent of the Act.
9. Page 21 Section 41, line 29. Delete: by the Commission.
Reason: it will be safer if Legislature does the approving.
10. Page 24, Section 48, line 11. The "if necessary" is not clear.
11. Page 52 Section 26, line 8. Was the word County left out?

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MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE. MY NAME IS B. J. ROGERS, MY ADDRESS IS 136 "H" STREET, SPRINGFIELD, OREGON. I AM CHAIRMAN OF THE PLANNING AND ZONING COMMITTEE OF THE OREGON ASSOCIATION OF REALTORS, AND I APPEAR BEFORE YOU THIS EVENING ON BEHALF OF, AND AS SPOKESMAN FOR THAT ASSOCIATION.

LET ME EMPHASIZE AT THE OUTSET THAT THERE IS NO ORGANIZATION IN OREGON WITH A MORE KEEN INTEREST IN THE ENTIRE AREA OF ADEQUATE PLANNING FOR THE USE OF THE LANDS OF THIS STATE. OUR INTEREST STEMS FROM THE FACT THAT THE SUBJECT OF LAND USE DEALS WITH THE ONLY PRODUCT IN THE WORLD THAT WE HAVE TO SELL ---- LAND AND THE RIGHTS TO THE USE AND ENJOYMENT OF THAT LAND. CERTAINLY OUR ORGANIZATION WOULD NOT KNOWINGLY OR WILLINGLY ALLOW OUR PRODUCT TO BE DESPOILED FOR THE BENEFIT OF IMMEDIATE MONETARY CONCERNS, OR TO HAND DOWN TO OUR CHILDREN AN OREGON OF WHICH WE COULD NOT BE PROUD.

I WOULD LIKE THE COMMITTEE TO KNOW THAT OUR ASSOCIATION APPROACHED THE QUESTION OF SENATE BILL NO. 100 IN THE MOST DEMOCRATIC MANNER WE COULD CONCEIVE. AS SOON AS THE BILL WAS PRINTED, WE HAD THE BILL BRIEFED FROM ITS 36 PAGES DOWN TO A RESUME OF EACH SECTION, AND THIS RESUME, TOGETHER WITH A MAP OF THE AREAS OF CRITICAL STATE CONCERN, WAS THEN SENT TO ALL 31 OF OUR LOCAL BOARDS REPRESENTING EVERY SECTION OF THE STATE. THE LEGISLATIVE COMMITTEE OF EACH BOARD WAS URGED TO STUDY THIS OUTLINE, AS WELL AS THE ENTIRE BILL, AND THEY WERE THEN DIRECTED TO RETURN THEIR COMMENTS, SUGGESTIONS, APPROVAL, OR DISAPPROVAL TO OUR STATE-WIDE LEGISLATIVE COMMITTEE. IN NO CASE DID WE SUGGEST A POSITION THEY MIGHT TAKE, NOR DID ^{THE} BRIEF CONTAIN ANY PROPAGANDA FOR OR AGAINST THE CONCEPTS OF SENATE BILL 100.

A TARGET DATE FOR THE RETURN OF THE OPINIONS OF LOCAL BOARDS WAS SET FOR FEBRUARY 5TH, IN ORDER THAT THE RESULTS MIGHT BE CONSIDERED BY A MEETING OR OUR LEGISLATIVE COMMITTEE ON FEBRUARY 7TH. THE COMMENTS I MAKE TONIGHT REPRESENT THE CONSENSUS OF THE OPINIONS OF THESE LOCAL BOARDS OF REALTORS LOCATED FROM WALLOWA TO COOS BAY AND FROM ONTARIO TO ALBANY AND SALEM, WITH THE WAY POINTS IN BETWEEN.

IN CONSIDERING THESE LOCAL OPINIONS, IT WAS MOST INTERESTING TO NOTE THAT, IN NEARLY EVERY CASE, THE COMMENTS REGARDING SENATE BILL 100 WERE ALMOST UNANIMOUS, AND I EMPHASIZE AGAIN THAT THESE DECISIONS WERE FREELY REACHED BY LOCAL PEOPLE ON THE LOCAL LEVEL WITHOUT THE INTERVENTION OF THE THINKING OF PEOPLE ON THE STATE OR LEGISLATIVE LEVEL.

I WILL SUMMARIZE BRIEFLY OUR POSITION ON SENATE BILL 100 AS I REALIZE THIS CAN AND WILL BE A LENGTHY HEARING AND THAT MANY PEOPLE HAVE COME FROM GREAT DISTANCES TO BE HEARD ON THIS MEASURE.

FIRST --- WE OBJECT TO SECTIONS 18 TO 23 OF THE BILL, WHICH, IN OUR OPINION, GIVES STATUTORY AUTHORITY TO THE COUNCILS OF GOVERNMENT CONCEPT, AND WOULD IMPOSE A NEW LAYER OF GOVERNMENTAL AUTHORITY IN THE 14 AREAS. THIS AUTHORITY OF THE COGS WOULD NOT BE RESPONSIVE AT THE BALLOT BOX TO THE AFFECTED LAND OWNERS OF THE AREA. MANY OF US WERE ENTHUSIASTIC AT THE OUTSET OF THE COUNCIL OF GOVERNMENT CONCEPT AS A MEANS OF SITTING DOWN WITH VARIOUS DISTRICTS AND LEVELS OF GOVERNMENT TO TALK OVER COMMON PROBLEMS I KNOW THAT LANE COUNTY, WHERE I LIVE, WAS A LEADER IN THE CONCEPT WHICH STARTED IN OUR AREA AS THE CENTRAL LANE PLANNING COUNCIL IN 1946. BUT, WITH THE REPLACEMENT OF THIS COMMISSION BY THE LANE COUNCIL OF GOVERNMENTS, MANY OF THOSE WHO FIRST EMBRACED THE IDEA, NOW ARE THE MOST DISILLUSIONED CRITICS OF THE ENTIRE CONCEPT. WE HAVE SEEN THE LANE COUNCIL OF GOVERNMENTS

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GROW FROM THE CONCEPT OF INTER-GOVERNMENTAL COOPERATION THROUGH A STAFF OF 10 PEOPLE TO THE POINT WHERE THE ORGANIZATION HAS MUSHROOMED WITH BUREAUCRATIC INTENSITY, AND THIS AGENCY NOW HAS OVER 50 EMPLOYEES AND OPERATES ON A BUDGET OF \$1,000,000 PER YEAR --- ALL OF THIS WITHOUT RESPONSE TO THE ELECTORATE OR LOCAL BUDGET LAW. IT IS PROJECTED NOW THAT LCOG WILL GROW TO OVER 160 PEOPLE, AND WHEN THIS COMES TRUE, AS IT CERTAINLY WILL UNLESS RESTRAINED, IT WILL TAKE A BUILDING AS LARGE AS THE LANE COUNTY COURT HOUSE JUST TO HOUSE THEIR STAFF. MUCH OF THE MONEY CHanneled INTO THE AGENCY IS IN THE FORM OF FEDERAL FUNDS, AND THE PEOPLE WHO STAFF THE AGENCY, HAVE NO RESPONSIBILITY TO THE PEOPLE OF LANE COUNTY THROUGH THEIR ELECTED OFFICIALS. I AM SURE THAT OUR EXPERIENCE HAS BEEN DUPLICATED IN MANY OTHER AREAS OF THE STATE WHERE THE COG IDEA HAS GROWN AND PROSPERED, AS AN UNOFFICIAL AGENCY OF GOVERNMENT, WITHOUT LEGITIMATE STATUTORY AUTHORITY, AND WITHOUT BEING RESPONSIVE TO LOCAL PEOPLE AND THE OREGON LEGISLATURE. WE BELIEVE THAT LEGITIMATIZING THIS ILLEGITIMATE CHILD WILL CREATE A MONSTER THAT YOU WOULD LIVE TO RUE AND REGRET, AND THAT YOU WOULD LIVE TO SEE THE DAY YOU CURSED ITS VERY EXISTENCE. THEREFORE, WE SUGGEST THAT ALL OF SECTIONS 18 THROUGH 23 BE DELETED FROM THE BILL, AND THAT THIS ENTIRE COG CONCEPT BE GIVEN SERIOUS CONSIDERATION BY AN INTERIM COMMITTEE IN THE NEXT TWO YEAR TO DETERMINE IF WE WISH TO ACCEPT THIS ENTIRELY NEW CONCEPT OF A SUPER GOVERNMENT IN THE VARIOUS AREAS OF THE STATE. ----- THIS BRINGS ME TO POINT NO. 2:

IN EVERY CASE, THE REPORTS FROM OUR LOCAL BOARDS EXPRESSED THE DEEP CONCERN OF THE PEOPLE OF THEIR AREA OVER THE LOSS OF LOCAL CONTROL ON HOW THEIR LAND AND RESOURCES ARE TO BE PLANNED, ZONED, AND USED. I KNOW THIS IS A BROAD GENERALIZATION; THAT IT IS PROBABLY OVER-SIMPLIFYING THE PROBLEM, BUT I CAN'T

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THINK OF A MORE APPROPRIATE WAY TO STATE OUR POSITION, AND THIS WAS
GENERALLY THE WAY OUR LOCAL BOARDS PIN-POINTED THEIR OBJECTIONS TO THE
WHOLE GOVERNMENTAL STRUCTURE SET UP IN SENATE BILL 100. WE FEAR THAT
THE FIRST STEP IN SETTING UP A COMPREHENSIVE PLAN FOR THE STATE OR THE
PROPOSED DISTRICTS WOULD FOLLOW THE USUAL PATTERN. THAT WOULD BE TO
HIRE SOME FIRM OF PLANNERS TO MAKE A COMPREHENSIVE LAND USE STUDY OF
THE STATE OF OREGON. PERHAPS THEY WOULD BE FROM CHICAGO, NEW YORK, SAN
FRANCISCO OR SOME OTHER FAR POINT, AS IN THE CASE OF "PROJECT FORESIGHT."
IT SEEMS THAT WE SELDOM HAVE LOCAL PEOPLE WHO CAN MAKE A STUDY ON ANY-
THING, AND THE FURTHER AWAY THEY ARE FROM OREGON, THE MORE COMPETENT
THEY SEEM TO BE JUDGED. IF THIS IS THE WAY IT IS TO BE, THEN WE MUST ASK
" ARE THESE PEOPLE REALLY QUALIFIED TO MAKE A STUDY OF WALLOWA COUNTY OR
COOS COUNTY? DO THEY KNOW MORE ABOUT THE PLANNING NEEDS OF MALHEUR
COUNTY OR CLATSOP COUNTY THAN THE PEOPLE WHO LIVE IN, AND LOVE THESE
COUNTIES? SHOULD LOCAL PLANNING EFFORTS BE SUBJECTED TO AN ENDLESS SYSTEM
OF REVIEWS BY A WHOLE SERIES OR LAYERS OF GOVERNMENT STRETCHING FROM THE
CITY LEVEL, THROUGH THE DISTRICT LEVEL, AND THEN ON TO STATE BODIES WHICH
HAVE NO CONNECTION WITH THE CITIZENS AND THE PROBLEMS OF OUR CITIES AND
COUNTIES? WE THINK NO REAL PROOF HAS BEEN SHOWN THAT THE CITIES AND THE
COUNTIES OF OREGON ARE INCOMPETENT, UNINTERESTED, AND NOT INTELLIGENT
ENOUGH TO CREATE LAND USE PLANS FOR THEIR RESPECTIVE AREAS WITHOUT THE
INTERVENTION OF ALL THE VARIOUS AGENCIES, OFFICIAL, AND CLERKS, WHO MAKE UP
THIS BUREAUCRATIC MAZE. WE WOULD ENDORSE A SYSTEM WHEREBY THE STATE OF
OREGON WOULD SET UP GUIDELINES FOR THE ESTABLISHMENT OF LAND USE PLANS
IN ACCORD WITH THE OBJECTIVES OF AN OVERALL PLAN, BUT WE WOULD MOST
HEARTILY RECOMMEND TO THIS COMMITTEE THAT PLANNING AND ZONING BE LEFT
AT THE LOCAL LEVEL FOR DETERMINATION BY THE PEOPLE OF THAT AREA, WHO MUST

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LIVE WITH THE PRODUCTS OF THEIR OWN DECISIONS.

THE THIRD AND FINAL POINT I WISH TO MAKE IS THE RECOMMENDATION THAT THIS COMMITTEE AMEND THE BILL TO ELIMINATE THE EMERGENCY CLAUSE. IT IS VERY DIFFICULT TO UNDERSTAND JUST WHAT THIS GREAT EMERGENCY IS, AND WHAT HARM WILL BE DONE IF THE ACT DOESN'T TAKE EFFECT UNTIL 90 DAYS AFTER THE LEGISLATURE ADJOURNS. IN THE CASE OF THIS BILL, WHICH AT VERY BEST IS MOST CONTROVERSIAL, IT WOULD SEEM TO BE AN AFFRONT TO THE VOTERS OF THE STATE OF OREGON, WHO HAVE SHOWN OVER THE YEARS A GREAT DESIRE TO RETAIN FINAL CONTROL OVER ACTS OF THE LEGISLATURE THROUGH THE INITIATIVE AND REFERENDUM! UNTIL SOME REAL NEED IS SHOWN THAT THE EMERGENCY EXISTS, WE BELIEVE THE PEOPLE SHOULD HAVE A CHANCE TO EXPRESS THEMSELVES IF THEY SO DESIRE. LET ME EMPHATICALLY STATE, HOWEVER, THAT IT IS NOT OUR INTENT TO INSTIGATE SUCH ACTION, BUT WE STRONGLY FEEL THAT THIS LEGAL RIGHT SHOULD NOT BE DENIED ANY PERSON OR GROUP OF PERSONS DESIRING TO REFER THIS VERY IMPORTANT QUESTION, WHICH MAY SET LAND USE PATTERNS AND POLICIES FOR GENERATIONS TO COME, TO A VOTE OF THE PEOPLE OF THIS STATE.

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SB 100 - LAND USE CONTROL
-----STATEMENT OF RANDALL B. KESTER
PRESIDENT, PORTLAND CHAMBER OF COMMERCE

February 12, 1973

Mr. Chairman, and Members of the Committee:

My name is Randall B. Kester; I am an attorney from Portland; I am currently President of the Portland Chamber of Commerce; and I am appearing here today on behalf of the Portland Chamber of Commerce. In my professional life I am General Solicitor for Union Pacific Railroad Company, in charge of the Law Department for Union Pacific's Northwestern District; and I sometimes have occasion to appear before the Legislature on behalf of the Union Pacific or of Oregon Railroad Association, of which I am chairman. While the railroads are members of the Portland Chamber of Commerce, and are generally in accord with its policies, I wish to make it clear that my statement today is on behalf of the Chamber of Commerce, and not for the railroads as such.

The Portland Chamber of Commerce is very much interested in the subject of land-use planning, and in recent weeks we have had a special committee studying SB 100 and related

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matters. As a result of that study, the Chamber has adopted a policy position on the subject, which will be explained to you in more detail by a later witness. My purpose at this time is to make some preliminary observations about the general subject of land-use planning and control.

By coincidence, I recently had occasion to appear on a panel discussing the new plans of the Columbia Region Association of Governments, and some of what I am saying here today will parallel part of that discussion. At about the same time the monthly magazine of the Portland Chamber of Commerce for February, 1973, was published; and several articles in that issue dealt with the progress being made in cleaning up and improving the Willamette River and implementing the Willamette Greenway concept. We have copies of that magazine here today for members of this committee, for such interest as it may have. In an editorial in that issue, I also expressed some of the same ideas that will be presented here today.

In the first place, it should be clearly understood that the Portland Chamber of Commerce approves the basic idea of land-use planning. We recognize that some unwise land-use decisions have been made in the past; and while no system of planning can guarantee that no mistakes will be made in the future, it seems likely that fewer mistakes will be made with

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planning than without it. We also recognize that land-use planning will not be left entirely to individual decisions, and that various agencies of government are going to be involved, whether we like it or not.

The next point we would make is that land-use decisions cannot be divorced from many other problems involving people, economics, society, and the use of other resources. For example, if a business is told that it cannot construct a new plant, or cannot continue to operate an existing one, because of noncompliance with a land-use plan, the result may be to cause unemployment, loss of tax revenues, dislocation of families, loss of investment, and ever-widening circles of economic effects. In some instances, refusal to allow a particular land use might mean that resort will be had to alternatives or substitutes that may also be undesirable, so the choice may have to be made between the lesser of two evils. Ideally, planning decisions would encompass all such factors, and not merely a particular land use alone.

Next, I suggest for your consideration certain guidelines to be kept in mind in the development of any legislation on this subject. While these, of course, are only generalities, they are factors of considerable importance:

- (1) The system adopted should allow some flexibility. No one is smart enough to foresee all future developments and ramifications, and land designated for industrial siting may not prove attractive to industry. The fact that land is classified for residential use does not mean that people will want to live there. So there must be opportunity for changing needs or conditions to be reflected by corresponding changes in usage control.
- (2) At the same time, the system must have some stability, so that landowners can themselves make long-range plans. If a businessman acquires property for a plant site, and after acquisition the permissible use is changed, so that the plant is not authorized, he will have been unfairly deprived of his investment. He should know what he can count on.
- (3) The system must be simple to administer. With the recent proliferation of control agencies it is now not unusual for a landowner to have to get a dozen or more different permits for proposed construction, and the number is growing constantly. So far as possible, these should be consolidated into a "one stop" procedure whereby all necessary permits can be obtained at once.

- (4) There must be elements of both local control for essentially local problems, and also statewide supervision for those matters that are truly of statewide significance. And there must be opportunity for review of possibly arbitrary bureaucratic action.

In considering Senate Bill 100, one of the problems is that no one can tell at this stage what the rules of the game will be. Under Sec. 42, there is a period of one year for the preparation of statewide objectives and regulations for areas of critical state concern, followed by time for adoption by the commission. And under Sec. 46, the statewide planning guidelines are to be prepared by January 1, 1975, with time thereafter for approval by the commission.

But notwithstanding the time required for preparation and approval of the objectives, regulations and guidelines, it is necessary that the use of land proceed. We cannot shut down the state while waiting for the rules to be developed. Under Sec. 38(2), any development project in an area of critical state concern, that does not comply with the statewide objectives and regulations, is a public nuisance and under Secs. 39 and 40 may be abated. So anyone who does practically anything with his land before the rules are adopted, does so at the risk of possibly violating rules that have not yet been formulated.

For example, much of the cities of Cascade Locks and Hood River are within an area of critical state concern under Sec. 31(7). The definition of "development" in Sec. 3(7) includes any material change in the use or appearance of any structure, or a change in the intensity of use of land. To take some extreme, and (I hope) ridiculous examples, a householder in one of those cities who painted his home a different color would be changing the appearance of a structure, and one who had his mother-in-law move in would be changing the intensity of use. Possibly neither activity could wait, but both would have to comply with regulations that have not been adopted. This illustrates the unknown hazards to which landowners would be exposed under this bill.

The Chamber of Commerce has concluded that, because of these and other problems, it would be desirable to have the Department prepare policy statements and planning guidelines, and then report to the 1975 Legislature for an evaluation of its performance; and that in the meantime matters of land-use be controlled by existing laws and regulations. This will minimize the hazard of "buying a pig in a poke", and permit the whole subject to be reviewed at the next session in the light of the Department's demonstrated performance in developing policies and guidelines. This is perhaps one of the most significant subjects that has come before the Legislature in many

years, and it is important that the resulting legislation be carefully and not hastily considered.

The policy of the Portland Chamber of Commerce in this respect will be explained in more detail by the next witness, and unless there are questions from the committee, I would like to yield the floor to him.

Respectfully submitted,

PORTLAND CHAMBER OF COMMERCE

/s/ RANDALL B. KESTER

By _____

Randall B. Kester, President
824 S. W. 5th Avenue
Portland, Oregon 97204
Tel: 228 9411 or
288 8221 (Union
Pacific
Railroad)

SENATE BILL 100

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PORTLAND CHAMBER OF COMMERCE RECOMMENDATIONS

SUMMARY

CREATES DEPARTMENT OF RESOURCE CONSERVATION AND DEVELOPMENT, COMPOSED OF RESOURCE CONSERVATION AND DEVELOPMENT COMMISSION, DIRECTOR AND EMPLOYEES. ESTABLISHES JOINT LEGISLATIVE COMMITTEE ON RESOURCE UTILIZATION, AS STANDING COMMITTEE, TO ADVISE AND ASSIST DEPARTMENT IN CARRYING OUT ITS DUTIES.

ESTABLISHES PLANNING DISTRICTS IN THE STATE TO FUNCTION AS REGIONAL OFFICES OF THE DEPARTMENT OF RESOURCE CONSERVATION AND DEVELOPMENT. DESIGNATES AREAS AND ACTIVITIES OF INITIAL STATE CONCERN AND PROVIDES FOR ADDITIONAL DESIGNATIONS AS REQUIRED TO CARRY OUT THE DUTIES OF THE DEPARTMENT.

REQUIRES THE DEPARTMENT TO DEVELOP, PUBLISH AND COORDINATE STATE-WIDE POLICY STATEMENTS AND PLANNING GUIDELINES DEALING WITH RESOURCE CONSERVATION AND DEVELOPMENT IN THE STATE. REQUIRES STATE AGENCIES, PLANNING DISTRICTS, CITIES, COUNTIES, AND SPECIAL DISTRICTS TO COOPERATE AND ASSIST IN THE DEVELOPMENT OF THESE POLICY STATEMENTS AND PLANNING GUIDELINES.

REQUIRES THE DEPARTMENT TO PREPARE POLICY STATEMENTS AND PLANNING GUIDELINES WITHIN ONE YEAR AFTER ADOPTION OF THE LEGISLATION. REQUIRES THE DEPARTMENT TO PUBLISH, CIRCULATE AND TEST THESE POLICY STATEMENTS AND GUIDELINES. REQUIRES THE DEPARTMENT TO PREPARE AMENDED POLICY STATEMENTS AND GUIDELINES RESPONDING TO THE ABOVE TESTING.

REQUIRES THE COMMISSION TO PREPARE A REPORT FOR THE 1975 LEGISLATURE THAT WOULD ENABLE THE LEGISLATURE TO EVALUATE THE PERFORMANCE OF THE DEPARTMENT AND DETERMINE THE APPROPRIATE AUTHORITY AND FINAL ORGANIZATION OF THE DEPARTMENT.

LIMITS THE AUTHORITY OF THE DEPARTMENT OF RESOURCE CONSERVATION AND DEVELOPMENT FOR THESE FIRST TWO YEARS TO COORDINATING AND ADVISING.

ESTABLISHES A RESOURCE CONSERVATION AND DEVELOPMENT ACCOUNT IN THE GENERAL FUND FOR USE BY THE DEPARTMENT.

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SENATE BILL 100

PORTLAND CHAMBER OF COMMERCE RECOMMENDATIONS

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WE LIVE IN A STATE WITH ABUNDANT NATURAL RESOURCES.

THERE IS A LEGITIMATE AND GROWING CONCERN THAT WE ARE NOT MAKING THE BEST USE OF THESE RESOURCES.

WE ARE BECOMING INCREASINGLY DISENCHANTED WITH OUR MADE-MADE ENVIRONMENT.

IT IS IMPORTANT TO UNDERSTAND THAT THESE PROBLEMS WILL BE COMPOUNDED BY THE FACT THAT THE POPULATION OF THE STATE OF OREGON WILL CONTINUE TO INCREASE. THE CENSUS BUREAU PROJECTS POPULATION INCREASES OF 60 TO 80 MILLION PEOPLE IN THE U.S.A. BETWEEN THE YEARS 1970 AND 2000. AS WE IMPROVE THE LIVEABILITY OF OUR STATE FOR OURSELVES, WE WILL ATTRACT AN INCREASING NUMBER OF PEOPLE FROM LESS DESIRABLE ENVIRONMENTS. THEREFORE, WE ARE FACED WITH BUILDING FOR THE FUTURE AS WELL AS CORRECTING THE MISTAKES OF THE PAST.

AS OUR PROBLEMS INCREASE IN SCOPE AND COMPLEXITY, OUR GOVERNMENTAL STRUCTURES BECOME MORE OBSOLETE. CITIES HAVE GOWN TOGETHER TO FORM METROPOLITAN MASSES THAT CROSS NOT ONLY COUNTY BUT STATE LINES.

WE HAVE TRIED TO SOLVE OUR PROBLEMS BY ADDING SPECIAL DISTRICTS AND AGENCIES TO THE STATE, REGIONAL, AND LOCAL LEVELS OF GOVERNMENT.

WE HAVE EVOLVED A SYSTEM WITH HUNDREDS OF UNCOORDINATED, OVERLAPPING AND SOMETIMES CONFLICTING GOVERNMENTS, DISTRICTS AND AGENCIES.

AT EVERY LEVEL OF INSTITUTIONAL AND PRIVATE LIFE WE ENCOUNTER FRUSTRATIONS, ANGER AND IN SOME CASES, NEAR PARALYSIS.

ON THE BRIGHTER SIDE, WE ENCOUNTER A HEALTHY NEW AWARENESS OF THE RESPONSIBILITIES THAT WE HAVE TO EACH OTHER AND TO OUR ENVIRONMENT. THEREFORE, WE MUST EVOLVE A PLANNING AND ORGANIZING SYSTEM THAT CAN CONQUER THE SCALE AND COMPLEXITY OF OUR TIMES SO THAT WE CAN UNDERTAKE THE TASK OF BUILDING THE HEALTHY NEW ENVIRONMENT WHICH WE ARE NOW CAPABLE OF VISUALIZING.

IT IS FOR THESE REASONS THAT SB 100 HAS THE POTENTIAL OF EVOLVING INTO THE MOST IMPORTANT LEGISLATION OF OUR TIME.

IT CAN INSTITUTE THE BEGINNING OF AN ERA OF UNITED EFFORT THAT EXTENDS FROM THE CITIZEN, TO THE CITY, TO THE COUNTY, TO THE REGION AND TO THE STATE.

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THE PORTLAND CHAMBER OF COMMERCE IS IN SUBSTANTIAL AGREEMENT WITH SB100.

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1. THE CHAMBER IS IN AGREEMENT:
 - A. THAT THE UNCOORDINATED UTILIZATION OF LAND AND OTHER RESOURCES WITHIN THIS STATE THREATEN THE ORDERLY DEVELOPMENT, THE ENVIRONMENT OF THE STATE, AND THE HEALTH, SAFETY, ORDER, CONVENIENCE, PROSPERITY AND WELFARE OF THE PEOPLE OF OREGON.
 - B. THAT THE PROBLEM IS URGENT AND THAT LEGISLATION SHOULD BE ENACTED AS SOON AS POSSIBLE.
 - C. THAT A DEPARTMENT OF CONSERVATION AND DEVELOPMENT SHOULD BE ESTABLISHED.
 - D. THAT THE DEPARTMENT SHOULD BE COMPOSED OF A COMMISSION, DIRECTOR AND STAFF.
 - E. THAT AREAS AND ACTIVITIES OF INITIAL CONCERN SHOULD BE DESIGNATED.
 - F. THAT A JOINT LEGISLATIVE COMMITTEE SHOULD BE ESTABLISHED TO ADVISE AND ASSIST THE DEPARTMENT.
 - G. THAT AN ACCOUNT SHOULD BE ESTABLISHED IN THE GENERAL FUND FOR THE DEPARTMENT.

2. HOWEVER, THE CHAMBER RECOMMENDS EXPANDING SB100 TO INSTITUTE MORE EFFECTIVE COORDINATION OF ALL OF OREGON'S RESOURCES AND ACTIVITIES.
 - A. OUR ULTIMATE GOAL MUST BE OPTIMUM UTILIZATION OF ALL HUMAN AND NATURAL RESOURCES.
 - B. LAND, WHILE A CRITICAL RESOURCE, CANNOT BE CONSIDERED INDEPENDENTLY FROM OTHER RESOURCES AND ACTIVITIES.
 - C. THE NEED IS FOR A STATE-WIDE SYSTEM THAT WILL PROMOTE OPTIMUM UTILIZATION OF ALL RESOURCES BY FACILITATING COORDINATION OF STATE, REGIONAL AND LOCAL ACTIVITIES, INCLUDING DATA GATHERING, POLICY SETTING, PLANNING, UP-DATING AND IMPLEMENTATION.
 - D. THEREFORE, IT IS RECOMMENDED THAT SB100 ESTABLISH A DEPARTMENT OF RESOURCE CONSERVATION AND DEVELOPMENT. COMPREHENSIVE PLANS AND POLICY STATEMENTS PREPARED BY THE DEPARTMENT SHOULD TAKE INTO CONSIDERATION NATURAL FEATURES SUCH AS FORESTED LAND, AGRICULTURAL LAND, RIVERS, FLOOD PLAINS, SOIL TYPES, ETC. AND MAN-MADE

FEBRUARY 12, 1973

FEATURES AND ACTIVITIES, SUCH AS LAND DEVELOPMENT, HIGHWAYS AND TRANSPORTATION SYSTEMS, PUBLIC AND PRIVATE UTILITIES, EDUCATION AND RECREATION FACILITIES, BUSINESS AND INDUSTRIAL DEVELOPMENT, POLICE AND FIRE PROTECTION SYSTEMS, AS WELL AS HEALTH AND WELFARE SYSTEMS.

- E. MEMBERSHIP ON COMMISSIONS AND PLANNING COMMITTEES SHOULD TAKE INTO CONSIDERATION THESE DIVERSE ACTIVITIES THAT INFLUENCE CONSERVATION AND DEVELOPMENT OPPORTUNITIES.
- F. IT IS RECOMMENDED THAT AREAS AND ACTIVITIES OF CONCERN BE EXPANDED TO INCLUDE METROPOLITAN AREAS WITH POPULATIONS IN EXCESS OF 5,000, HOSPITALS, SCHOOLS AND MAJOR INDUSTRIES AND THAT THE COMMISSION DURING THE 2 FORMATIVE YEARS BE DIRECTED TO ADD AREAS AND ACTIVITIES AS REQUIRED TO ACCOMPLISH ITS OBJECTIVES.
- G. IT IS FURTHER RECOMMENDED THAT THE COUNCILS OF GOVERNMENT BE CONVERTED TO REGIONAL OFFICES OF THE DEPARTMENT OF RESOURCE CONSERVATION AND DEVELOPMENT, THEREBY SIMPLIFYING THE LEVELS OF GOVERNMENT TO CITY, COUNTY AND STATE.

3. IN ADDITION, WE RECOMMEND THAT SB 100:

- A. DIRECT THE DEPARTMENT TO PREPARE POLICY STATEMENTS AND PLANNING GUIDELINES WITHIN ONE YEAR AFTER ADOPTION OF LEGISLATION.
- B. REQUIRE STATE AGENCIES, PLANNING DISTRICTS, CITIES, COUNTIES, AND SPECIAL DISTRICTS TO COOPERATE AND ASSIST IN THE DEVELOPMENT OF THESE POLICY STATEMENTS AND PLANNING GUIDELINES.
- C. DIRECT THE DEPARTMENT TO PUBLISH AND COORDINATE THESE POLICY STATEMENTS AND GUIDELINES AT THE REGIONAL, COUNTY AND CITY LEVELS.
- D. DIRECT THE DEPARTMENT TO PREPARE AMENDED POLICY STATEMENTS AND PLANNING GUIDELINES, RESPONDING TO THE ABOVE COORDINATION, PRIOR TO THE CONVENING OF THE 1975 LEGISLATURE.
- E. DIRECT THE COMMISSION TO PREPARE A REPORT FOR THE 1975 LEGISLATURE THAT WOULD ENABLE THE LEGISLATURE TO EVALUATE THE PERFORMANCE OF THE DEPARTMENT AND DETERMINE THE APPROPRIATE AUTHORITY AND FINAL ORGANIZATION OF THE DEPARTMENT.
- F. LIMIT THE AUTHORITY OF THE DEPARTMENT OF RESOURCE CONSERVATION AND DEVELOPMENT TO COORDINATING AND ADVISING FOR THESE FIRST TWO FORMATIVE YEARS.

FEBRUARY 12, 1973

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IN PREPARING THIS LEGISLATION, IT IS IMPORTANT TO KEEP IN MIND THAT IT TOOK OVER 100 YEARS TO; BUILD THE MAN-MADE ENVIRONMENT THAT WE ARE NOW DISATISFIED WITH; AND TO EVOLVE THE UNCOORDINATED LAYERS OF GOVERNMENT THAT WE NOW FIND INADEQUATE TO SERVE OUR NEEDS.

LET US NOT BECOME PREOCCUPIED WITH OUR IMMEDIATE PROBLEMS AND FAIL TO INVEST SUFFICIENT TIME AND RESOURCES TO SOLVE THE LARGER PROBLEM OF EVOLVING AN EFFECTIVE SYSTEM OF COORDINATING AND UNITING THE PEOPLE AND THE GOVERNMENTS OF THE STATE OF OREGON.

THE PROPOSED DEPARTMENT OF RESOURCE CONSERVATION AND DEVELOPMENT WILL UNDERTAKE THE MOST COMPLEX AND IMPORTANT DATA GATHERING, POLICY SETTING, AND PLANNING ACTIVITY IN THE HISTORY OF OUR STATE. THEREFORE, WE RECOMMEND THAT SUBSTANTIAL FUNDING BE PROVIDED FOR THE ORGANIZATION, STAFFING AND EQUIPPING OF THIS NEW DEPARTMENT.

IN CONCLUSION, THE PORTLAND CHAMBER OF COMMERCE COMMENDS THE SPIRIT AND THE WORK THAT HAS GONE INTO INITIATING SB 100 AND WE URGE THIS COMMITTEE AND THIS LEGISLATURE TO CONTINUE THIS GOOD WORK AND EXPAND THIS BILL INTO LEGISLATION THAT CAN TRULY UNITE THE PEOPLES AND GOVERNMENTS OF OREGON AND THEIR EFFORTS TO PRESERVE AND ENHANCE THEIR ENVIRONMENT.

FEBRUARY 12, 1973

13704 NW Millcreek Rd.
Portland, Oregon 97229
Phone 625-6422
12 February 1973

OREGON STATE ARCHIVES

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S. ENV. & LAND USE COM.

RE: SB 100 "critical areas"

Critical Areas and Activities of State Concern Subcommittee
Senate Environment and Land Use Committee
Oregon State Capitol
Salem, Oregon

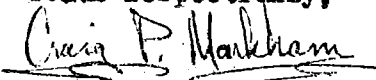
Mr. Chairman:

My name is Craig Markham, representing the Oregon affiliates of the Pacific Northwest Chapter of the Sierra Club (1,923 members in Oregon). I am appearing for the second time regarding SB 100 in order to change part of my original testimony regarding scenic waterways (Section 31(1), P. 13, lines 29-30. I suggested at the 30 Jan hearing that the entire watersheds emptying into the designated scenic waterways be designated as areas of critical state concern, with the assumption that most of this land would lie within federal lands. Upon further study, I found that about 23% of the private land in the state (11% of the total area of the state) lies within the drainages feeding scenic waterways - about 10,000 sq mi. I feel that most of this area is presently of a non-critical nature (except for the immediate designated areas of the scenic waterways). The law (SB 100 when passed) can be amended if any of these watersheds become endangered in the future.

There is one river whose entire watershed should be designated as an area of critical state concern. Its designation as a scenic waterway appears imminent: the Sandy River. The Sandy River watershed is quite small - 516 sq mi, of which only 128 sq mi are private land. It is important that this watershed, particularly that portion known as the "Mount Hood Corridor", be designated as an area of critical state concern. Its proximity to Portland and the influences of urban encroachment, its tremendous value as a recreation area, and its recognition as a prime candidate for inclusion in the state scenic waterways system make it both an endangered and precious area of statewide interest.

In summary, please leave Section 31(1) as it now reads. Please add a subsection in Section 31 which reads, "the entire watershed of the Sandy River, beginning at Dabney State Park and extending upland, with any scenic waterway designations thereon being administered in accordance with ORS 390.805 to 390.925."

Yours respectfully,



Craig P. Markham
Sierra Club

STATEMENT
of
OREGON SHORES CONSERVATION COALITION
February 12, 1973
before the
Subcommittee on Areas and Activities
SENATE ENVIRONMENT AND LAND USE COMMITTEE

My name is Steve Schell. I am a director of the Oregon Shores Conservation Coalition and am appearing here today representing that organization. The OSCC is an alliance of coastal home owners, environmentalists and those vitally concerned with protecting the Oregon coast as the gifts of nature and our forefathers to the State of Oregon. OSCC has a membership of 300 and reaches coastal cooperating groups numbering over 1,000 people. The coalition has vice presidents in Astoria, Reedsport and Coos Bay.

It is my understanding that your subcommittee is today gathered to hear testimony on sections 31 and 32 of SB 100, the first dealing with geographic areas of critical statewide concern and the second dealing with developmental activities of critical statewide concern.

First let me say that OSCC strongly supports the overall concepts embodied in SB100. We favor establishment of a Department of Land Conservation and Development with power to issue binding guidelines. We wholeheartedly support the concept of power in a state agency to deal with and require permits for activities of statewide concern. We support the designation of specific areas of critical concern in the bill and strongly oppose those who desire to remove these provisions therefrom.

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S. ENV. & LAND USE COM.

The area of interest of The OSCC is from the top of the Coast Range to the three mile limit and it is to the portions of SB 100 dealing with this vicinity that I wish to confine my remarks.

Before dealing with the specific provisions of SB 100 I'd like to comment on some parallel legislation in other states. Delaware has prohibited industrial development coastward of a highway similar to Oregon's highway 101. Washington by passage of measure No. 43B last November 7 protects not just ocean frontage but all shorelines shoreward for a distance of 200 feet. California in passing proposition No. 20 protects the land 1,000 feet back from the ocean. This California initiative also prohibits arbitrary obstruction of the line of sight from the Coast Highway to the ocean and requires that access to the ocean be considered in all development decisions. You can see by these examples that designation of the area west of the Coast Highway as an area of critical concern is not unprecedented, radical or extreme.

We believe that section 31(5) is carefully restricted to those areas in which the citizens of the State of Oregon have a legitimate interest. We believe line of sight, access, the nature of development, vegetation modification practices, including clearcutting, and protection of headlands and coves west of the Coast Highway are all of vital state concern to Oregonians. We have watched the desecration of these concerns from New Jersey to Newport Beach. It need not happen in Oregon. The program for guidelines and public nuisance enforcement power can help to preserve the aesthetic magnificence of our coast.

Next let me comment on the estuaries subsection. As I indicated earlier, California protects land 1,000 back from the ocean. This

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S. ENV. & LAND USE COM.

includes land 1,000 back from the estuaries. The Oregon scenic rivers act, of course, protects land one-quarter mile back from the river. We believe that the 1,000 foot figure is a bare minimum to provide adequate protection for Oregon's meager 41,000 acres of estuarine land. Let me also comment briefly on the mean higher high tide mark as the line of measurement. The Corps of Engineers claims jurisdiction to this line in newly published regulations. Some of the State Lands Division staff have indicated, at least informally, that the Division should assert jurisdiction to this line. From a practical point of view, using the mean higher high tide line will cause inclusion of more wetland and adjacent related upland essential for a healthy estuarine eco-system.

We propose the inclusion of lakes and shorelines back 1,000 feet from them in the coastal zone as additional areas of critical statewide concern. Right now there are building booms going on near some of these lakes that may well threaten their very existence. They need state protection.

As to activities, since wetlands are frequently selected as airport sites, we favor a careful state review before a permit to develop an airport is granted.

As to highways, the Kernville Bridge on Siletz bay with its huge spoil area, large fill, wetland destruction, and heavy piling as well as the recent proposals, now hopefully dead, to develop highways on sand spits justify, we feel, the permit requirement for highway construction activity.

As to the siting of energy transmission lines, in Curry County Bonneville has marred a scenic area by its hideous power lines. The lines from the proposed Kiwanda nuclear reactor also should

be carefully evaluated. A state permit for these activities would cause such evaluation.

As to the location of sewerage systems, there is now a proposal to put a treatment plant at Salmon Harbor in the Umpqua. We are not convinced that alternatives have been effectively evaluated. A permit procedure for the siting of such systems would help assure evaluation of alternatives. Similar siting questions are on the horizon on the Nenalem River near the bay and on Netarts bay.

Of course OSCC is unalterably opposed to the use of the property around Cape Kiwanda for a nuclear power plant. We are alarmed that there is no agency at present capable of considering the detrimental land use and aesthetic consequences of this development. The permit system would allow this consideration.

Finally, a word about enforcement. While a development in a critical area can be a public nuisance, before a citizen or group of citizens can move against the development they must show private injury. The result is frequently, although there is grave injury to the environment, the public interest goes unprotected. We propose that you authorize citizen suits in areas of critical concern or at least provide a petition procedure whereby the Commission must act upon a citizens' group petition to prosecute an alleged public nuisance in such areas.

We greatly appreciate this opportunity to appear before you.

Thank you.

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SS 6 REFER TO OSU DOCUMENT

TOTAL 56,128 AC. + 1000 FT HOR. LAND = 112,256 AC
260

S. ENV. & LAND USE COM.

SS 7

	USFS	W/ PRIVATELANDS	TOTAL	1280 AC/LM
	2x 25m / 32000	2x 37m / 47360	79360 AC	

SS 8

242 AC/LM
3481 M / 842402
COAST HWY 102 M / 12,240
854,642 AC

SS 3

STATE 943944 + ⁹⁰1887888 = 2,831,832 AC*

* EST.

FED 32350,007 + ^{10% ***}3,235,000 = 35,585,007 AC*

ELIMINATE LOCAL MIN.

39,822,397 AC*
(64.65%)

507

320 AC / MILE

100

33 1#2

SEMIC WATERWAYS
DUE SECTION

S. ENV. & LAND USE COM. TOTAL

	USFS	BLM	W/ PRIVATE LANDS	TOTAL
ROGUE R	40M 15,360	40M 12,800		28,160
ILLIONIS R	46M 14,720	0		14,720
DESCHUTES R		50M 16,000	50M 16,000	32,000
JOHN DAY R		125M 40,000	27M 8,640	48,640
MINHAM R	35M 11,200		10M 3,200	14,400
OWYNEE R		65M 20,800	5M 1,600	22,400
	41,280	89,600	29,440	160,320 AC.

33 4

(128 AC) (506 AC)

IC

OC

TOTAL

INT 5	20 2560	69 34914	37474
INT 105	5 640	2 1012	1652
INT 205	3 384	3 1518	1902
INT 405	4 512	0 0	512
INT 80N	11 1408	64 32512	33920
	5504	69956	75460 AC

33 5

USFS

BLM

W/ PRIVATE LANDS

TOTAL

ORE COAST

~~1/2 x 30~~ 9600
~~1/4 x 30~~ 8000
~~1 x 15~~ 9600

~~1/2 x 6~~ 1920

~~1/2 x 75~~ 24000
~~1/4 x 75~~ 12000
~~1/2 x 10~~ 3200
~~1 1/2 x 15~~ 14400
~~1/2 x 30~~ 28800
~~1/4 x 75~~ 12000

35520
20000
12800
14400
28800
12000

1/4 = 160 ac/LM
1/2 = 320 ac/LM
1 = 640 ac/LM
1 1/2 = 960 ac/LM

27200

1920

94400

123520

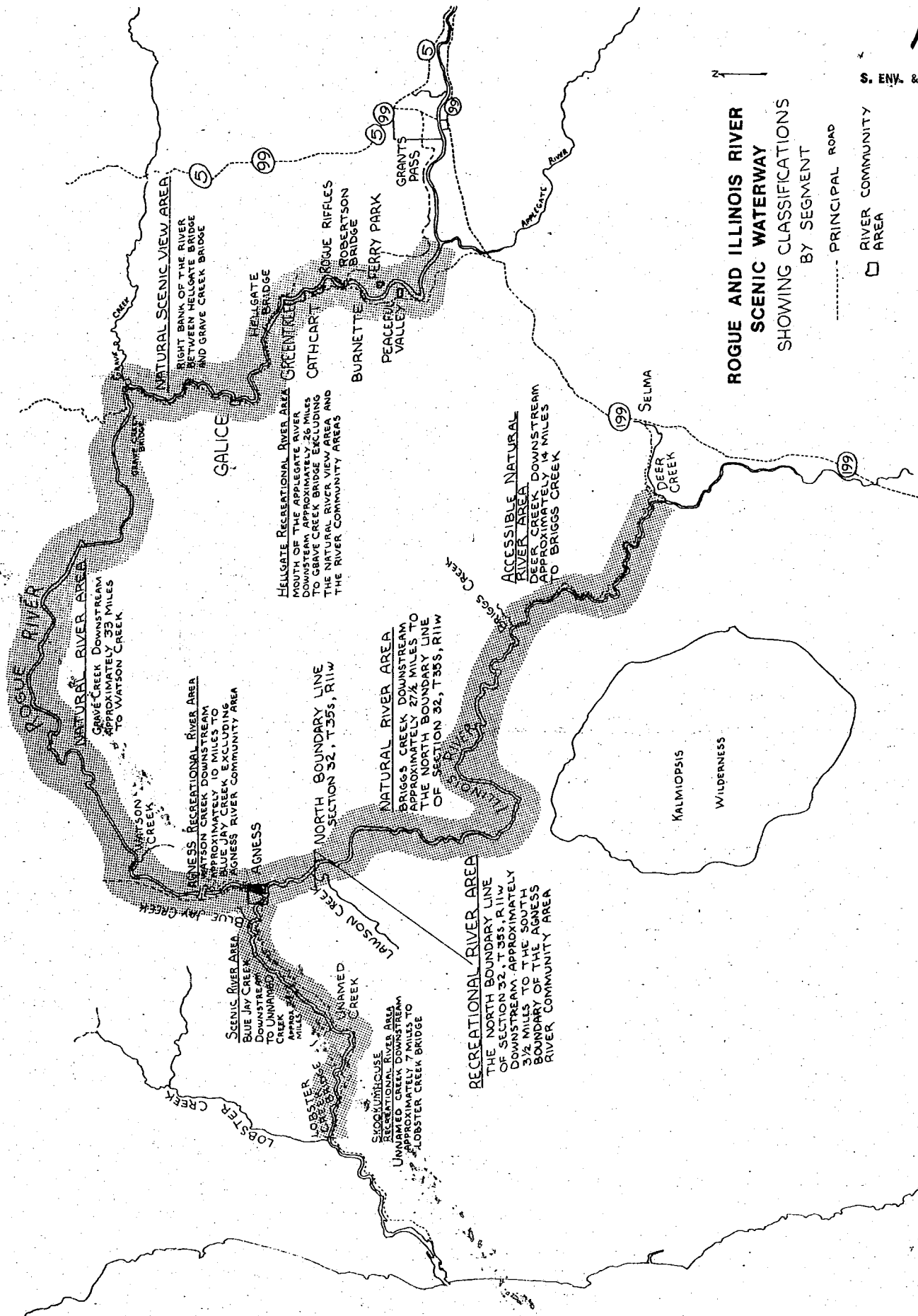
101

S. ENV. & LAND USE COM.



ROGUE AND ILLINOIS RIVER SCENIC WATERWAY SHOWING CLASSIFICATIONS BY SEGMENT

----- PRINCIPAL ROAD
□ RIVER COMMUNITY AREA

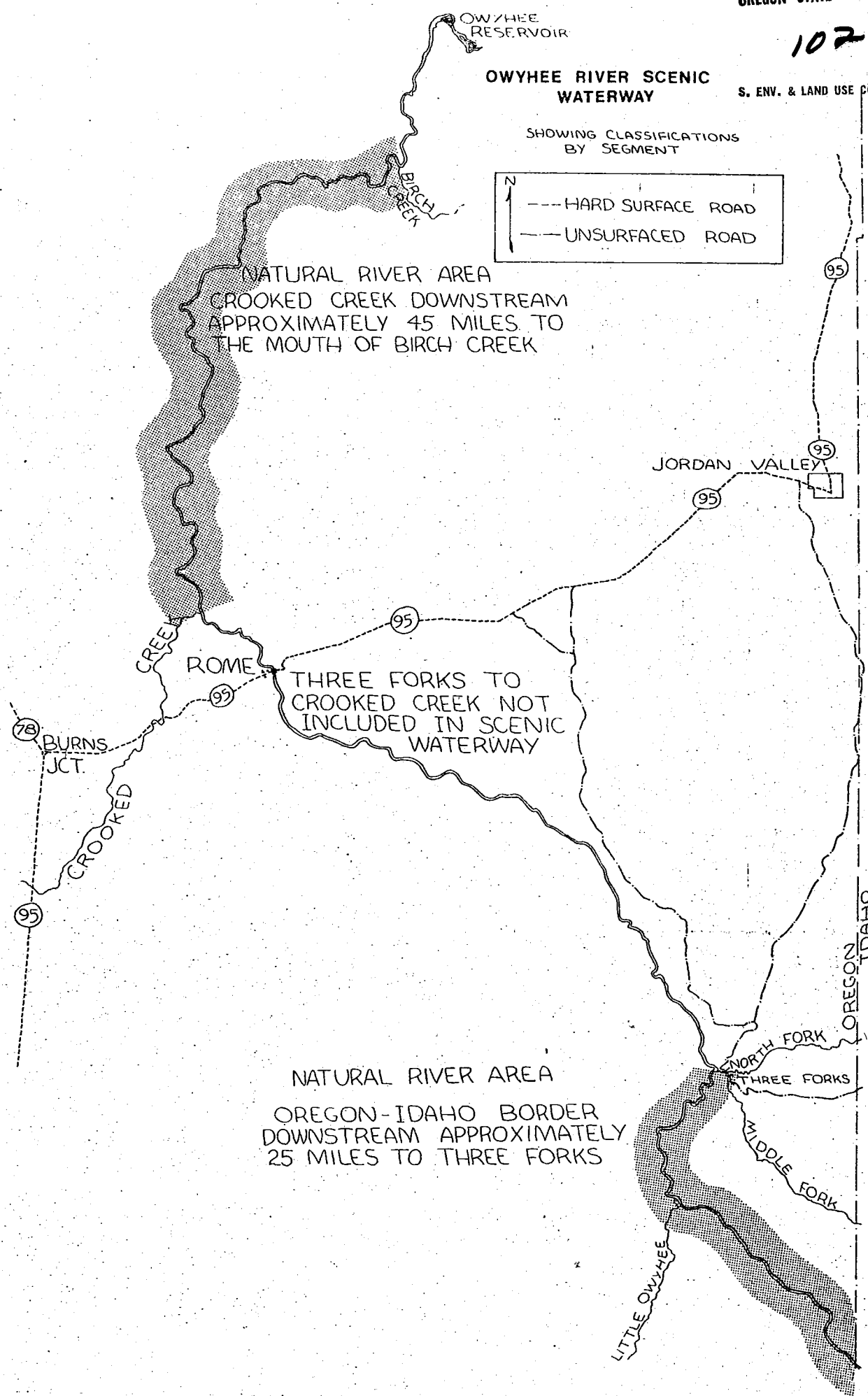


OWYHEE RIVER SCENIC WATERWAY

S. ENV. & LAND USE COM.

SHOWING CLASSIFICATIONS BY SEGMENT

N	---	HARD SURFACE ROAD
	- - -	UNSURFACED ROAD



MINAM RIVER SCENIC WATERWAY

SHOWING CLASSIFICATIONS
BY SEGMENT

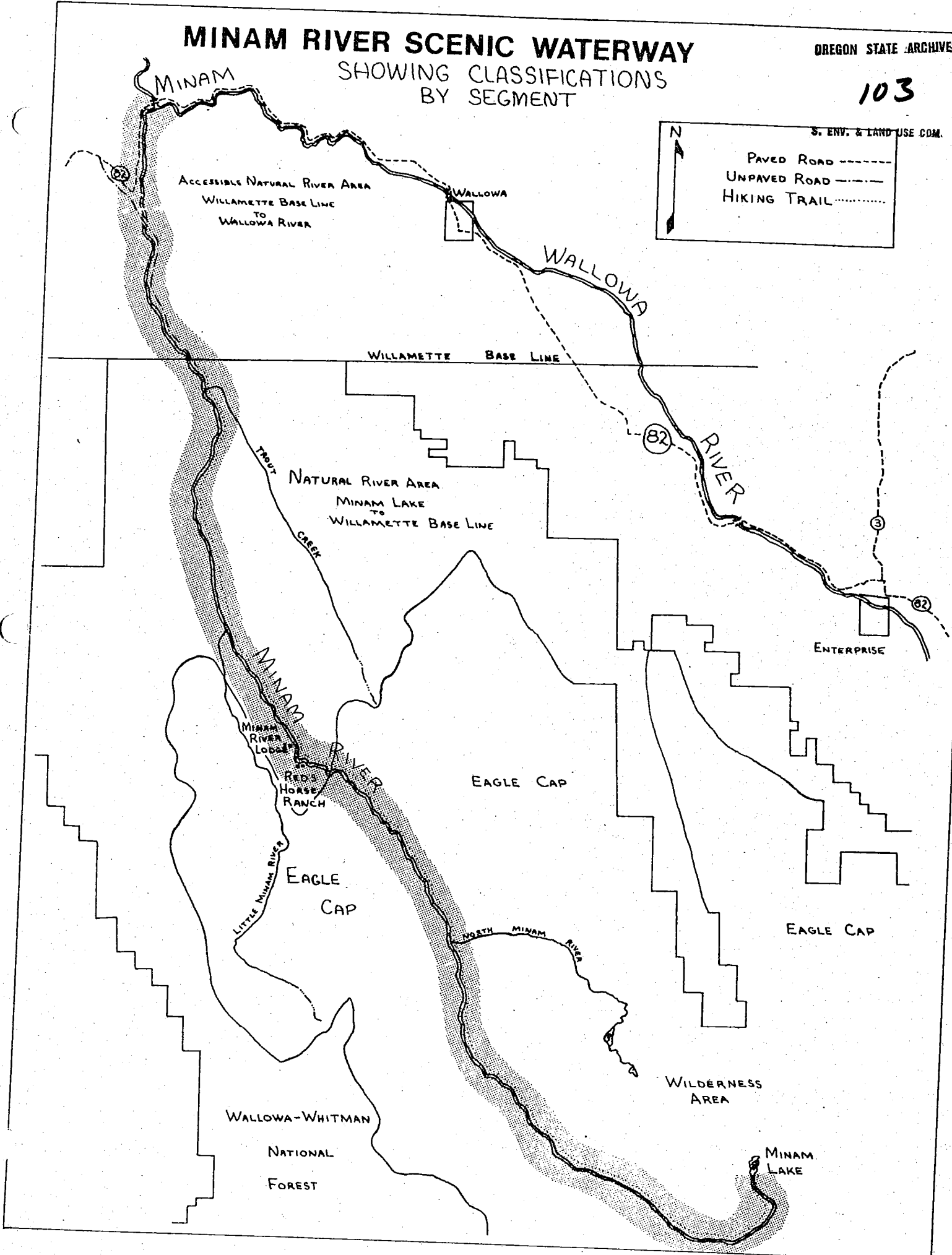
S. ENV. & LAND USE COM.

N

PAVED ROAD - - - - -

UNPAVED ROAD - - - - -

HIKING TRAIL - - - - -



MINAM RIVER SCENIC WATERWAY

SHOWING CLASSIFICATIONS BY SEGMENT

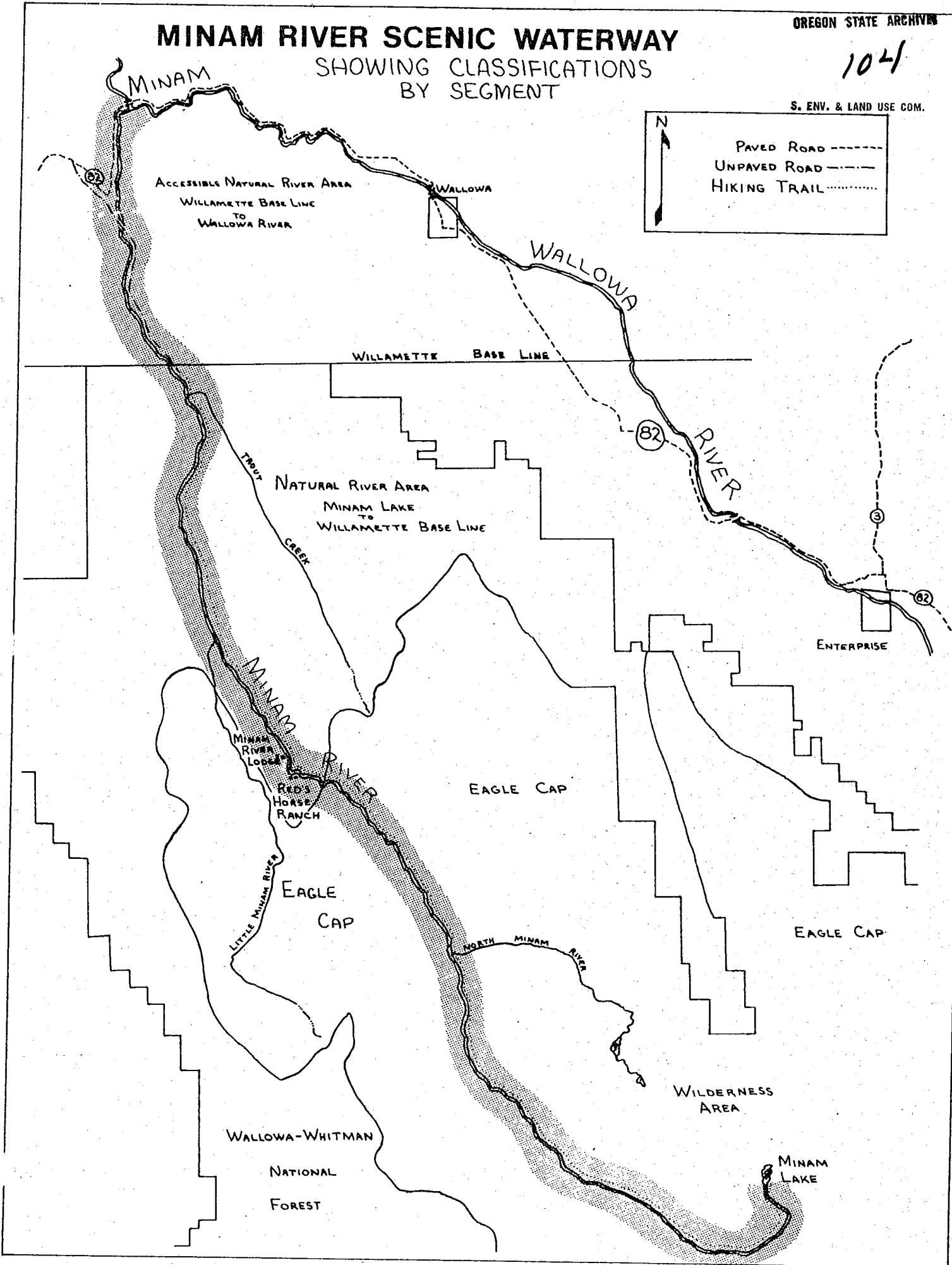
S. ENV. & LAND USE COM.

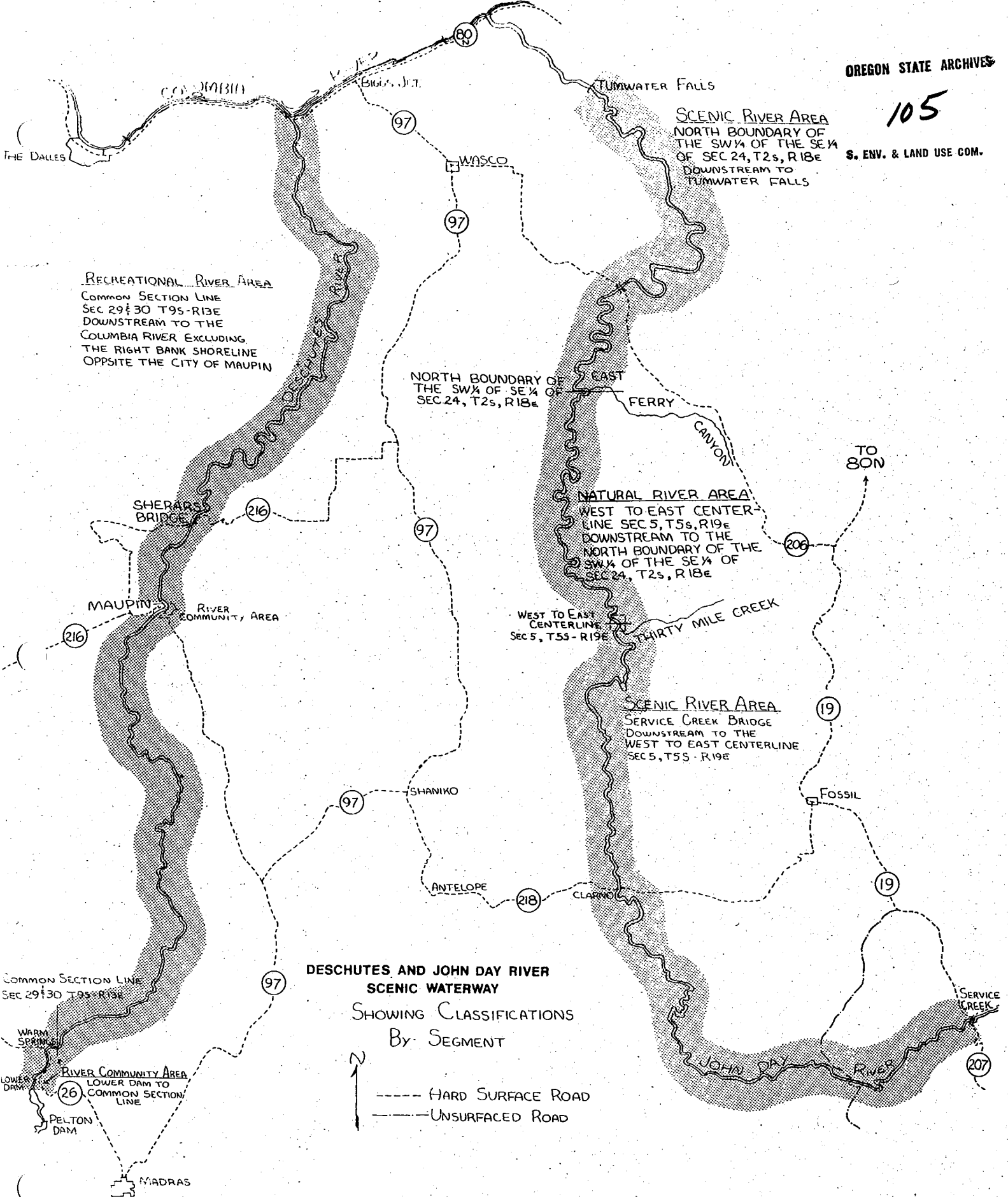
N

PAVED ROAD - - - - -

UNPAVED ROAD - - - - -

HIKING TRAIL ······





Common Section Line
SEC 29 & 30 T9S-R1E

RIVER COMMUNITY AREA
LOWER DAM TO
COMMON SECTION
LINE

MADRAS

**DESCHUTES AND JOHN DAY RIVER
SCENIC WATERWAY**

SHOWING CLASSIFICATIONS
By SEGMENT

--- HARD SURFACE ROAD
—— UNSURFACED ROAD



SCENIC RIVER AREA
NORTH BOUNDARY OF
THE SW ¼ OF THE SE ¼
OF SEC 24, T2S, R18E
DOWNSTREAM TO
TUMWATER FALLS

RECREATIONAL RIVER AREA
Common Section Line
SEC 29 & 30 T9S-R1E
DOWNSTREAM TO THE
COLUMBIA RIVER EXCLUDING
THE RIGHT BANK SHORELINE
OPPOSITE THE CITY OF MAUPIN

NATURAL RIVER AREA
WEST TO EAST CENTER-
LINE SEC 5, T5S, R19E
DOWNSTREAM TO THE
NORTH BOUNDARY OF THE
SW ¼ OF THE SE ¼ OF
SEC 24, T2S, R18E

SCENIC RIVER AREA
SERVICE CREEK BRIDGE
DOWNSTREAM TO THE
WEST TO EAST CENTERLINE
SEC 5, T5S, R19E

NORTH BOUNDARY OF
THE SW ¼ OF THE SE ¼ OF
SEC 24, T2S, R18E

WEST TO EAST
CENTERLINE
SEC 5, T5S, R19E

WARM SPRINGS

LOWER DAM

PELTON DAM

MADRAS

SHANIKO

ANTELOPE

CLARKE

FOSSIL

SERVICE CREEK

JOHN DAY RIVER

SHERARS BRIDGE

MAUPIN

RIVER COMMUNITY AREA

FERRY CANYON

THIRTY MILE CREEK

TO 80N

THE DALLES

COLUMBIA

BIGGS JCT.

TUMWATER FALLS

WASCO

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Statement Against SB 100

106

by Ruby Nichols S. ENV. & LAND USE COM.
 1000 Oak
 Silverton ore 97381

Citizens in my town have been struggling against COGs ever since we realized that a power grab by this organization exists that will deprive us of our Constitutional government.

So far, we have been able to reject one way street grids, a \$30,000 traffic light system and we are now in a battle to prevent a whole block of stately, irreplaceable old homes from being demolished to make way for a COG promoted off-street parking lot that Silverton does not need and cannot afford.

A COG promoted sign ordinance is now proposed that will affect, and make a hardship on, 90% of our businesses. We don't want that either.

Members of the Save Silverton Committee are circulating right now petitions to withdraw our town from membership in COG and to remove Dick Reynolds, COG planner, from our local planning commission.

Senate Bill 100 would make membership in COG mandatory. If this happens, our town, which is on Silver Creek, will be wiped out. Historic old buildings will be destroyed, we probably will have the little mall that COG loves so well, and Alpine false-fronts for our stores, and definitely there will be a park the entire length of the Creek, according to COG's Comprehensive Plan for Silverton. We are talking about PRIVATE property.

COGs are often referred to by their promoters as local government. They are not. Originally set up to be the clearinghouse for the A 95 process, COGs have been given more and more control over wider areas of our lives and property. Yet the citizens cannot vote on who will hold office in COGs or on those decisions affecting our lives. This is NOT representative government.

If you pass this bill, you will be guilty of aiding in the destruction of Constitutional government in the state of Oregon.

After the bill sets up the Legislative Assembly, a whole new department with Director and etc, it forces us to make COG the master of our destinies and then, under Section 55, it knocks down the Legislative set-up by

by handing over all control to the Governor. From then on, its COG and the Governor. Period. And we knuckle down, or else.

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S. ENV. & LAND USE COM.

This bill repeatedly mentions 'areas of critical state concern'. Looking at the map, this would seem to cover every square inch. But we fail to see how local sign ordinances, parking, one way grids, malls, and false fronts can be considered to be areas of critical state concern. Yet this is what we can look forward to and are already experiencing under COG Comprehensive Plans. Last year the Mid Willamette Valley COG spent over a half million dollars planning our lives (\$586,419.00) And this is only ONE COG. We consider COG a threat, an expensive one, and we reject this latest attempt to take away our right to self-government.

We believe SB 100 is a dangerous bill. We believe Cogs should be limited to their original function, the A 95 clearinghouse. We believe that no sovereign city or county government should be forced to comply with plans made by unelected, self styled COG staff planners, and certainly not without a vote of the citizens who must pay for the determined push to change the face of America.

We urge you not to pass this bill. You will destroy what is not your right to tamper with, our checks and balance, Constitutional system. This is too much power to vest in extra layers of appointed governance and in the Executive Branch.

Thank you,

Ruby Nichols
Ruby Nichols

In the Rotunda is displayed for all to read,

'In the souls of its citizens will be found the likeness of the state, which, if they be unjust and tyrannical, then it will reflect their vices. But if they be lovers of righteousness, confident in their liberties, so will it be clean in justice, bold in freedom' —
Don't sell us out with SB 100

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

MY NAME IS REP. BILL GRANNELL. I RESIDE AT 438 NORTHWOOD ROAD, NORTH BEND. I WISH TO TESTIFY IN OPPOSITION TO SENATE BILL 100.

I WOULD LIKE TO DIVIDE MY ARGUMENTS INTO TWO CATEGORIES. THE FIRST WILL BE IN GENERAL TERMS, AS TO THE ORGANIZATION AND ADMINISTRATION OF A COORDINATED LAND-USE PROGRAM FOR OREGON AND THE SECOND, SUGGESTIONS FOR SPECIFIC AMENDMENTS THAT IN MY ESTIMATION WOULD MAKE SB 100 A MORE WORKABLE DOCUMENT AND PERHAPS ADDRESS ITSELF TO MY GENERAL OBJECTIONS.

FIRST OF ALL, GENTLEMEN, I WOULD LIKE TO REFER YOU TO EXHIBIT 1 IN THE PACKET I HAVE INCLUDED WITH MY PRESENTATION. THIS CHART WAS PREPARED FOR ME BY THE HARBOR-MASTER OF THE PORT OF COOS BAY. IT INDICATES THE NUMBER OF LOCAL, STATE AND FEDERAL AGENCIES ONE MUST GO THROUGH REGARDING SITING, PLANNING AND CONSTRUCTION IF A PERSON WERE TO CONSTRUCT ANY FACILITY ADJACENT TO COOS BAY. YOU WILL NOTE NOT ONLY THE NUMBER OF AGENCIES BUT ALSO THE APPROXIMATE NUMBER OF DAYS IT TAKES TO PROCEED THROUGH THE AGENCIES TO GAIN APPROVAL. THIS WOULD APPLY TO NOT ONLY NEW CONSTRUCTION BUT ALSO TO REPAIR AND IMPROVEMENTS. YOU WILL NOTE THERE ARE CURRENTLY EIGHT AGENCIES, ANY OF WHICH MAY APPEAL, ASK FOR AN EXTENSION OF TIME, OR DELAY THE PROJECT WHILE ASSESSING ENVIRONMENTAL IMPACT. NEEDLESS TO SAY, THERE HAS BEEN VERY LITTLE RECENT CONSTRUCTION AROUND COOS BAY.

CONVERSELY SO, IF I WERE TO CARRY OUT THE SAME PROJECT IN A TOWN IN WASHINGTON OR CLACKAMAS COUNTY, BOTH OF WHICH ARE IMPACTED BY EXTENSIVE POPULATION GROWTH, I WOULD ENCOUNTER VERY LITTLE OR NO DIFFICULTY AT ALL.

PLEASE REFER NOW TO EXHIBIT 2. IN THE CITY OF MALINO, ONLY EIGHT MILES FROM OREGON CITY IN CLACKAMAS COUNTY, THERE ARE NO CITY OR COUNTY ZONING ORDINANCES THAT APPLY. THE ONLY AGENCY THAT MUST BE CONTACTED IS THE COUNTY HEALTH DEPARTMENT TO PROVE THAT THE TOILET FACILITY EMPTIES INTO AN APPROVED SEPTIC TANK.

IN WASHINGTON COUNTY, THE CITY OF FOREST GROVE, THE ONLY ENTANGLEMENTS TO SUCH A DEVELOPMENT IS APPROVAL BY THE CITY PLANNING COMMISSION AND AGAIN THE COUNTY HEALTH DEPARTMENT.

WITH THE CREATION OF A LAND CONSERVATION AND DEVELOPMENT COMMISSION THERE WOULD BE ADDED TO ALL THREE OF THE AFOREMENTIONED PROJECTS ANOTHER AGENCY INVOLVED IN PLANNING.

IN THE CASE OF COOS BAY, THE COMMISSION WOULD ALSO BE RESPONSIBLE FOR PROMULGATING RULES AND REGULATIONS CONCERNING ANY PROPOSED PROJECT. (THIS IS BECAUSE, AS DEFINED BY SB 100, COOS BAY WOULD BE AN AREA OF CRITICAL STATE CONCERN.) IN ADDITION TO THAT, ANOTHER COMMISSION, THE OREGON COASTAL CONSERVATION AND DEVELOPMENT COMMISSION, WOULD ALSO BE INVOLVED IN ANY FUNCTION (NOT SPECIFICALLY DEFINED IN THE BILL) AS ALLOWED BY THE LAND CONSERVATION AND DEVELOPMENT COMMISSION.

THIS NOT ONLY INSERTS AN UNKNOWN QUANTITY BUT ALSO ANOTHER LAYER OF GOVERNMENT IN THE PROCESS OF THE COORDINATION OF LAND USE PLANNING.

A GENERAL PRESUMPTION FROM READING SB 100 IS THAT THE AREAS DEFINED UNDER CRITICAL STATE CONCERN ARE AREAS OF PARTICULAR CONCERN WHERE INADEQUATE PLANNING HAD RESULTED IN THE NEED FOR CRUCIAL AND DECISIVE ACTION; CRUCIAL AND DECISIVE BEING SYNONYMOUS WITH WEBSTER'S DEFINITION OF "CRITICAL".

I WOULD SUBMIT THAT WILD AND SCENIC WATERWAYS, STATE PARKS AND RECREATION AREAS, PRIMITIVE AND WILDERNESS AREAS, WILDLIFE REFUGE AREAS, ESTUARIES AND OREGON'S BEACHES HAVE, BY PRIOR STATUTE, BOTH FEDERAL AND STATE, BY THEIR VERY DESIGNATION, BEEN SET ASIDE AND THEIR USE PLANNED AND REGULATED BY EITHER THE LEGISLATURE OR A SPECIAL AGENCY. THEREFORE, THEY ARE NOT AREAS OF CRITICAL STATE CONCERN BY DEFINITION.

FURTHERMORE, I WOULD SUBMIT THAT AREAS SUCH AS I MENTIONED IN MY ILLUSTRATION IN WASHINGTON AND CLACKAMAS COUNTIES, AREAS THAT ARE CHOKED WITH GROWTH, LACK INTERRELATED PLANNING AND LAND USE COORDINATION AND ARE THEREFORE, BY DEFINITION, MORE CRUCIAL AND DESERVING OF CRITICAL STATE CONCERN. SB 100 TREATS THESE AREAS IN ONLY AN ORDINARY AND CURSORY MANNER.

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I WOULD SUBMIT AT THIS TIME, AS EVIDENCE OF PLANNING ALONG THE OREGON COAST, AS MANDATED BY THE 1971 LEGISLATURE, THE FOLLOWING VOLUME OF LOCAL, STATE, FEDERAL AND PRIVATE STUDIES AND PLANNING ACTIVITIES IN OREGON'S COASTAL REGION. THIS VOLUME INCLUDES REPORTS AND PLANS FROM THREE FEDERAL AGENCIES; TWO COUNCILS OF GOVERNMENT, IN ADDITION TO THREE COUNTIES; TWO UNIVERSITY STUDIES; AND FOUR PRIVATE STUDIES. I WOULD FURTHER SUBMIT THAT THERE IS CURRENTLY NO SUCH COMPREHENSIVE PLANNING AVAILABLE FOR CLACKAMAS AND WASHINGTON COUNTIES, OR INTERRELATED PLANNING STUDIES INVOLVING COUNTIES AND LOCAL GOVERNMENTS FROM PORTLAND TO EUGENE.

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, I WILL NOW OFFER SPECIFIC AMENDMENTS TO SB 100, AS WELL AS POINT TO SPECIFIC ITEMS IN THE BILL TO WHICH YOU SHOULD PAY SPECIAL ATTENTION IN ORDER TO ADDRESS SB 100 TO THOSE AREAS IN THE STATE THAT ARE IN FACT OF CRITICAL CONCERN. THERE ARE CHANGES IN THE BILL NECESSARY TO CUT THROUGH AN APPARENT ADMINISTRATIVE MAZE AND TO MAKE THE PROCESS OF LAND USE PLANNING AND COORDINATED LAND USE MORE RESPONSIVE TO THE PEOPLE OF THE STATE OF OREGON.

HOWEVER, BEFORE I DO THIS I MAKE TWO PRESUMPTIONS. FIRST, THE MOST ACCEPTABLE LAND USE POLICY IS ONE IN WHICH THE PEOPLE OF OREGON HAVE A VOICE IN ITS PLANNING AND ADMINISTRATION. THIS ASSUMES THAT WE DON'T NEED MORE APPOINTED GOVERNMENTS ANY MORE THAN WE NEED A PROLIFERATION OF BUREAUCRATIC ADMINISTRATION.

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S. ENV. & LAND USE COM.

SECONDLY, I PRESUME THAT THE PEOPLE KNOW BEST THEIR DESTINY,
AND IF NOT, AT LEAST SHOULD SHARE THE RIGHT OF DECIDING THEIR
DESTINY. THIS, GENTLEMEN, I WOULD COACH IN HISTORICAL TERMS
BASED UPON OUR PRE-CONCEIVED NOTIONS OF REPRESENTATIVE
GOVERNMENT.

2-12-73
REP. BILL GRANWELL

EXHIBIT 1

Agencies for facility on Coos Bay

OREGON STATE ARCHIVES

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S. ENV. & LAND USE COM.

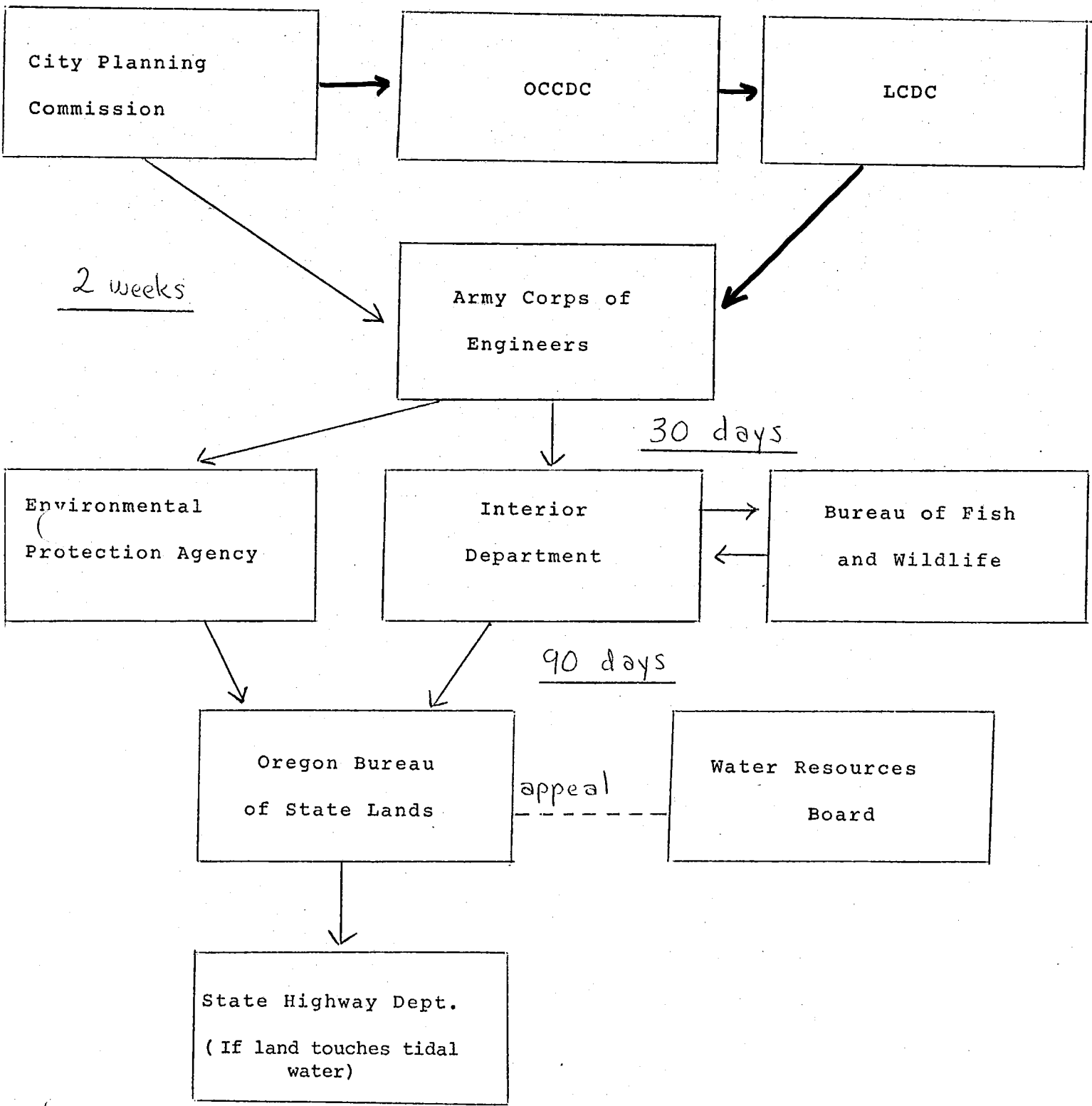
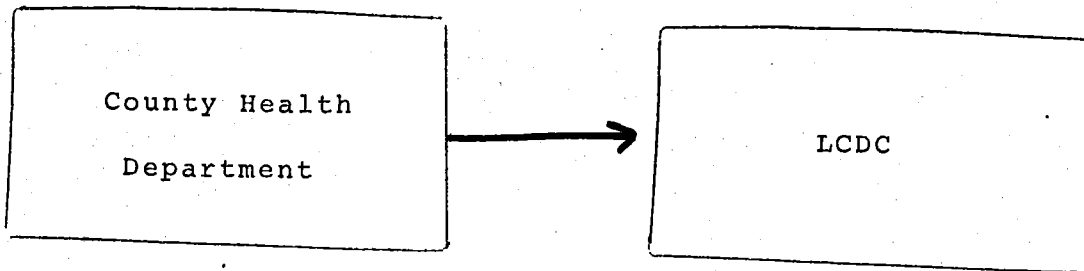


Exhibit 2

Agencies for facility in Malino

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S. ENV. & LAND USE COM.



§ 191.010

MISCELLANEOUS MATTERS

SURVEYS

191.010 Entry on land by persons acting for United States. Any person employed in the execution of any survey authorized by the Congress of the United States may enter upon lands within this state for the purpose of exploring, triangulating, leveling, surveying, and of doing any work necessary to carry out the objects of existing laws, and may establish permanent station marks and erect the necessary signals and temporary observatories, doing no unnecessary injury thereby, having first paid or tendered to the owner thereof the compensation or damages as prescribed in ORS 191.020 and 191.030.

191.020 Tender of damages. The person entering upon land as authorized by ORS 191.010 may tender to the injured party damages therefor.

191.030 Determination of damages. If the parties interested cannot agree upon the amount to be paid for damages caused by an entry authorized by ORS 191.010, either of them may petition the county court in the county in which the land is situated. The court shall appoint a time for a hearing as soon as may be, order at least 14 days' notice to be given to all parties interested, and with or without a view of the premises, as the court may determine, hear the parties and their witnesses and assess damages.

191.040 Costs. (1) In case of appeal to the county court, if the damages finally assessed do not exceed the amount tendered, the person entering shall recover costs; otherwise the prevailing party shall recover costs.

(2) The costs to be allowed in all such cases shall be the same as allowed according to the rules of the court.

191.050 [Repealed by 1971 c.743 §432]

COASTAL ZONES

191.110 Policy. The Legislative Assembly finds and declares that:

(1) The coastal zone in this state is an important and valuable part of the natural resources of this state and that because of its value there exists a need for its protection through the development and maintenance of a balance between conservation and develop-

mental interests with respect to such natural resources.

(2) There exists a conflict in the development and use of the natural resources of the coastal zone among industrial interests, commercial and residential development interests, recreational interests, power resource interests, transportation and other navigational interests, waste disposal interests and fish and other marine resource interests.

(3) To further the policy of this state in the protection, preservation, development and, where practicable, the restoration of the natural resources of the coastal zone, a commission should be established to develop and prepare a comprehensive plan for the conservation and development of the natural resources of the coastal zone that will provide the necessary balance between conflicting public and private interests in the coastal zone.

(4) For the purpose of ORS 191.110 to 191.180 the coastal zone is defined as that area lying between the Washington border on the north to the California border on the south, bounded on the west by the extent of the state's territorial jurisdiction, and on the east by the crest of the coastal mountain range, with the exception of:

(a) The Umpqua River basin, where the coastal zone shall extend to Scottsburg.

(b) The Rogue River basin, where the coastal zone shall extend to Agness.

(c) The Columbia River basin, where the coastal zone shall extend to the downstream end of Puget Island.

[1971 c.608 §1]

191.120 Oregon Coastal Conservation and Development Commission; qualifications; rules; executive director. (1) The Oregon Coastal Conservation and Development Commission is created. The commission shall consist of 30 members appointed as follows:

(a) The Governor shall appoint one person who has demonstrated an interest in the protection, conservation and orderly development of the environmental quality of life in this state to serve on each coordinating committee established as provided by subsection

(2) of ORS 191.130. Each of the four persons appointed by the Governor pursuant to this paragraph shall be appointed from the state at large.

(b) The Governor shall appoint two persons who have demonstrated an interest in

UNITED STATES' EXPLORATIONS AND SURVEYS; COASTAL ZONES §191.150

S. ENV. & LAND USE COM.

the protection, conservation and orderly development of the environmental quality of life in this state to serve at large on the commission. Each of the two persons appointed by the Governor pursuant to this paragraph shall be appointed from the state at large.

(c) The members of the coordinating committees established as provided by subsection (2) of ORS 191.130 for the four districts of the coastal zone described in subsection (1) of ORS 191.130.

(2) The commission shall adopt rules relating to its administration, the terms of its members and other matters.

(3) A majority of the members of the commission may appoint an executive director who shall carry out the duties assigned to him by the commission. The executive director shall, subject to the approval of a majority of the members of the commission, appoint such administrative and clerical employees as he may consider necessary in carrying out ORS 191.110 to 191.180.

[1971 c.608 §2]

191.130 Description of coastal zones. (1) For the purposes of ORS 191.110 to 191.180, the coastal zone is divided into the following districts:

(a) District 1 which is composed of Clatsop and Tillamook Counties.

(b) District 2 which is composed of Lincoln County.

(c) District 3 which is composed of the coastal portions of Lane and Douglas Counties.

(d) District 4 which is composed of Coos and Curry Counties.

(2) There is established a coordinating committee for each of the districts described in subsection (1) of this section. Each such coordinating committee shall consist of the member appointed by the Governor to the committee pursuant to paragraph (a) of subsection (1) of ORS 191.120 and the members appointed to the committee by the designating body set forth in subsection (3) of this section for each such district; but the membership of each such committee appointed by the designating body set forth in subsection (3) of this section for each such district shall be composed of two elective county officials from the district, two elective city officials from the district and two elective port district officials from the district. However, the two members in each classification appointed to the committee by the designating body set forth in subsection (3) of this section for each

such district may not be appointed from the same local governmental body, except in District 2, two of the members may be county commissioners.

(3) The designating bodies of the districts established by subsection (1) of this section are:

(a) For District 1, the Clatsop-Tillamook Intergovernmental Council.

(b) For District 2, the Lincoln County Sub-Council of Governments.

(c) For District 3, the Board of Commissioners for Lane County and the Umpqua Regional Council of Governments, each of which shall appoint three of the members of the coordinating committee for District 3.

(d) For District 4, the Coos-Curry Council of Governments.

[1971 c.608 §3]

191.140 Functions of commission and coordinating committees. The commission and the four coordinating committees shall:

(1) Study the natural resources of the coastal zone and recommend the highest and best use of such resources.

(2) Not later than January 17, 1975, prepare and submit a report, including the findings of its study, a proposed comprehensive plan for the preservation and development of the natural resources of the coastal zone and any maps, charts and other information and materials that are considered by them to be necessary in such report, to the Governor and to the Fifty-eighth Legislative Assembly of the State of Oregon.

(3) Not later than January 12, 1973, prepare and submit a preliminary and, if possible, a final report of their progress in the study and formulation of the comprehensive plan described by subsection (2) of this section to the Governor and the Fifty-seventh Legislative Assembly of the State of Oregon.

(4) Advise the Governor from time to time on the findings being made by them and propose policies and interim measures for implementation by the Governor and state agencies that they consider to be necessary for the proper preservation and development of the coastal zone prior to completion of its comprehensive plan for the coastal zone.

[1971 c.608 §4]

191.150 Plan content. (1) The plan described by subsection (2) of ORS 191.140 shall reflect a balancing of the conservation of the natural resources of the coastal zone and the orderly development of the natural

§ 191.160

MISCELLANEOUS MATTERS

resources of the coastal zone. Such plan shall be prepared in a form designed to be used as a standard against which proposed uses of the natural resources of the coastal zone may be evaluated. In the event of conflicting uses of the natural resources of the coastal zone, the plan shall establish a system of preferences between such conflicting uses that are consistent with the control of pollution and the prevention of irreversible damage to the ecological and environmental qualities of the coastal zone.

(2) In preparing the plan described by subsection (2) of ORS 191.140, the commission and its coordinating committees shall consider:

(a) The quality, quantity and movement of estuarine and other coastal waters, whether tidal or nontidal in character.

(b) The ecological balance of estuarine and marine resources.

(c) The economic interests in the coastal zone, including but not limited to commercial and recreational fishing interests.

(d) The projected population growth and employment needs within the coastal zone.

(e) Scientific information regarding the hydrology, geology, topography, ecology and other relevant scientific data relating to the coastal zone as provided by state agencies.

(f) Plans, surveys and inventions that have been or are being made with respect to the coastal zone by federal, state and local governmental agencies.

(g) Comprehensive land use plans and local zoning ordinances administered by local governmental agencies having jurisdiction over lands within the coastal zone.

[1971 c.608 §5]

191.160 Duties of commission. The commission may:

(1) Accept grants, contributions and assistance from any federal, state or local governmental agency, any private foundation and any individuals.

(2) Appoint, from among its members,

committees to carry out specified portions of its duties.

(3) Appoint advisory committees composed of persons selected from interested private organizations and the public at large to assist in carrying out its study and the preparation of its plan.

(4) Employ administrative, clerical and professional personnel considered by it to be necessary in carrying out its duties under ORS 191.110 to 191.180.

(5) Contract for the services of and consultation with professional persons or organizations, not otherwise available through federal, state and local governmental agencies, in carrying out its duties under ORS 191.110 to 191.180.

(6) Perform other duties considered by it to be necessary in carrying out the purposes of ORS 191.110 to 191.180.

[1971 c.608 §6]

191.170 Assistance of state and local governments. (1) All state and local governmental agencies shall cooperate, assist and participate with the commission and its coordinating committees in carrying out the purposes of ORS 191.110 to 191.180.

(2) The Governor shall designate members of state agencies that are affected by or interested in the studies and planning conducted by the commission and coordinating committees pursuant to ORS 191.140 to assist the commission and coordinating committees in the performance of their duties set forth in ORS 191.140.

[1971 c.608 §7]

191.180 Review of plans by state natural resource agencies. The state natural resources agencies shall review any preliminary or final comprehensive plans referred to in ORS 191.140 and shall incorporate comments and recommendations in a report to the Governor and to the Fifty-seventh and Fifty-eighth Legislative Assemblies.

[1971 c.180 §8]

191.990 [Repealed by 1971 c.743 §432]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Robert W. Lundy, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 1, 1971.

Robert W. Lundy
Legislative Counsel

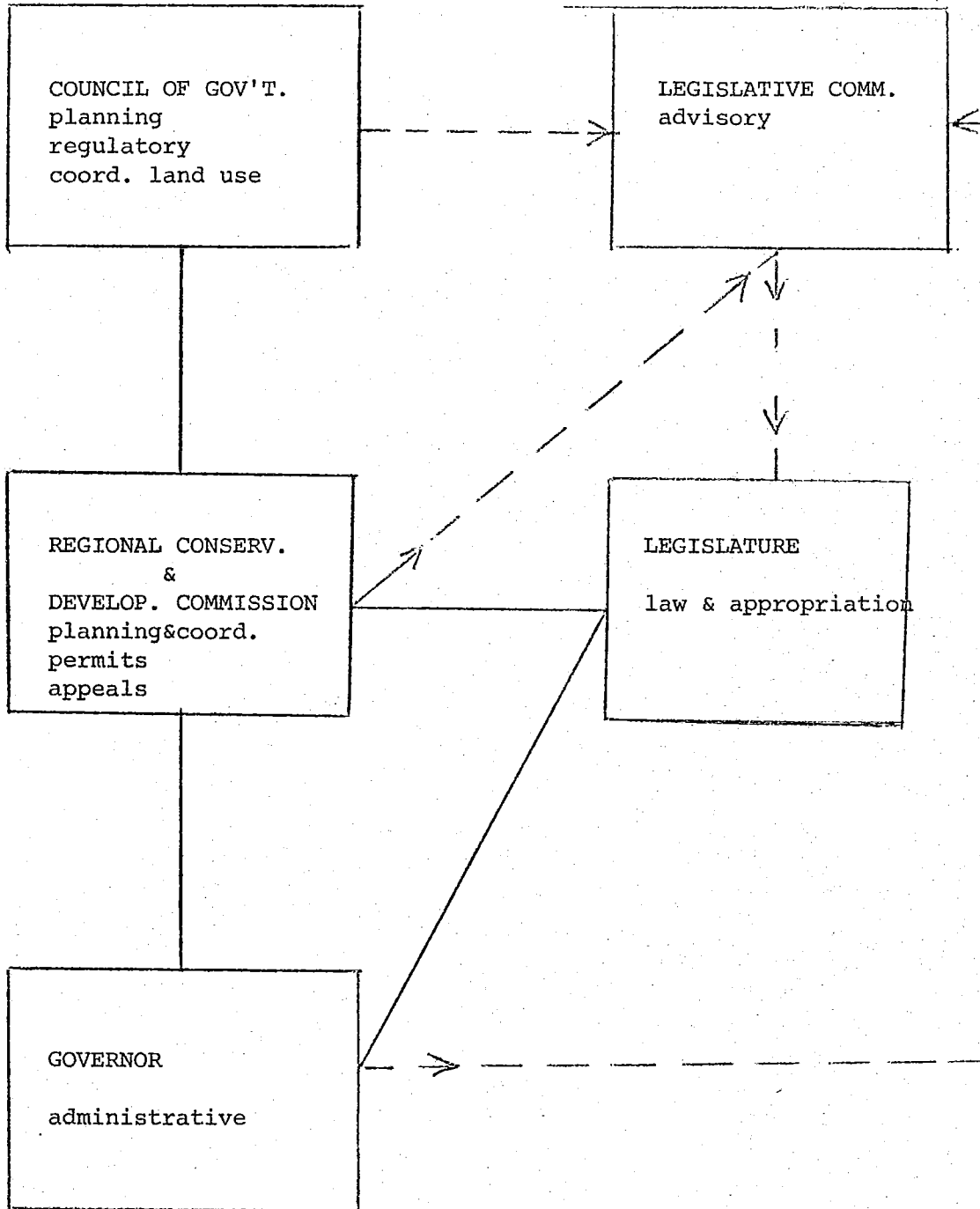


EXHIBIT 4

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S. ENV. & LAND USE COM.

TO: Senator Ted Hallock
Chairman, Environmental and Land Use Committee

FROM: C. E. "Monte" Anderson, Member
Josephine County Planning Commission

SUBJECT: Remarks and Comments SB100

For purposes of brevity, my testimony will forego the usual inclusion of assumptions, facts and discussion which normally precede recommendations. I strongly recommend your Committee's consideration of the following:

1. The establishment of an Interim Committee composed of members from both branches of the legislature and authorities in the different areas of the State. This procedure worked most effectively for the Task Force on Economic Development. A greater benefit accrued from winning the confidence of those attending the hearings. SB100 affects the very vital liveability of all our citizens and these citizens are entitled to be a party to that which is of so much concern to them.
2. I support your proposal to create a Department of Land Conservation and Development composed of the Conservation and Development Commission and staff. The activities, responsibilities and duties would be limited to the following:
 - a. Development of comprehensive land use guidelines for universal use throughout Oregon.
 - b. Develop procedures for the coordination with other State Commissions, bodies and/or authorities for the regulation of areas or activities of critical State concern.
 - c. Develop and publish standardized uniform zoning regulations and codes.
 - d. Implement the authority contained in ORS 215.505 which requires the Governor to prescribe and administer plans and zoning regulations for unregulated lands.

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- e. Serve as an "Appeals" Board on matters of critical concern that may or may not be included in the items enumerated in Sections 31 and 32 of the proposed SB100. S. ENV. & LAND USE COM.
3. I very strongly oppose the mandatory establishment of a "Chain of Authority" as proposed by the creation of:
- District Councils of Local Government
 - District Planning Committee
 - Special Districts which are within the boundaries of a single county.

Any such requirements should await the findings of the Interim Committee study.

4. Local Governments, both cities and counties, must be enabled to retain local authority and control over:
- Comprehensive land use plans - development and enforcement.
 - Zoning regulations and codes.
 - Subdivision regulations as prescribed in ORS 92, 5 acres or less.
 - Be provided with the authority to review and recommend on subdivisions of 5 acres or larger in less than 20 parcels. Present regulations ORS 92 are primarily for the protection of land buyers or lessees. Very little provision is made for review in light of land use.
5. It must be clearly evident that my primary concern is that of retaining at the local level and available to the concerned citizen that responsibility and authority which represents a way of life and liveability control within the neighborhood in which these concerned citizens reside.

It is not at all good Government whereby the depredations and rapacious actions of a few must be the instigation of laws and rules or regulations that completely choke the freedom of the well intentioned and conforming body of citizens.

Mort Anderson

JOSEPHINE COUNTY PLANNING OFFICE

DAVE BRASHEARS PLANNING DIRECTOR
JOSEPHINE COUNTY COURTHOUSE
COURTHOUSE ANNEX AREA CODE 503 - 476-6827
GRANTS PASS, OREGON 97526

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S. ENV. & LAND USE COM.

TO: Legislative Committee
FROM: Dave Brashears
SUBJECT: Senate Bill 100
DATE: February 12, 1973

This bill is far reaching in scope and could eventually be a turning point for Oregon by creating an overall cohesive planning process to deal with the growth in all areas of the state. There are several points of SB100 that are commendable and in need of early adoption such as:

1. The establishment of areas and activities of critical state concern, thus removing decisions on these matters from local pressures.
2. The establishment of overall standards for developing and adopting Comprehensive Plans.
3. The establishment of a State Department of Land Conservation and Development; however, it's function should be limited to review and approval of all permits for areas and activities of critical state concern.

On the other hand, however, there are some comments or suggestions I wish to make in the hope of upgrading this proposed legislation:

1. To avoid unnecessary staff at the state level, have the development of all state-wide guidelines specified in the bill developed in conjunction with the Oregon Planning Directors Association.
2. It appears that the establishment of both a Commission and a Joint Legislative Committee is redundant and could create administrative problems to the department.
3. To avoid a total enigma for the citizenry, a detailed flow chart showing the possible progression of a request through the myriad of departments, commissions, etc., should be made available to the Legislature in the hope of streamlining some of the procedures.

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S. ENV. & LAND USE COM.

4. In Section 46, the word "implementing" on line 28 could be construed as covering much more than Comprehensive Plans.
5. How will it be determined if compliance has been made as specified in Section 50?
6. Many of the proposals in the bill will have a significant impact on local government and perhaps an attempt to get more local input prior to implementation would be in order.

Thank you for the opportunity to present my views on the Legislation to you.

Remarks of Irwin S. Adams before the Environment and Land Use Standing Committee of the Oregon State Senate, Monday, February 12, 1973, 7 P.M., Room 20, State Capitol, with regard to Senate Bill #100. 123

S. ENV. & LAND USE COM.

I am Irwin S. Adams, Executive Vice President of the North Clackamas County Chamber of Commerce and reside at 2453 Lake Road, Milwaukie, Oregon. Our remarks with respect to Senate Bill #100, are on behalf of a membership of 538 in the North Clackamas County area.

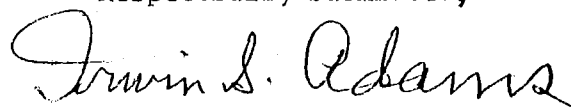
Our Board of Directors has taken a strong position opposing any emasculation of local government functions, and we are very concerned about what we apprehend as a proposal to usurp these functions contained in Senate Bill #100. On principal our feeling is that it's time to return governmental functions to local jurisdictions. It has been well said that "that people is best governed which is least governed".

We strongly support the local government as most responsive to local needs, because they are closer to their constituency. We cannot but object to legal implementation which super-poses an appointive board with jurisdictional fiat over locally elected governmental bodies. The heretofore proliferating State trend in this direction, which we profoundly deplore, must be reversed in the public interest. We trust that the final version of Senate Bill #100 will contain no provisions which usurp or interdict the jurisdictional powers of cities and counties.

It seems to the North Clackamas County Chamber of Commerce that we must throttle down the latterly lamentable trend to big government with omnibus powers, particularly when bodies charged with powers and duties are not directly accountable for their actions to any constituency.

Thank you for the opportunity to be heard.

Respectfully submitted,



Irwin S. Adams
Executive Vice President

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S. ENV. & LAND USE COM.

Senate Bill 100

Against by R.A. Krueger

Reasons:

1. Local and county authorities already have the laws to enforce zoning procedures. No need for another tier-duplication, more expense of taxpayer dollar. Enforce what is on the books.
2. The people are the final judge;
 - a. zone change hearings and crowds that come out, vocal.
 - b. the people purchase, the final consumer, if not good they don't have to buy, go elsewhere.
 - c. we aren't so dumb that we have to be led by the hand.
3. "Excesses", pollution be it sight, smell, etc. Sure some developers have created messes, but not always their fault, not always greed, example of HUD 235 and 236 programs and the instant slums they create. Here we have the ultimate authority who is the cause for the pollution', can the state do that much better or worse?
4. Land to be left as it is. What occurs when a sewer line is put nearby to serve that area which was to be left natural? U.S.A. state fighting the goliath of fed as they fund the lines?
5. Manpower involved to handle this Bill how much is the bill going to be for this exercise?

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S. ENV. & LAND USE COM.

Mr. Chairman and members of the committee. My name is Mike Miksche. I am in the real estate business in Prineville in Crook County. I wish to make it clear that my comments this evening are those of a citizen of the State of Oregon and are in no way related to a special interest sector. I am speaking as an individual. I am appearing in opposition to Senate Bill 100.

This bill should be opposed because it establishes a power elite in the land use planning sector, a ruling establishment and ultimately, an intolerable bureaucracy. The essential message in this bill is that everyone will be better off if a given politically oriented group is awarded exclusive trusteeship of land use planning. I understand that the authors intended the bill to be structural in nature... That 90% of the land use decisions would continue to be made at the local level, with 10% of the decisions reserved to the State, and limited to areas of critical concern such as scenic waterways. I do not find this philosophy in this bill. Rather, it will have the tendency to destroy or supplant the community effort that has been expended and is being expended at the rate of thousands of freeman hours addressed to the problems of land use in local areas. Literally thousands of citizens of the counties and cities are serving on planning commissions, planning boards and citizens advisory committees. These people know their communities and their areas. It would seem reprehensible to overlook this contribution.

Senate Bill 100 should be opposed because it provides for hand picked regional boards who by their very nature could be unsympathetic to local conditions. These boards would probably be made up of individuals who have already been involved in land use planning at some level, and there is a good chance that their earlier efforts were unsuccessful. They should not have the luxury of dealing from a power structure.

This bill should be opposed because it has an appeal to the enemies of the establishment. It calls for too much action too quickly and a great deal of it is emotional. This bill is the quasi benevolent tip of the iceberg with the dangerous ramifications being unknown until collided with.

This bill should be opposed from the standpoint of its ultimate cost. The timing is peculiar. This bill sets up another expensive bureaucracy at a time when there is an executive call for economy in government. We have tax problems, the problem of money for schools, housing and the general well being of our citizens.

This bill should be opposed because it would put local authority and proposed regional boards on a direct collision course. I do not see how politically motivated regional boards could be compatible with the unpaid citizenry presently doing their best in the land use planning area.

Why do we need Senate Bill 100?

It would appear that it is being proposed because the local areas were unsuccessful in forwarding their efforts in land use planning, and that an emergency exists. I submit that the various counties and cities are much further along in land use planning than is realized. If they have bogged down, it is for a variety of reasons, practically none of which were their own fault. With the constant intrusion of moratoriums, administrative rulings and a great deal of propaganda citizens at the local and county level of planning have momentarily lost the desire to continue their efforts in the face of drastic legislation such as Senate Bill 100, which could negate their best efforts. There is still a tremendous and dedicated source of citizen input available to the land use planning sector. All it needs is a little guidance and a little money. If some guidance and some money had been provided two years ago, we would be well on our way in establishing the leadership of the State of Oregon in land use planning without the use of last minute bureaucracy.

It is not too late. Speaking ^{FROM} ~~FOR~~ the East side of the mountains, it would seem to me that money could be appropriated by the State without sanctions to provide counties with planners from the private sector, if necessary, who would be commissioned by the counties to pull the existing wealth of material together. Their tenure would be brief, up to the point where useful decisions could be made at the local level. This would be far less expensive than setting up boards which would certainly perpetuate themselves for all time.

In closing, I have never understood how the State could take on the obligation of demanding a comprehensive plan for zoning, for subdivisions, for sanitation ordinances from a county before the State of Oregon itself had solidified a comprehensive plan... And it would seem to me that the best comprehensive plan for the State of Oregon would be made up of a pattern of input from the individual counties themselves. This whole issue should be working from the bottom up instead of the top down.

Statement opposing Senate B 100
by Edith Darling

OREGON STATE ARCHIVES

GRASS ROOTS SO-CALLED SILENT MAJORITY

I'm one of those grass-roots so-called silent majority that's not silent anymore.

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GEORGE

We've been letting George do it and George has gotten things in an awful mess. So I'm here to tell George he's fired.

S. ENV. & LAND USE COM.

SENATORS UPHOLDING CONSTITUTION

Oregon Senators have sworn to uphold the Constitution of the United States and the Constitution of Oregon.

5TH AMENDMENT (READ)

The 5th Amendment of the Constitution of the United States says (read)

DEFINITION OF PROPERTY

I looked up the definition of property and it was (read).

DEFINITION OF USE

I looked up the definition of use and it was (read).

MY OPINION IT VIOLATES

In my opinion Senate Bill 100 violates the Constitution of the United States because it

KEEPS CITIZENS FROM ENJOYING THE LEGAL USE - WITHOUT DUE P & COMPENSAT

Keeps citizens from enjoying the legal use of their land without due process of law or compensation.

UNCONSTITUTIONAL?

Oregon Senators aren't supposed to pass unconstitutional laws are they?

BY-PASS RIGHTS TO ELECTED REPRESENTATIVE GOVERNMENT

Senate Bill 100 would by-pass our rights to elected representative Government and make the Governor a virtual dictator. And that's unconstitutional.

DON'T DO US ANY FAVORS LIKE (PUBLIC GOOD LAWS) STICK CONSTITUTION

Seems like a lot of badslaws are being proposed underneath the disguise of "the public good". Don't do us any of those kind of favors... just stick to the Constitution.

STATEMENT ON SB 100

Prepared for Senate Committee on Environment and Land Use
February 12, 1973

by

James R. Moore, Beaverton
Legislative Committee Chairman, League of Oregon Cities

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S. ENV. & LAND USE COM.

The 25-member League of Oregon Cities legislative committee has probably spent more time discussing Senate Bill 100 in its various drafts over the past several months than any other single piece of legislation. It is a complex proposal that makes a sincere effort to deal with complex problems and we at the city level have I am sure encountered the same frustrations in dealing with SB 100 that members of this committee have.

City officials, at the League convention last November, adopted a formal policy position as follows:

Certain types of development are of statewide concern and these may warrant establishment of state regulations and standards to be applied by local government. However, most development issues are matters of local concern. Officials and citizens of cities and counties have on their own initiative and also with the urging of the state, spent countless hours and substantial federal and local funds to prepare plans and implement programs to guide land development. Yet much remains to be done if Oregon is to develop in orderly fashion.

If the legislature finds it necessary to establish additional regulations or standards having to do with land development, these should be limited to those necessary for the accomplishment of matters identified by the legislature as of statewide concern. In the development of state regulations or standards, any state action should preserve and strengthen the responsibility of cities and counties to provide land development guidance. Oregon's goal should be to build upon what has been accomplished at the local level by strengthening, rather than undermining local responsibility.

The basic policy position does not seem inconsistent with what we think is the intended result of SB 100. We think we're all starting from a similar position--that improved land use regulations jointly adopted and enforced at the state and local level are essential to maintaining Oregon's livability.

Cities and counties have all the experience that exists in Oregon regarding comprehensive land use planning and regulations since the state has never engaged itself in this activity. Whatever mistakes have been made, and we acknowledge that mistakes have been made, have necessarily occurred at the city and county level. We would point out that our problems in the planning and land use regulation area have been made more difficult by a variety of factors over which we have had no control--federal and state tax policies that encourage speculation, actions of federal and state agencies in locating facilities that have had heavy impact on population movement, state annexation laws that have encouraged growth outside cities, and a constitutional property tax limitation that encourages proliferation of small local governments, to name only a few. However, we are not so interested in finding others to blame for land use problems as we are in finding constructive solutions.

Working from our basic policy position of supporting state involvement in land use planning and from our desire to find solutions to the present problem, we still are unable to support SB 100 in its present form. It falls short of the intended goal on a large number of counts, we think, and we say this after having spent countless hours of staff time and committee time on the bill over the past few months. We have tried to analyze the bill as carefully as possible to see if we could recommend amendments to you that would make it acceptable from our standpoint and make it possible for us to feel that the state-local cooperation required to solve land use problems in Oregon could be forthcoming. To give you some idea of the homework we have done, we are enclosing our analysis of many but by no means all of the problems that we have found with the bill; this admittedly incomplete analysis itself is some 10 pages in length. We see as an extremely serious problem the totally inadequate level of funding proposed for a major new state activity. Our experience in funding planning at the local level suggests that the proposed \$300,000 biennial budget could not begin to fund the responsibility that the state proposes to assume.

We finally conclude that perhaps the basic flaw in SB 100 is that it establishes a very complex procedural relationship among state and local governments before the basic goals have been established; in effect, the bill puts the cart before the horse. Experience at the city level in developing, adopting and revising comprehensive plans and implementing regulations has taught us that the first step in developing a plan is to spell out the basic goals and objectives for the development of the community. Without the goals, no plan can be developed and no implementing regulations can be enacted.

Thus we have decided to prepare and are submitting for your consideration a substitute bill draft. It proposes to establish a Land Conservation and Development Commission that would inventory present land uses, establish state planning goals, develop criteria for selecting areas and activities of critical state concern and actually designate these areas and activities, and develop a procedure for coordinating land use planning and regulations of state, regional and local agencies. All of this would be done in consultation with all affected units of government in the state and with adequate opportunity for hearings and citizen participation in the development of this state comprehensive planning program. Final adoption of the plan by the 1975 legislature would be required.

We share the sense of urgency on the part of those who feel that something more must be done quickly about land use regulation in Oregon. But we think it unrealistic to believe that establishing an elaborate procedure such as suggested in SB 100 without any real notion of where we are going, or of what the basic land use goals in Oregon actually are, will result in great confusion and frustration and not really provide a solution to the problems all of us are trying to solve.

Respectfully submitted,

James R. Moore
Legislative Committee Chairman

League of Oregon Cities
Local Government Center
Salem, Oregon

James Moore

PROPOSED REVISION OF SB 100

OREGON STATE ARCHIVES

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PART I. PREAMBLE AND POLICY STATEMENT

S. ENV. & LAND USE COM.

Section 1. (1) In order to promote the general welfare and to provide full and wise application of the resources of the State in strengthening the environment, recreational, economic, and social well-being of the people of the State of Oregon, the Legislature declares that it is the continuing responsibility of the State of Oregon, consistent with the responsibility of other levels of government for land-use planning and management, to undertake the identification and regulation of those geographic areas and development activities that are of critical concern to all Oregonians and to provide for the reasonable protection and regulation of these areas and activities.

(2) The Legislature further declares that cities and counties should remain as the agencies to consider, promote and manage the local aspects of land use for the best interests of the people within their jurisdictions.

PART II. DEFINITIONS

Section 2. As used in this Act:

- (1) "Commission" means the Land Conservation and Development Commission.
- (2) "Council of Governments" means a regional planning agency officially designated by the Governor pursuant to the federal Office of Management and Budget Circular A-95 as a regional clearinghouse.
- (3) "Department" means the Department of Land Conservation and Development.
- (4) "Director" means the Director of the Department of Land Conservation and Development.

(5) "Special district" means any unit of local government, other than a city or county, authorized and regulated by statute and includes, but is not limited to; water control districts, irrigation districts, port districts, air pollution control districts, fire districts, school districts, hospital districts, mass transit districts and sanitary districts. 149
S. ENV. & LAND USE COM.

PART III. LAND CONSERVATION AND DEVELOPMENT COMMISSION

DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT

Section 3. The Department of Land Conservation and Development is established. The department shall consist of the Land Conservation and Development Commission, the director and their subordinate officers and employees.

Section 4. (1) There is established a Land Conservation and Development Commission consisting of five members appointed by the Governor, subject to confirmation by the Senate in the manner provided in ORS 171.560 and 171.570.

(2) In making appointments under subsection (1) of this section, the Governor shall select from residents of this state one member from each congressional district and one member from the state at large.

(3) The term of office of each member of the commission is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor. No person shall serve more than two full terms as a member of the commission.

(4) If there is a vacancy for any cause the Governor shall make an appointment to become immediately effective for the unexpired term.

Section 5. Notwithstanding the term of office specified in section 5 of this Act, of the members first appointed to the commission:

(1) Two shall serve for a term ending June 30, 1974.

(2) One shall serve for a term ending June 30, 1975.

(3) One shall serve for a term ending June 30, 1976.

(4) One shall serve for a term ending June 30, 1977.

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Section 6. (1) The commission shall select one of its members as chairman and another member as vice chairman, for such terms and with duties and powers necessary for the performance of the functions of such offices as the commission determines. The vice chairman of the commission shall act as the chairman of the commission in the absence of the chairman.

(2) A majority of the members of the commission constitutes a quorum for the transaction of business.

Section 7. Members of the commission are entitled to compensation and expenses as provided in ORS 292.495.

Section 8. The commission shall:

(1) Direct the performance by the director and his staff of their functions under this Act.

(2) Cooperate with the appropriate agencies of the United States, this state, any other state, any interstate agency, councils of governments, counties, cities, and special districts, any person or groups of persons with respect to land conservation and development.

(3) Appoint advisory committees to aid it in carrying out this Act and provide technical and other assistance, as it considers necessary, to each such committee.

Section 9. The commission may:

(1) Apply for and receive moneys from the Federal Government and from this state or any of its agencies or departments.

(2) Contract for the services of and consultation with professional persons or organizations, not otherwise available through federal, state and local governmental agencies, in carrying out its duties under this Act.

(3) The commission may hold such open public hearings as it deems necessary to assist it in carrying out the functions required by this Act.

Section 10. Subject to Legislative approval as required by section 16 of this Act, the commission shall:

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- (1) Inventory all lands and land uses within the state.
- (2) Establish statewide planning goals.
- (3) Develop criteria for selecting areas and activities of critical state concern.
- (4) Designate areas and activities of critical state concern.
- (5) Adopt state-wide objectives and regulations for areas and activities of critical statewide concern.
- (6) Adopt statewide planning guidelines based on the statewide planning goals.
- (7) In cooperation with units of local government and existing councils of government, study and recommend a system of state-regional or state-local government relationships which the commission feels will best implement state land use regulations.
- (8) Inventory state agencies that perform planning that relates to land conservation and development.
- (9) Analyze the impact of such state agency plans on state and local land conservation and development planning.
- (10) In cooperation with affected state agencies, propose a plan to coordinate and consolidate such state agency plans into a single state land use plan or transfer such planning powers to a single state planning agency.
- (11) Study ways to coordinate state and local land use plans, encourage area-wide planning and provide for local enforcement of state land development regulations.
- (12) Propose a system to provide technical information and assistance on land use planning to local governments.
- (13) Study the costs of local land use planning and methods of off-setting additional costs to local governments for compliance with and enforcement of state land development regulations.

(14) Actively solicit and consider comments and advice concerning commission 152 activities from state agencies, councils of government, counties, cities and special districts

(15) Report to the Legislature as provided in section 15 of this Act, and

(16) Perform any other duty required by law,

Section 11. (1) The commission shall appoint a person to serve as the Director of the Department of Land Conservation and Development. The director shall hold his office at the pleasure of the commission and his salary shall be fixed by the commission unless otherwise provided by law.

(2) In addition to his salary, the director shall be reimbursed, subject to any applicable law regulating travel and other expenses of state officers and employes, for actual and necessary expenses incurred by him in the performance of his official duties.

Section 12. Subject to policies adopted by the commission, the director shall:

(1) Be the administrative head of the department.

(2) Coordinate the activities of the department in its land conservation and development functions with such functions of federal agencies, other state agencies, councils of governments, cities, counties and special districts.

(3) Appoint, reappoint, assign and reassign all subordinate officers and employes of the department, prescribe their duties and fix their compensation, subject to the State Merit System Law.

(4) Represent this state before any agency of this state, any other state or the United States with respect to land conservation and development within the state.

Section 13. (1) There is established in the General Fund in the State Treasury the Land Conservation and Development Account. Moneys in the account are continuously appropriated for the purpose of carrying out the provisions of this Act.

(2) All fees, moneys and other revenue received by the department or the committee shall be deposited in the Land Conservation and Development Account.

PART IV. CRITERIA, AREAS AND ACTIVITIES OF CRITICAL STATE CONCERN,
OBJECTIVES, REGULATIONS AND STATEWIDE GUIDELINES

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Section 14. (1) Immediately upon creation of the Department but in any case no later than 90 days after the effective date of this Act, the Department shall begin an inventory of all lands and land uses within this state in cooperation with councils of governments and other affected units of government.

(2) In conjunction with the inventory, the Department shall prepare statewide goals for land use planning.

(a) Upon completion of these goals, they shall be forwarded to all affected state agencies, all councils of governments, counties, cities, and other affected units of government for their review and comment within sixty days from date of mailing.

(b) Upon return of comments from reviewing agencies, the goals statement shall be forwarded to the Commission along with a summary of the reviewing agencies' comments. The Commission shall consider the recommendations and comments received from the reviewing bodies and from any public hearings; make revisions in the proposed goals that it considers necessary and approve the proposed goals, as they may be revised by the commission.

(c) The goals, as adopted by the commission, shall be forwarded to the same units of government listed in paragraph (a) of this subsection.

(3) Upon completion of the inventory and adoption of goals required by this section, the Department shall prepare criteria for the selection of areas and activities of critical state concern. Such criteria shall be subject to review and comment as required by subsection (2) of this section before being presented for formal action by the commission.

(4) Areas and activities of critical state concern shall be proposed by the Department based on the selection criteria approved by the commission. Each area

or activity of critical state concern shall be subject to review and comment as required by subsection (2) of this section before being presented to the commission for formal action.

(5) Objectives and regulations for areas and activities of critical state concern shall be proposed by the Department and shall be subject to review and comment as required by subsection (2) of this section before being presented to the commission for formal action. Objectives and regulations may be specific to the area or activity they are designed to regulate.

(6) Statewide guidelines shall be proposed by the Department based on the goals adopted by the Commission for land use planning within the state and shall be subject to review and comment as required by subsection (2) of this section prior to submission to the Commission for formal action.

Section 15. No action or decision of the commission shall have the force of law, either legislative or regulatory, until the report required by Section 16 is approved either in its entirety or as amended, by the legislative assembly.

PART V. LEGISLATIVE REVIEW AND APPROVAL

Section 16. (1) Within 10 days of the convening date of the fifty-eighth Legislative Assembly of the State of Oregon, the commission shall submit a report to the Legislative Assembly regarding each of its duties as set forth in Section 10 of this Act and such recommendations as the commission deems necessary for furthering or implementing state land use planning. Such report shall be subject to the review and comment process required by subsection (2) of Section 14 of this Act prior to submission to the commission for formal action.

(2) In addition to the contents of the report required under subsection (1) of this section, the commission may also submit proposed legislation that it considers necessary in furthering the purposes of this Act.

James Moore

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REVIEW OF SENATE BILL 100

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REVIEW OF SENATE BILL 100

Provisions of Bill	Comments
<p><u>Section 1.</u> A preamble which stresses the need for coordination, a major role for cities and counties, a need for a statewide planning agency and district councils, and a need for state issued permits for activities of statewide concern.</p>	None.
<p><u>Section 2.</u> Requires the adoption of comprehensive plans, describes some purposes and functions of such plans, and requires regular review and revision.</p>	<p>Considering the definition of comprehensive plan in Section 3, adoption of the plan will be a major task. Calls for adoption of plans at the regional level as well as by cities, counties and the state, but the subsequent sections of the bill do not provide for regional adoption or explain the significance of regional adoption.</p>
<p><u>Section 3.</u> Sets forth definitions including definitions of comprehensive plan and development. The definition of comprehensive plan encompasses a very inclusive consideration of "systems and activities" and of government and private involvement. The definition of development encompasses within the meaning of the word any use of land and any construction or excavation on land.</p>	<p>The definition of comprehensive plan misuses "governing body". For example, a state agency does not have a governing body. The definition misuses the concept of comprehensive planning by suggesting that agencies and special districts could have comprehensive plans. Agency and district plans are nor ordinarily comprehensive in the sense the word is used since agencies and districts prepare functional plans dealing with a single type of development such as highways, schools or irrigation systems. As applied to a city or county plan, the very inclusive nature of the definition would cause no problem if the purpose of the definition were only to permit planning entities to deal with such inclusive considerations. It does cause a serious problem when cities and counties are required to adopt plans meeting the definition.</p>
<p><u>Section 4.</u> Establishes a Department of Land Conservation and Development.</p>	None.
<p><u>Section 5.</u> Establishes a five-member Land Conservation and Development Commission, appointed by the Governor, for four-year terms and at the pleasure of the Governor</p>	None.

Provisions of Bill

Comments

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Section 6. Staggers the terms of commission members.

None.

Section 7. Provides for chairman, vice-chairman and quorum.

None.

Section 8. Authorizes compensation for commission members.

None.

Section 9. The commission is obligated to direct the department staff, promulgate rules and regulations, cooperate with others, appoint advisory committees, and consult with district council advisory committees.

The obligation to promulgate regulations of this section may or may not be in addition to the obligation under section 44 for the commission to approve objectives and regulations. The intent is not clear. The reference to an obligation to cooperate does not specifically refer to local governments, and, in view of the later obligation to consult district council advisory committees, could be interpreted to be a structuring of local government communication exclusively through these advisory committees.

Section 10. Authorizes commission to apply for and receive money, hire consultants and, subject to approval of the Governor, contract for services from a public agency.

The reference to contracting with other public agencies probably adds nothing to authority found in the intergovernmental laws of ORS Chapter 190 except to restrict intergovernmental cooperation to matters approved by the Governor.

Section 11. Lists duties of the commission as: (1) Establish statewide planning goals.

(2) Issue permits for activities of critical state concern.

(3) Prepare objectives and regulations for critical areas and activities.

(4) Prepare inventories of land use.

(5) Prepare planning guidelines.

(6) Review comprehensive plans for conformance with the objectives, regulations and guidelines.

(7) Report to the legislature.

(8) Perform other required duties.

The intent of saying the commission is "responsible for" these duties rather than saying the commission shall perform the duties is not clear. This is the only reference to goals contained in the bill. There is no indication of the difference between an objective and a regulation. Since the effect of both will be to regulate local government action, the use of anything other than regulation may cause confusion. A guideline seems to be a regulation that has statewide application both within and outside critical areas and activities. This would be more clear if the word "regulations" were used in place of "guidelines." The bill contains no definitions of goals, objectives or guidelines. The commission is not required to review state agency plans for compatibility among state agencies, cities and counties.

Section 12. Provides for interstate compacts.

None.

Section 13. Provides for a director of the department to be appointed by the commission.

None.

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Section 14. Broadly lists the duties of the director.

None.

Section 15. Establishes an account.

None.

Section 16. The commission may delegate any of its functions to the Oregon Coastal Conservation and Development Commission.

Sections 16 and 17 are not consistent. The commission may delegate "any of its functions" but OCCDC is authorized to perform only functions regarding preparation of objectives and regulations.

Section 17. The OCCDC can prepare objectives and regulations.

Section 18. The Governor's present fourteen administrative districts are made planning districts.

This fixes the boundaries of areas to be organized into councils of government by state law.

Section 19. Creates a district association of local governments for each planning district comprised of all cities, counties and special districts. Creates a district council of governments for each association.

None.

Section 20. District council members are to consist of one county commissioner from each county, one mayor or councilman from the most populous city in each county and such other members representing the other cities and the special districts as provided for in district council bylaws. Representatives of cities and counties must comprise at least two-thirds of the membership. The voters of the district can establish another form of district council.

The voters' authority might be made more clear by making ORS 254.310 applicable.

Section 21. Each district council is to have a "district planning committee" with at least 50 per cent of the members from city and county planning commissions.

This committee, rather than the district council, apparently is to be the communication channel with the state commission as indicated by Section 9.

Section 22. Lists statutory duties of district councils as

- (1) Coordinate land conservation and development by cities, counties and special districts.
- (2) Review comprehensive plans for compliance with guidelines.
- (3) Review "other" comprehensive plans and ordinances for compliance with objectives and regulations pertaining to critical areas and activities.
- (4) Cooperate with others.
- (5) Appoint advisory committees.

There is no description of what is meant by the duty to coordinate development by local government. Coordination duties are often considered to be informational type responsibilities but that may not be the case here. The coordination authority has to do with local government land use and construction, but apparently not local government regulation of private land use and construction. Since land conservation has not been defined in the bill, the significance of those words in this regard are not clear.

Provisions of Bill

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Section 23. Lists additional functions a district council may perform having to do with planning studies, primarily, and development of information. Restricts technical services to member local governments to that which the member pays for.

Since the district council under this bill will become a statutory organization rather than one created by intergovernmental cooperation, there may be a question of whether the district council could perform other functions as is now possible for an organization created by cooperative agreement.

Section 24. Cities and counties retain their planning and zoning powers as long as they are exercised consistent with the Act.

The wording in this section is subject to several interpretations, one of which is that the only planning and zoning power cities and counties will have are those contained in ORS Chapters 92, 215 and 227, and that this power is to be exercised consistent with the Act.

Section 25. Cities and counties shall adopt comprehensive plans consistent with state regulations and shall enact ordinances to implement the plans.

This places a very comprehensive obligation on each city and county. Apparently any ordinance a city may adopt that has something to do with land use or construction could require some evidence that it was consistent with the adopted plan. If it was not, the plan would need to be changed first with whatever procedures that would require. Cities use ordinances to carry out many things having to do with land use and construction that are far removed from zoning type issues, but the language of the bill seems to be very inclusive.

Section 26. Requires special districts to plan in compliance with the state regulations.

May not require programs to be operated in compliance with the state regulations. Does not require special district plans and construction to comply with city and county comprehensive plans.

Section 27. Requires state agencies to plan in compliance with the state regulations.

Same comment as above.

Section 28. Establishes a Joint Legislative Committee on Land Use.

None.

Section 29. Provides for membership and continuing existence of committee.

None.

Section 30. The duties of the committee are to be a sort of watchdog over the department and to report to the legislature.

None.

Section 31. Designates geographic areas of critical state concern.

The "objectives and regulations" the bill authorizes the commission to approve will apply in these areas.

Provisions of BillComments

Section 32. Designates activities of critical state concern.

In addition to "objectives and regulations" applying, these activities (many are activities of local government) will require a permit from the department.

Section 33. Upon commission recommendation, the legislative committee can recommend additional areas or activities to the legislature.

The procedure established appears to insulate the public and local government from direct contact with legislative committee.

Section 34. Ninety days from passage of the Act, land use or construction that is a project constituting an activity of critical concern requires a permit from the commission. District councils and state agencies are to review applications before the permit is issued.

No city or county review is required. The application must demonstrate compliance with state regulations and "comprehensive plans for the state and the planning district." It is not clear whether these plans are the city and county adopted plans, or some other plans adopted at the state level and at the district council level. The bill does not appear to have a requirement for state and district adopted plans.

Section 35. Provides interim permit approval criteria prior to adoption of state "objectives and regulations."

None.

Section 36. Sets forth eight considerations the commission shall use in reviewing applications.

Under subsection (5) of Sec. 34, the commission is to grant a permit if the project complies with the state regulations and pertinent plans. However, Sec. 36 requires the commission to "consider" circumstances but no indication of the significance of this consideration is set forth in Sec. 34. In view of the nature of the activities that are listed as critical activities in Section 32, most of the provisions of Section 36 seem to be off the subject.

Section 37. Provides for determination in case of a question of classification of some project as an activity of state concern.

Reference to district council committee seems to require a duplicate response from district councils.

Section 38. A development in violation of the critical activity or area requirements of the law is a public nuisance.

None.

Section 39. Commission can take proceedings to enforce in case of a nuisance.

None.

Section 40. Commission can take action to abate or restrain a nuisance.

None.

Provisions of Bill

Comments

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Section 41. Comprehensive plans and ordinances and regulations are to conform to statewide "guidelines" and "objectives and regulations."

As expressed, the section seems to contemplate that state agencies, planning districts and special districts as well as cities and counties adopt comprehensive plans and enact ordinances or regulations. The various organizations have differing levels of authority and responsibility. Only the cities and counties are general purpose governments.

Section 42. The department is to prepare state "objectives and regulations" for critical areas and activities within one year and submit to the commission for approval. These regulations are to be applied by all public bodies with regard to any responsibility they may have for land conservation, land use or construction within critical areas or constituting critical activities.

The phrase "objectives and regulations" causes confusion since there is no indication of the difference between an objective and a regulation. It would appear that any state adopted "objective" that must be observed will, in fact, be a "regulation."

If the procedure given in this section is followed, the department's staff is likely to draft a set of regulations without the assistance of the various public agencies expected to apply the regulations. The public agencies will then be forced into an adversary role before the commission if the proposals have weaknesses.

Section 43. The department is to consider comprehensive plans of all public bodies.

A question previously raised regarding the meaning of "comprehensive plan" when applied to a special district, district council, or state agency is also appropriate here.

Section 44. After holding hearings and making revisions, the commission approves the objectives and regulations, and they become effective. Anything a public body has to do with land use or construction involving a critical area or activity shall then be revised to comply with the state requirements.

Unless Sec. 9(2) is interpreted to apply to approval of objectives and regulations, the adoption of these state requirements appears to be outside the state administrative procedures act. The requirement for revision of public body "planning, regulation, review and action upon land development proposals" apparently is different than a simple requirement that there be compliance with state requirements. However, the nature of the difference is not clear.

Section 45. Each district council is to review "comprehensive plans for land conservation and development" for assurance that state requirements "are implemented."

There is no indication of what the district council is obligated to do after the review. The language refers to implementation of state requirements rather than calling for compliance with the requirements.

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Section 46. The department is to prepare state planning guidelines by January 1975 and submit to the commission for approval. The guidelines are to be used by all public bodies in adopting and implementing comprehensive plans. The commission shall approve the guidelines following the same procedure as for objectives and regulations.

Section 47. Each district council is to review "comprehensive plans for land conservation and development" and advise the public body whether its plans conform to the state guidelines.

Section 48. Existing comprehensive plans and ordinances are to remain in effect until revised.

Section 49. The goals listed in ORS 215.515 are to be used in preparing and implementing comprehensive plans until guidelines have been adopted by the commission.

Section 50. Ordinances or regulations adopted by a public body after the effective date of the act shall be based on a comprehensive plan and upon seven standards.

Section 51. Amends ORS 227.230 to delete broad police power base for the zoning regulations described in the section and instead requires compliance with the seven standards of Section 50.

Are guidelines for the use of public bodies different from regulations requiring compliance by public bodies?

If there is a difference, it needs clarification. If not, why not use the word "regulations" and why shouldn't the administrative procedures act be applicable?

None.

Although intended to permit a transition, one effect of this provision could be that regulations would be frozen for a considerable time. Since any revision would need to be consistent with the state requirements, no revision of an ordinance could be enacted until an acceptable plan exists and ordinances are made consistent.

This appears to place the freeze mentioned above into effect upon the effective date of the act. It attempts to use broad general goals as a substitute for more specific requirements as an interim procedure.

This section would also appear to create a freeze on any ordinance or regulation enactment or revision. It has the further effect of apparently prohibiting a city from enacting any ordinance that is not based on a plan. Additional questions can be raised as to whether findings on the seven very broad standards can be made in a manner that does not invite court cases.

This section of the law will require careful study if the bill is enacted. There is considerable question as to whether or not cities have had to rely on ORS 227.240 as the basis for city regulations having a zoning or other land use control purpose. The fact that this 1919 statute has not been amended over the years (even though the scope and nature of land use controls have changed a great deal) suggests that cities rely upon home rule powers as well as on the statute for authority to act. Since this bill has a basic purpose of establishing land use control as a matter of state concern, with its passage the language

(Sec. 51 comments cont.)

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Section 52. Each city and county shall adopt comprehensive plans according to provisions of ORS 215.505-215.535 until guidelines have been approved for one year. Then each city shall use guidelines.

Section 53. Amends ORS 215.055 to delete broad police power base for county planning and land use regulation and limits county authority to compliance with state guidelines and Sec. 50 standards.

Section 54. District councils shall review comprehensive plans for compliance with state guidelines, objectives and regulations and shall approve plans which comply.

Section 55. The Governor is to prescribe comprehensive plans and ordinances where zoning does not exist or where a plan or ordinance does not comply with the state requirements.

Section 56. Amends ORS 215.510 regarding the Governor's authority.

Section 57. Amends ORS 215.515 regarding the Governor's authority.

Section 58. Amends ORS 215.535 regarding the Governor's authority.

the language of statutes describing city powers are more likely than in the past to be interpreted as limits on city powers. The language of ORS 227.240 and perhaps all of ORS 227.210-227.280 may need to be replaced with a broad preservation of city general police powers in the field of land development control, subject, of course, to compliance with whatever state requirements are to have statewide application.

The section in part appears to contradict sections 48, 49 and 50. The section is confusing because of reference to cities and counties in one instance, and to cities only in another instance.

By taking general powers from the counties that are now in the law and permitting only the powers the bill would provide, the county authority will be less than in the past.

Partially duplicates Sec. 47 but adds district council obligation to "approve" plans that comply. The significance of approval is not indicated.

The section expands the concept of SB 10 of the 1969 session so that the Governor would plan and prescribe ordinances in cities and counties not making progress toward meeting state requirements. The total number of ordinances that might be affected by the state regulations is not clear. No similar authority is given the Governor to act against state agencies or special districts that may be in conflict with the state requirements.

Relates to Section 55.

Relates to Section 55.

Relates to Section 55.

Provisions of Bill

Comments

Section 59. Requires the Governor to charge a city or county costs if he prescribes a plan or ordinances.

If the requirements of the bill are fulfilled entirely, the cost will be considerable.

Section 60. Commission is to review actions by a district council and provisions of comprehensive plans upon petition.

Subsection (1)(a) of this section should be read in conjunction with Sec. 54 which gives district councils the responsibility to review and approve comprehensive plans that comply with state regulations, and Sec. 22 which partially restates Sec. 54 and adds authority to coordinate development by cities, counties and special districts and review ordinances for compliance with state requirements. It appears that if the district council cannot approve a plan, it is to petition the commission within 60 days of when the plan was adopted. Some intermediate step whereby the district council reports back to the city, county or other agency to work out correction in cases where no disagreement exists would seem desirable.

Section 61. Commission adopts review procedures.

None.

Section 62. Review proceedings are conducted for the commission by a hearings officer. Commission issues orders.

None.

Section 63. Commission can refer proceedings back to hearings officer for further information.

None.

Section 64. Commission shall report to the next legislature on:

Report need not be submitted until legislature has been in session for 60 days. There is no requirement here or otherwise in the bill that the state Land Conservation and Development Commission address itself to a state plan, to assembly of state agency plans and programs, or evaluating the consistency between plans of various state agencies and local jurisdictions.

(a) Changes or additions to critical areas and activities.

(b) Approved planning guidelines.

(c) Approved objectives and regulations.

(d) Orders issued.

(e) Status report of activities throughout the state.

(f) Legislative proposals.

Section 65. Joint legislative committee submits comments to legislature.

None.

Section 66. Legislature can approve the report submitted by various methods including failing to act.

None.

Section 67. The commission may make revisions but these are then submitted to the next legislature for approval.

None.

Provisions of Bill	Comments
<u>Section 68.</u> Commission prepares a similar report for each biennium.	None.
<u>Section 69.</u> Joint legislative committee submits recommendations to each legislature.	None.
<u>Section 70.</u> Report approval follows same process each session.	None.
<u>Section 71.</u> (Procedural)	None.
<u>Section 72.</u> Act to take effect on July 1, 1973.	Some provisions of the act will place immediate obligations on local governments. In view of the magnitude of the concept, this may prove impractical.

S. ENV. & LAND USE COM.

League of Oregon Cities
1201 Court Street, N.E.
Salem, Oregon 97308

February 8, 1973

Additional Policy Implications For Cities In SB 100

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<u>Section</u>	<u>Comment</u>
3	Definitions are unsatisfactory for areas and activities of critical state concern.
20(3)	Councils of governments cannot be considered cooperative associations of local governments if they have directly-elected governing bodies.
22(1-2)	Either special districts should be deleted from these two subsections or state agencies should be added as their roles are similar. Perhaps the language could read "...comprehensive plans of cities and counties and land conservation and development plans of state agencies and special districts."
31-32	There are no criteria on which the specific areas and activities in the bill are based.
32(2)	Actions by state agencies based on plans approved by the commission should be sufficient--especially since the commission has the power to stop actions not consistent with state regulations and guidelines.
36	These could be enumerated as objectives by the commission and excluded from the bill.
42(1)	Local governments should have a role in the permit process. No permit should be issued without local government approval. Local governments should be able to enact requirements more stringent than state standards.
44(1) (a)	The commission should be required to send automatically an announcement of local hearings, along with a copy of proposed regulations to each city rather than relying on a newspaper ad and forcing cities to request copies of proposed regulations. A single hearing per administrative district is not adequate.
44(2)	Revision of non-conforming city plans should not be required until the legislature reviews the commissions' actions.
45	The time schedule for compliance with objectives and regulations and the determination of "compliance" seems unclear.
46(1)	This section requires guidelines to be prepared by the Department not later than January 1, 1975, yet subsection (2) requires at least 14 district hearings prior to adoption by the Commission and section 64 requires submission of the final report within 60 days of the convening of the 1975 legislature. It is doubtful that the commission can meet this time schedule.
46(2)	See section 44 comments.

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<u>Section</u>	<u>Comment</u>
50	The criteria in this section must be applied <u>in addition to</u> comprehensive plans when enacting ordinances. Also, these criteria would still have to be applied after statewide planning guidelines are adopted.
52	"Permanent interim guidelines" do not need to be spelled out.
55	This authority should be left with the Commission rather than given to the Governor. Also, a procedure is needed to allow a city to take back its own planning under this section.
59	State agencies and special districts should be included.
60	Cities should have the authority to petition the commission concerning actions by other agencies than district councils.
61	Cities should not need commission approval to intervene in hearings.
66	Affirmative action by the Legislature should be required in approving the report.
68(5)	A report on activities by state agencies and special districts should also be required.
70	See comments under section 66.

League of Oregon Cities
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RESUME

Don J. Karr

Born 1915 Whiting, Iowa and spent his early years on Iowa and Minnesota farms.

Residence: 5648 Denver, Klamath Falls, Oregon.

Resident of Oregon since 1946

Present Profession: Associate Professor in Biological Sciences Department, Oregon Technical Institute.

Lectures Biological and Environmental related courses.

Academic Background:

BA in Quantitative Biology, University of Oregon 1963

MA in Physiology, University of Oregon, 1966

Candidate for the PhD degree in Biology, General Sciences Department, Oregon State University.

Professional background

Baker, 20 years 1932 to 1952

Postal Clerk, 11 years 1952 to 1963

(From 1957 to 1963 attended classes at the University of Oregon while working nights at the post office)

Instructor Biology Department, University of Oregon 2 years
1963-1965

Assistant Professor at Oregon Technical Institute 4 years
1965-1969

On sabbatical leave 1969-1970 academic year when all requirements for the PhD degree were satisfied. Advanced to candidacy for the degree August, 1970

Associate Professor, Oregon Technical Institute, 2 years 1971-

Personal experience drawn upon:

Farm and orchard worker; hobbieist and professional beekeeper; several courses in classical and field ecology; instructor in ecology and other field courses in the Environmental Sciences Technology

program at OTI; four complete tours of the State where lands and waters were studied in relation to their most probable use; computer knowledge used in organizing data.

PhD Thesis project is to determine the human carrying capacity of the land and waters resources of the State of Oregon for three levels of quality of living. Data has been collected from the most reliable sources (USDA Soil Conservation Service, OSU Extension Service, USGS, County Agencies, etc.). The procedures used have been critiqued by many interested professional and lay individuals of Oregon and by Dr. Harold Baker, University of Hawaii Land Study Bureau and Jan Wells, State of Vermont Planning Office.

Financial Support: OSU Environmental Health Sciences Center-3 years (\$3,700.00)
OSU Computer center (time)
OTI Computer center (time)

Expected Completion Date: Fall, 1973

The PhD degree in Biological Sciences at Oregon State University allows the candidate to do his thesis work in either of his three major fields of study. My major fields are: Physiology, Radiation Biology and Environmental Health. Environmental Health was my choice and a program of work was formulated with Dr. David Milne, my major professor, where by a maximum carrying capacity would be determined for the State of Oregon for reasonable qualities of living as supported by the land and water resources of the State. The thesis work ~~was~~^{is} intended to aid the State to utilize its limited resources in the best manner possible. It soon became evident that no concrete plans or decisions could be justified until complete inventories of the lands and waters were completed. Using this premise to build upon, the best possible inventory of land has been completed and these data are now being organized for presentation. Data on water resources, taken from USGS records, have not yet been organized. Test programs are being run with the assistance of an interested Environmental Health Technology student at OTI. The discussion this evening will be primarily concerned with the land study and with other land use studies in other States.

For human use, nearly all waters are generated and soils are formed within river drainage basins. With few exceptions, so also is the economy of the residents of an area directly related to the waters and soils within their basin. Only certain locations within each basin have the types of soils which have been trapped and formed where they can be utilized by man. For example we see that the Medford, Ashland, Grants Pass, and Central Point area of the Rogue Basin, the Roseburg area of the Umpqua basin, and the Bend, Prineville, Madras areas of the Deschutes basin

are some distance from the mouths of their respective rivers and, according to the unique geologic structure of the parent rock materials and the precipitation within the basin, have completely different problems involved. A long, relatively flat basin, such as the Willamette, also has its unique soils which have been unequally distributed by major tributaries and by major floods over the ages. Generally, the more fertile soils have been swept down the vallies and deposited along benches and terraces. In this study, the river basins are considered the governing factor in resource formation.

Soils in all river basins vary in type, quality, and quantity and are classified according to their capabilities for various crop production. A direct relationship exists between soils with a high potential for intensive cultivation and its potential for human habitation and exploitation for residences, industry, and transportation. The soils classes of major concern for this study and also for land use planning goals are those under Class I, certain Class II soils, certain Class Class III soils and some of the Class IV soils. These soils vary in distribution and not all Class I soils are the same soil series--only their capabilities are the same. An example could be in the location and quantities of Class I soil. The Willamette basin has about 39% of the State's total while the Umatilla basin has about 35% of the total class. However, the Umatilla basin has only 38% the area of the Willamette basin and has most of these soils under cultivation. The Willamette basin Class I soils are for the major part already divided into small units, incorporated into urban or suburban districts, or have highways over them. Thus, it is not always possible to generalize on location nor use of soil types. A thorough study has been made of each basin at least four times and one more study is planned before serious writing is begun.

For convenience sake of the reader, the soil types have also been segregated

by counties. Here again the uneven distribution is demonstrated where Linn County with 8% of the State's Class I soils and Marion County with 5% together have less than either Morrow (15%) or Umatilla (16%) Counties. In fact, proposed Planning District 3 which is composed of Yamhill, Polk, and Marion Counties have a combined total of Class I soils of about 10% of the State's total. Planning District 12, is composed of Gilliam, Morrow, Umatilla, Wheeler, and Grant Counties list more than 40% of the States Class I soils--about four times that of District 3. Another significant figure here is that District 3 contains about 1,414,000 acres and is less than one-fourth the size of District 12 which contains about 6,053,000 acres. While these are only a few significant figures, they are offered as evidence of some of the inequities of land use management which may occur, however sincere and necessary an action may be.

While it has not been possible within the limits of my study to determine that amount of soils with high multiple use potential which have already been removed from the needs of planning, I did intensive work in one county to demonstrate the falibility of general inventories to the actual state of the land. Yamhill County was used as the example for three major reasons. First, by its very location in the Willamette Valley its soils are being considered equally as a resource or a commodity. Second, all of the Class I, II, III, and IV lands have been tabulated in units of 5 acres or better and are being taxed according to their capabilities. Third, the area involved is small enough to be thoroughly studied. Certainly, the complete cooperation of the county planner, soil conservation office, county assessors office and the appraisers were of fundamental importance. All of the eastern part and any other valley land in the county of less than 12% slope was totaled, township by township, section by section, tax lot by tax lot. The acreages were organized by capability classes of tillable land in greater than 100 acres per tax unit, 50-100 acres units, 20-50 acre units, 10-20 acre units and 0.1-10 acre units. This part of the county totaled about 40% of the

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county's area but is already divided into more than 6700 units 5 acres or over in size. The assessors office is very active in the consolidation of tax units and in a spot check of a few units it was found that their estimate that 90% were consolidated was quite conservative. In other words, while fields appear spacious and available for land use planning, it is in reality not economically feasible to do so without very careful and time consuming analysis. For instance, the General Soil Map with Soils interpretations for Land Use Planning tabulated 7,130 acres of Class I soils where this study shows less than 1400 acres. This is less than 20% of the amount considered and that amount is divided between more than 50 owners. Total Class I, II, and III soils were about 115,000 acres which is about 2/3 the amount shown in the 1970 publication. However, these 115,000 acres are divided into more than 4000 tax units. Of these 4000 units, more than 1000 have less than 10 acres of tillable soil. While all units under five acres in size were considered as rural residence units and not liable to much further exploitation, they would be included in land use plans. Generally speaking, the owners of these parcels are not large developers nor speculators. While it may seem that this report is against a general land use plan, that is not the intention. If anything, this report magnifies both the problem and the complexity of the problem. It is very possible that upon investigation, problems of this type are far greater in Marion, Clackamas, Washington, Lane, and other counties.

It might be well to look toward and take advantage of the experiences in land use planning of another State of our Union. The State of Hawaii has been working with land use planning for nearly 12 years. During a recent discussion with Dr. Harold L. Baker, Director and Land Economist for the Land Study Bureau, Hawaii and Oregon were found to have much in common in relation to lands and their use. The island of Oahu has the greatest problems with population pressures

where land is treated as a commodity, as it oftentimes is treated in our Willamette Valley. Other areas in Hawaii as in Oregon are too mountainous, too dry, or too wet to manage well with the exceptions of spotty, very fertile areas. Hawaii has generally found that their basic objectives are as important and valid now as they were when enacted in 1961. These objectives were "to protect and preserve the limited land resources of the State while encouraging development best suited to the public welfare, and to use real property assessment methods in a complementary way". They view their lands as a scarce, and perhaps their most scarce economic resource. One significant difference lies in their manner of classification of lands. They have established four major land use districts into which all lands of the State were placed: urban, rural, agricultural, and conservation. Their urban district definition provides that: "in the establishment of boundaries of urban districts those lands that are now in urban use and a sufficient reserve area for foreseeable urban growth shall be included". Rural districts are "areas of land composed primarily of small farms mixed with very low density residential lots, which may be shown by a minimum density of not more than one house per one-half acre". Without such a provision in our act the presence of the multitudes of potential 'non-farm' units may make the offices being established quite untenable.

Another important action by the Fourth Legislature of the State of Hawaii (1968) was to request the Land Study Bureau "to study and evaluate the feasibility of utilizing compensable regulations for land use and development purposes. The problem of preservation or reservation of privately owned property or open space should not be treated lightly but should be a part of any comprehensive plan. Senate Bill 441, 60th Texas Legislature, 1967, partially covers the problem as it pertained to their State.

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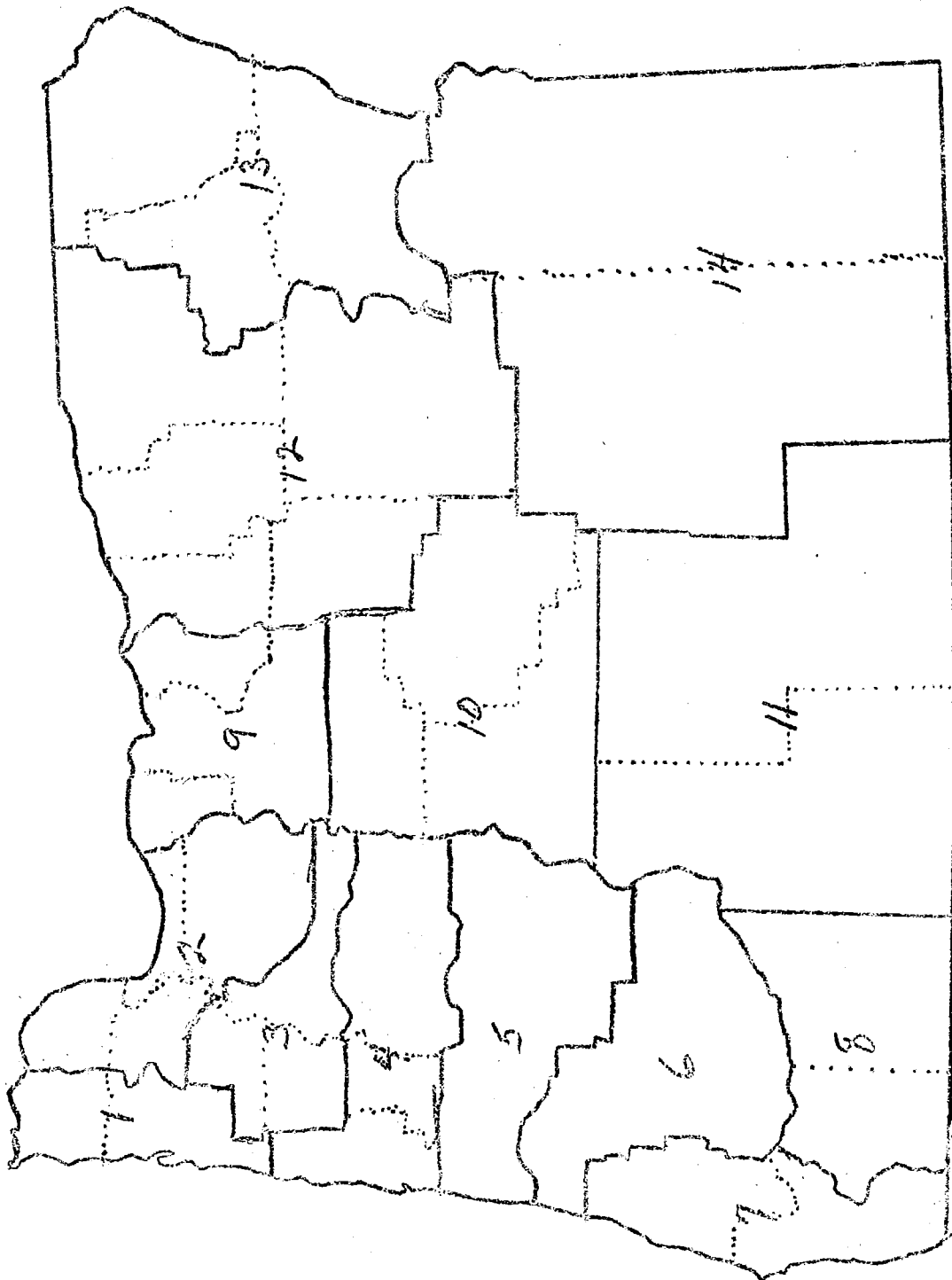
Those of you who make up this Committee realize that this thesis will most likely be no better^{received} than the Senate bill in discussion now. However, the examples were selected with care to partially expose the magnitude and diversity of physical conditions which exist in our State. It is our obligation to fully understand new goals in land use planning before initiating them to be sure they will not become inept and unwieldy by their very being.

Respectfully submitted,

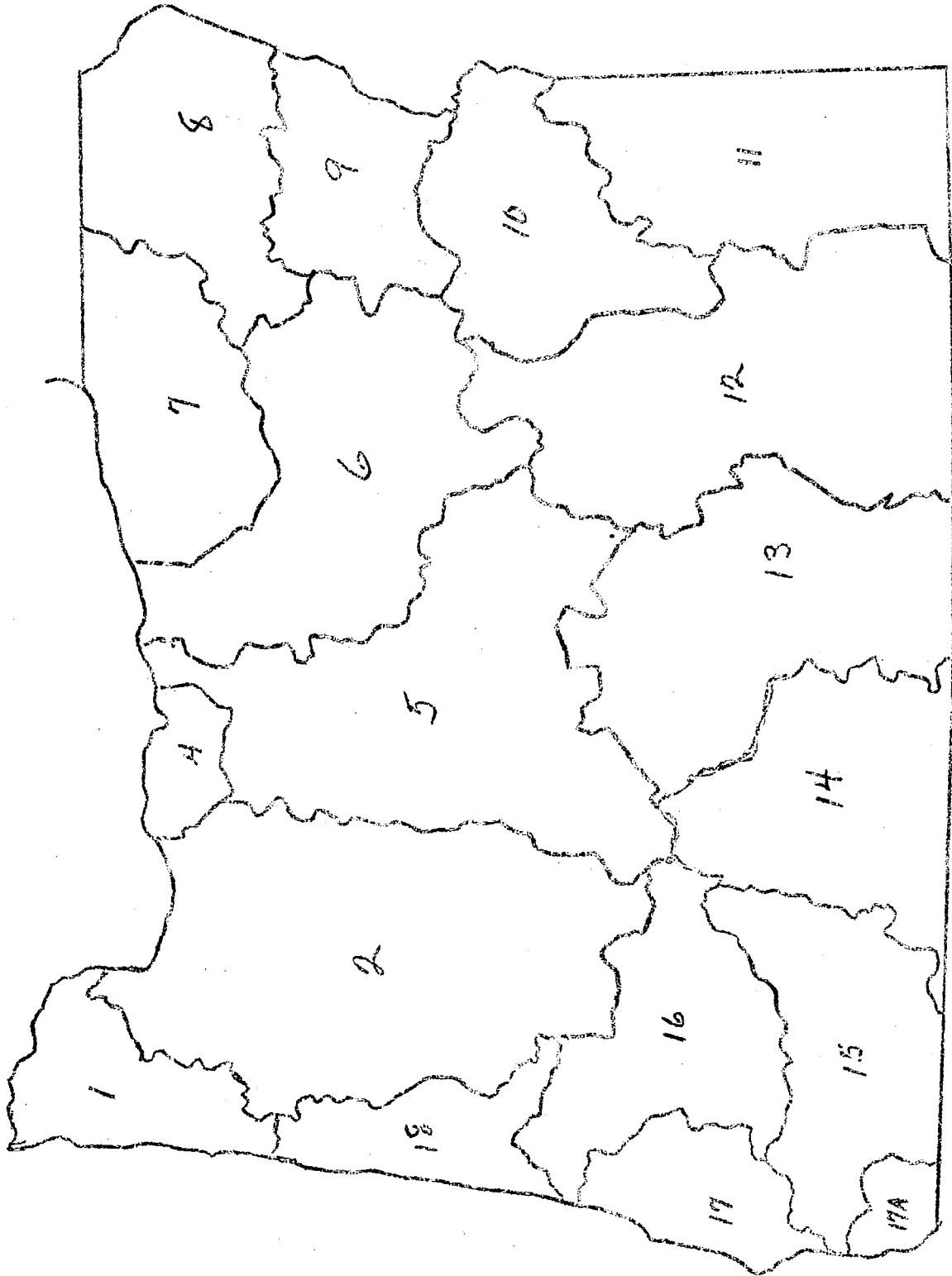


Don J. Karr
February 12, 1973

PROPOSED PLANNING DISTRICTS



OREGON DRAINAGE BASINS



- 1 River Basins
- 2 North Coast
- 4 Willamette
- 5 Hood
- 6 Deschutes
- 7 John Day
- 8 Umatilla
- 9 Grande Ronde
- 10 Powder
- 11 Malheur
- 12 Owyhee
- 13 Malheur Lake
- 14 Goose & Summer
- 15 Lakes
- 16 Klamath
- 17 Rogue
- 17A Umpqua
- 18 South Coast
- 18 Chetco subbasin
- 18 Mid Coast

February 12, 1973

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Statement on SB100
Senate Environment & Land Use Committee

S. ENV. & LAND USE COM.

I am Dorothy Anderson, legislative chairman of the League of Women Voters of Oregon, here tonight to speak in support of SB100. The need for comprehensive area-wide planning has been demonstrated to League members time and again as we have carried out various studies over the years. Our positions on water resources, air and water pollution control, environmental quality, and regional growth speak again and again to the need for coordinated long-range planning to achieve the goals we see as desirable. Thus we wholeheartedly support the concept and objectives of SB100.

Probably the most important aspect of this bill is the establishment of guidelines for comprehensive planning at the state level. Without this framework the regional and local governmental units often find themselves working in a vacuum. The coordination of the policies and activities of the various state agencies both with each other and with local government planning efforts has long been needed. Too often state agencies and local governments have found themselves working at cross purposes to the detriment of the public good. League members also recognize that our non-renewable resources are of special concern to the public as a whole, not just those in one small area or group, and therefore should be subject to overview at the state level. Our positions speak specifically in this respect to the protection of our rivers, coast and estuaries.

In response to a recent questionnaire, Leagues from throughout the state commented that local governments too often are unable to do an adequate job of comprehensive land use planning. Half the Leagues either were in areas that had no comprehensive plan or considered the plans they had inadequate. Another frequent criticism was the unwillingness or inability of their local governments to withstand pressure for development. One League said that in its area developers are "leapfrogging jurisdictions to get the most lenient restrictions." Another League cited a proposed shopping center as an example of "need for regional or state involvement in land use planning to help local governing officials withstand local pressure groups." A third League mentioned great problems in land use because of "septic tanks and developer pressure."

Another important aspect of SB100 to League members is the inclusion of district planning councils in the overall planning process. League members recognize that as with air pollution, which cannot be contained within a single jurisdiction's boundaries, so also the control of urban sprawl requires a cooperative effort by all governmental jurisdictions within a region. As strong advocates of citizen participation, we favor keeping responsibility at the lowest effective level. District councils serve as an important intermediate step between the local governments, which generally have demonstrated their inability to cope with growth problems by themselves, and the state, which is too far removed for citizen participation to be truly effective. This is not to say that we believe that all of our COGs are functioning as they should. In the survey mentioned above only a very few Leagues expressed complete satisfaction with their COGs. The majority saw definite need for improvement in their COGs structure or procedures. But no League said its COG should be dispensed with; even the less satisfactory COGs were performing some valuable service that the Leagues felt

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would not have been performed without them.

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Our support of SB100 does not mean that we consider the bill flawless. We particularly should like to see citizen participation written more specifically into the bill. Some ways in which this might be accomplished would be to require:

Mandatory public hearings in the affected areas as plans are being developed at all levels - local, regional and state.

Citizen representation on the district planning committees. At least one of the 5 members of the Land Conservation & Development Commission to be a representative of the citizens of the state and not of a special interest group.

We also think that more provision for enforcement would be desirable and that a clearer delineation of the lines of authority and division of responsibility among the various levels would be helpful. Following are a few specific suggestions for your consideration.

Page 3, line 9: To make citizen participation a part of the policy statement, we suggest adding after "state levels", "after adequate opportunity for citizen review and duly publicized public hearings."

Page 6, line 11: After "committees" add, "that includes a substantial proportion of informed and concerned laymen."

Page 7, line 6: Make subsection (8) subsection (10) and insert "(8) Enforcing by necessary means compliance with statewide objectives and regulations.

(9) Enforcing compliance with local comprehensive plans if such is not carried out in a reasonable time by the local governmental jurisdiction."

Page 10, Section 21: Here we should like to suggest that there be a certain percentage of public representation also on the district planning committee, either appointed by the member governing bodies or perhaps elected proportionally by subdistricts within the district.

Page 11, lines 6 & 7: After "districts" add, "that include citizens representative of various segments of the community" and delete "as necessary".

Page 12, line 3: Change subsection (2) to subsection (3) and insert "(2) Involve citizens in the preparation of these comprehensive plans and provide for adequate public review before their adoption."

Page 12, line 3: In the present subsection (2) after "enact" insert "and enforce by appropriate means".

Page 20, Section 40: We should also like to see provision for class action in this section.

Page 34, line 3: Insert before subsection (2), "(f) Recommendations for necessary legislation needed to enforce statewide policies."

In spite of the flaws in this bill we believe that the need for preserving the livability of our state for present and future generations should be of overriding concern. The frightening speed with which development is taking place in many parts of Oregon and the seeming reluctance of many local governments to withstand the pressures for undesirable development dictate fast action. In Oregon we are now forced to face the stark fact that land is a limited resource. Once we have used up our few precious acres, we cannot create more. We believe that SB100 can and should be developed into a desirable tool to help improve and coordinate local, regional and state land use activities. We must not continue to despoil our legacy to future generations.



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CORPORATE OFFICES

2100 S. E. MILPORT ROAD, PORTLAND, OREGON 97222 TELEPHONE: 503/654-6531

THE SENATE ENVIRONMENT AND LAND USE COMMITTEE
OREGON LEGISLATIVE ASSEMBLY - 1973 REGULAR SESSION

Statement of John D. Gray, 11510 S. W. Summerville Avenue,
Portland, Oregon, in support of Senate Bill 100.

February 12, 1973

Mr. Chairman, distinguished members of the Committee:

Although on Omark stationery, this statement is written primarily from my interest in Senate Bill 100 as a developer, and secondarily as a corporate executive. As a developer, I refer to my experiences of Salishan, Sunriver (a new free-standing town), Sunset Science Park (a planned research and development park adjacent to Sunset High School, Beaverton) and Johns Landing (a private urban renewal project in Portland creating a new waterfront village within the city). As an industrial corporate executive, I speak from Omark's experience in planned industrial parks here and in other states and countries.

This exposure and concern leads me to offer you my wholehearted support for intelligent land-use planning as provided by Senate Bill 100. We cannot go on willy-nilly in our thinking about how we use our land or we will end up with a big uncoordinated mess, as has happened in many other areas. This 1973 Legislature should take positive action now and not wait until 1975.

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Other states' histories, and our own, in land-use planning ^{are} well-known to you. It's a topic receiving much national attention. I commend to you an article in the February 2, 1973 issue of The Wall Street Journal entitled "The Unsolved Problems of Land Use." I urge you to read a series of six full-page stories written by Robert Kahn, and published during January 1973 in the Christian Science Monitor. These all lament the lack of land planning and accompanying tough laws to make the plan work. At this point, I would like to offer copies of this material for the record.

I have attended most, if not all, of the Governor's various conferences on land planning and I have heard many comments and concerns expressed by many people of varied interests. Coming through it all is a concern for the proper treatment of private property and the ability to make the planner responsive to the voter.

I believe Senate Bill 100 does this to the degree feasible as it establishes the framework for planning and gets us started on our tough problems. It leaves the thorny problem of proper compensation for changed values of private property to subsequent legislation. I believe it makes the planners responsive enough by using the district or council of government system. If there are abuses, voters will be quick to make corrections. Broad planning needs some isolation from the day-to-day pressures of politics and selfish interest. If the planner is too responsive to the perceived selfish needs of any one land owner, you wind up with no plan at all.

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Another strong reason for supporting the district system is that many planning problems are broader than just one county and often several should be working together on a common, coordinated approach. Obviously, there are different approaches, but it takes great skill and a lot of time to make it work on a voluntary basis. Let's not leave it to chance and good luck!

I urge that all state and federal agencies be subject -- to the extent that it is constitutionally possible -- to the planned controls and policies of this bill just as are the planned acts of a private person. For example, a new highway can have great impact, depending on whether it is with or without limited access, on any community.

I like the concept of designating areas of critical state concern. One perhaps could argue with the original listing but I'm not sure I could improve it. As it stands, it would affect two projects of mine. The estuary clause and the 1,000 foot band would affect Salishan Lodge high on a bluff and a portion of undeveloped land east of the highway. At Sunriver we are surrounded on three sides by the Deschutes National Forest so we apparently would need clearance to develop within a quarter mile band which includes many valuable acres.

Developers, both public and private, need prompt definitive answers, as "time is money." Delays and stalls are extremely costly. The ground rules

and procedures must be clearly spelled out so that any property owner can easily ascertain what he can and cannot do. I urge that these needs be carefully considered in this and subsequent legislation.

I do not have the fear that the local level of government is losing its authority to a district or state level regarding land planning. I believe the intent and purpose is to encourage the local cities and counties to continue to do, in fact do more, work in zoning and planning. It is not the intention of higher and larger bodies to get specific about what happens in a particular suburban or downtown block. Rather, I envision the guidelines and policies adopted at the state level will be urging that the citizens of a community decide what they want and that they have considered alternative plans and are aware of the long-range impacts.

The thrust at the state level is to evolve state-wide planning guidelines which are subject to public hearings. Section 43 of the bill is very explicit in requiring consideration of the work already done by local groups; thus input by affected citizens is assured.

It seems to me that the crux of the entire matter being talked about by opponents and proponents is not whether we are going to have planning, but rather what kind. I'm convinced we are going to have planning and that we need planning. To me Senate Bill 100 provides the structure for us to proceed in an orderly manner and still allows us to question and even reject guidelines which will be developed.

I think our nation and our state have evolved to the point that the majority of our population has sufficient concern about future land-use which requires sound planning now. The longer we delay, the worse some of our problems will become. There is a higher public conscience which is saying that we can't always do with our property what we thought we could do ten or fifteen years ago. Those old expectations become fixations because we didn't have coordinated planning back then. I urge adoption of Senate Bill 100.

Respectfully submitted,

John D. Gray

The Unsolved Problems of Land Use ¹⁸⁶

By DENNIS FARNEY

WASHINGTON—It is a curious paradox.

And as author William H. Whyte has noted, it seems to reoccur every time the urban planners unveil another hopeful attempt to reconcile Mammon with Nature, and growth with the American landscape. The occasion is marked by a cheerful luncheon of civic notables. There are bright maps, convincing narrations by urbane planners, and always, there is the paradox.

For the plans always call for "the most sweeping exercise of governmental power over commercial and business interests," Mr. Whyte noted in his book, "The Last Landscape." So why are these very interests invariably among the most enthusiastic applauders at the civic luncheon? "I am always amazed," he wrote, "at the euphoria" of such gatherings.

Maybe the euphoria is revealing, Mr. Whyte decided. Maybe everybody applauds the plan because nobody really expects it to accomplish much.

The plans "get everybody off the hook," he explained. "... [They] do not confront people with immediate and difficult choices. They vault over the messy present and near future. They take the big view. They make everybody feel bold." They offer, in short, the illusion of change without the consequences of change.

Maybe something similar happened in the U.S. Senate last fall.

There, in the last hours of the 92nd Congress, Senators passed the National Land Use Policy and Planning Assistance Act of 1972. Congress then adjourned before the House had acted. While the Senate debate was hardly euphoric, there was something curiously muted about the way this bill moved through committee hearings and out onto the Senate floor, a curious lack of intense debate both inside and outside the Senate. Curious, because on its face, the bill is a far-reaching answer to a problem of tremendous complexity.

It is the problem of preserving environmental quality in the face of inexorable urban growth that, by one projection, will consume the equivalent of New Hampshire, Vermont, Massachusetts and Rhode Island over the next three decades. "In the past, many land use decisions were the exclusive province of those whose interests were selfish, short-term and private," asserts the bill's primary Senate sponsor, Democrat Henry Jackson of Washington. "In the future . . . these land-use decisions must be long-term and public."

Encouraging the States

Accordingly, the Jackson bill would encourage states to assert zoning authority over key decisions of regional importance, thus reclaiming some of the power they delegated to local government decades ago.

Specifically, they would be asked to limit development around regional facilities like highway interchanges; to protect the integrity of "areas of critical environmental concern" like wetlands and historic districts; and to pass on the location of such things as major new subdivisions and regional sewage treatment plants. It is a law that could affect more than 100 federal programs, all 50 states, some 90,000 units of local government and a whole range of public and private interests.

"This could affect the whole economy, from the guy who wants to preserve every blade of grass to the guy who wants to develop every blade," says a Washington environmental lobbyist who favors the bill but is frankly awed by its implications. "My God! this is going to be a new ball game!"

It could be, given the way that land use is inextricably bound up with social, environmental and economic concerns. "Land use," a Senate committee report has observed, "frequently is the ultimate issue over which conflicts concerning national goals are decided."

So why has there been so little conflict

over the bill itself? Why is everybody applauding at the civic luncheon?

For the Jackson bill is supported by a remarkably diverse collection of interests: the Sierra Club and the National Association of Home Builders, the White House and the AFL-CIO, the Friends of the Earth and the Forest Industries Council, The New York Times and The Wall Street Journal to name a few. Is it really possible to get this diverse assemblage together under one tent without compromising the bill into impotence?

It is if the bill is carefully drawn, argue both administration officials and aides to Sen. Jackson. They say the important thing about the bill is that it doesn't prescribe solutions from Washington. It is neither conservation-oriented nor development-oriented; it simply establishes a process by which each state may reconcile one to the other in the state's own way.

The central notion of the bill is that land use planning can be "a way of balancing development and preservation demands," says Steven P. Quarles, the Senate Interior Committee counsel who had a major hand in drafting it. The federal task right now is to encourage states to build this mechanism. Some federal guidelines to the states already are emerging piecemeal in other legislation, and more will be necessary later. But right now, "we just are not all-knowing enough to establish a set of balanced policies that would be anything more than the lowest common denominator."

In other words, once explained Presidential Assistant Leonard Garment, "the policy is to change the process because the process is the problem." Maybe this is a wise approach. Maybe states are so diverse in their needs and problems, maybe land use planning still so inexact a science, that Washington should give states the widest possible latitude.

But then again, maybe the Jackson bill is popular only because it focuses on the easy problem and vaults right over the hard ones. The bill is surely a step in the right direction. Yet maybe, unless Congress comes to grips with those tough problems, the bill will prove a disappointment to those who now expect basic changes in the way the nation uses, or misuses, its land.

The senate never fully came to grips with the tough questions last year, and the result was that some fundamental issues were hastily debated and resolved at the worst possible place and time, on the Senate floor during that body's hectic rush to adjournment. Two issues, in particular, seem certain to arise again this session.

The first: What penalties, if any, should Washington impose on states that refuse to take land use planning seriously?

Both the White House and Sen. Jackson wanted to penalize laggard states by withholding progressively larger chunks of federal highway, airport and other aid until they acted. But the Senate stripped the bill of any penalties, leaving only the lure of federal aid under the new program—authorized at \$170 million over five years—as an inducement to state action.

Even without sanctions, it's true, some states, like Vermont, already have moved aggressively to control land use. More will do so, one argument goes, as pressure intensifies.

Just the same, so: 16 knowledgeable people think it would only make sense to require all states to start planning at the same time, to anticipate problems before the pressure becomes unbearable. "The only real arena is the states," says former Interior Secretary Stewart Udall, "and the way to spur the states is through the kind of sanctions Jackson had."

The other question: Should Washington review the substance of a state's plan, or merely the process by which it hammered out the plan?

Both Sen. Jackson and the White House argue for a sharply limited federal role. If

one state defines its "areas of critical environmental concern" one way and another state another, this should be of no concern to Washington. If one state's plan is heavily weighted toward development and another's toward conservation, so be it.

Federal substantive review is "simply bad politics," says William K. Reilly, a land use planning expert who helped draft the administration's position. "We wouldn't have gotten Senate passage if we had said, 'Don't develop your wetlands, don't develop your steep slopes,' and so on. That's simply not a solution that anybody would accept."

So the Senate-passed bill would limit Washington mainly to making sure that each state's "process" is open and democratic, and that the state is really gearing up to carry out its plan. As for "policy," the act would simply encourage planning "in accord with sound ecological, economic and social values," the "wise and balanced" use of resources, and other generalities.

The Critics' Case

Sen. Muskie and other critics say this is no policy at all.

"The bill would establish a bureaucratic maze unequalled in the history of the federal government, all of this to implement a policy which, in fact, is nonexistent," argued Thomas C. Jorling in a letter introduced into the debate by Sen. Muskie. ". . . It is infinitely preferable to have Congress say what it intends rather than simplistically assume a federal bureaucracy can somehow translate nothing into something."

Mr. Jorling, formerly minority counsel to the Senate Public Works Committee and now director of environmental studies at Williams College, noted that Chairman Russell Train of the President's Council on Environmental Quality supports the Jackson bill. Mr. Jorling continued:

When the Senate solidly rejected Mr. Muskie's proposed guidelines, he voted against the Jackson bill. The guidelines, however, foreshadow the kind of questions almost certain to rise again. They would have:

—Barred any development that failed to conform to existing federal air and water pollution laws;

—Barred development of flood plains, "except where no alternative exists";

—Sharply restricted development of "agricultural land of high productivity," as determined by the Department of Agriculture;

—Favored, as a general policy, redevelopment of existing cities over new development in natural areas.

Valid objections can be raised against such criteria, of course, and even Sen. Muskie presented them only as general concepts to be refined in debate. Much of the Midwest, to take just one example, is "agriculture land of high productivity"; is Mr. Muskie proposing to bottle up Chicago inside its present boundaries? Applying the guidelines could be a very complicated business.

But this, really, is the point: land use is complicated. Any attempt to change existing patterns is going to jangle a vast web of public and personal habits, plans, expectations, hopes and fears. A remarkable cross-section of society seems to agree that the web ought to be jangled, that today's national land use patterns are wasteful and destructive and ought to be changed. Doesn't it then make sense to thrash out some national guidelines for change in congressional debate?

It would be easier, certainly, to simply establish a "process" and let others grapple with the question of substance; a civic banquet, after all, is more pleasant than a noisy town meeting. Yet a town meeting accomplishes things that a banquet does not. For when a town meeting ends, real decisions have been made and real things happen as a result. And in the end, it can be argued, reality is more satisfying than illusion.

Mr. Farney is a member of the Journal's Washington bureau.

There's no such thing as a free lunch

By Robert Cahn
Environment editor of
The Christian Science Monitor

Washington

"IT'S A NATIONAL DISGRACE," says one congressman. "It's a quasi-legal racket with a license to steal," writes a Connecticut woman in a complaint to a federal agency.

The object of their disaffection, and of a growing number of citizens, is the multi-billion dollar installment land-sales industry in which undeveloped rural or wilderness land is sold for second homes, recreation homes, retirement homes, or for investment. Stories of disillusionment, told in complaint letters, are arriving at the rate of 250 each week at the federal Office of Interstate Land Sales Registration (OLISR) in the Department of Housing and Urban Development (HUD).

"I purchased three acres . . . near Albuquerque two years ago," wrote an Arlington, Va., woman. "When I flew out to inspect the property, the salesman said the whole area would be built up in two years and I would be able to sell and make a profit. So I bought seven more acres. I have it now more than half paid for but it is a vast desert and the building activity is still 10-15 miles from my land with no sign of any possible habitation. I have sunk my life savings into this property and the monthly payments are draining me financially."

A young Illinois couple who wrote to ask Ralph Nader's Public Interest Research Group to look into their problems with a developer expressed a widely felt despair. "I suppose we could build if we didn't need any water, gas, electricity, or sewer," wrote the wife. "None of the salesman's promises have materialized and our dream is turning into a nightmare."

Vital questions

Beyond the financial loss it inflicts on individual buyers, this land boom by built/hood in having major impact on the land itself and on the environment.

Decisions about where millions of Americans should be encouraged to migrate are left to land speculators while states and localities give up by default any public say in land use or growth policy. Few public authorities are yet asking the vital questions: Should a new community be placed in a certain place just because one individual has been able to assemble a large tract of land cheaply? What alternatives have been considered and by whom?

The average nearby resident does not know or question until too late just what effects a new development may have on his life or on his taxes.

Few question what provisions have been made to see that the development satisfies the growing environmental conscience in the nation. Does the land have sufficient water to supply the development without depriving neighbors of their supply? Can water pollution be prevented? What irreversible environmental changes will be made to the land? And finally, or perhaps primarily, is this land that should be preserved intact for future generations?

Once centered in Florida, where in the 1920's the sale of lots under water became a national joke, the industry has boomed along with an affluent and mobile American

chased and built in a small core area of the 51,000-acre development.

Cape Coral residents have fared reasonably well, although the amount of building, 6,000 homes in 34 years, is far behind projections.

However, thousands of other buyers from all parts of the nation who purchased land several miles from the core area still cannot build if they want to because of lack of roads, sewers, and utilities. And they find that instead of their original \$3,000 to \$5,000 lot having doubled or tripled in worth during the 7 to 10 years they were paying on it, plus paying interest, as they thought would happen, it appears to be worth much less than when they bought it — if they could find a purchaser.

Gullibility faulted

Those who buy on the 10 percent down, long-term deals are at least partly responsible for their own predicament. Their ranks are heavily sprinkled with lawyers, doctors, dentists, and merchants, as well as relatively low-income wage earners, pensioners, and young couples starting out. It is hard to understand how normal citizens who might ponder for weeks and carefully check comparative values before deciding on a \$300 television or refrigerator, can at one free dinner after a 30-minute sales pitch and with no time to think it through, sign a contract committing themselves to a \$10,000 investment in land 3,000 miles away.

Perhaps it can be explained when one looks more closely at the slickness of the sales promotions, as will be done in a later article, and considers the normal reliance of most Americans on "money-back" guarantees.

But basically the lack of sales resistance by many people to this land-booming spree can be traced to the hoped-for fulfillment of dreams: the dream of the landiness to own a piece of America; the dream of the city-bound to get into the wide open spaces; the dream of the Reno casinos or even at spots Americans sunshine living in Florida or the Southwest;

Land Buyers Guide — 1: Beware of gifts

When you are approached by someone — on the street, through the mails, or on the phone — offering you something free in exchange for a few minutes of your time, remember the first rule of the prudent consumer: "There is no such thing as a free lunch."

It may be an offer of a gift, a meal for two, a Las Vegas show, a low-cost vacation, a boat ride, a bargain, a discount, a promise of quick profits. It may not even mention that the purpose is to promote installment sale of remote land. But there is always some gimmick.

No business can operate for long giving things away. The consumer always pays for whatever appears to be free. And if the salesman says, "you can get \$200 off if you sign today," you can be fairly sure the selling price already has been raised \$200 to take care of this.

and the dream of making it rich by investing in land. Too often, however, the dream is only an illusion.

Need for regulation

Although most of the major developers and many smaller ones are attacked in the complaints received by federal and state agencies over the past year, some of the companies do keep all their promises, control their sales material, and satisfy their buyers. But when an industry is unable to regulate itself, as has been the case with this one, the stigma of the unethical tends to rub off on all. The latest association in the industry, the American Land Development Association (ALDA), which represents about 500 developer-land-sales companies, last summer adopted a 10-point code of ethics which took a stand against false advertising, declared for environmental objectives, and even renounced the doctrine of "buyer beware" in favor of on-site inspection and full disclosure.

ALDA has no real control over its members. Three days before the ALDA's annual convention last October, it was embarrassed when the federal government announced grand jury criminal indictments alleging misrepresentation and fraud at a Georgia subdivision whose developer was a member of the ALDA. One of the company officers named in the indictment was then serving, but now has resigned, as chairman of the board of the ALDA.

No one knows how extensive the installment land-sales industry is. Some observers estimate the amount spent on raw-land purchases, excluding urban subdivision land, to be in excess of \$5 billion a year. And this probably is low.

GAC Properties Inc., which was having financial problems and lost money in 1971, sold land to 25,307 purchasers during the year and ended the year with \$14.8 million in contracts receivable.

The estimated number of developers given by the ALDA is "in excess of 10,000." Land sellers are required to register their developments and disclose certain facts with HUD's Office of Interstate Land Sales Registration (OLISR). The agency at present lists 4,431 subdivisions from about 2,600 developers who have land to sell in 49 states, all except North Dakota.

Many companies qualify for exemption from the federal law which requires registration from companies with more than 50 lots, or when all lots are five acres or larger, or when the seller contracts to erect a building on the lot within two years.

Disturb voiced at HUD
"I don't trust any of the figures about numbers of developers," says HUD's tough, aggressive Interstate Land Sales administrator, George K. Bernstein, who has just completed 17 hearings in major cities around the country to listen to complaints of citizens. "The hearings showed that many, many developers have not bothered to register," he adds. "We are going to try to track them down."

Florida has the most subdivisions registered with HUD — 815 — and Albert L. Baker, director of the state's Division of Florida Land Sales estimates more than 500 developers are selling in the state, with about 200,000 new lots registered each year. Several large companies control more than 100,000 acres each for developmental purposes in the state.

California, with 561 subdivisions registered with HUD, may have the biggest annual dollar total in installment land sales. Boise Cascade sold more than \$300 million worth of lots at 18 recreational sites within the state over the past five years. California City, a subdivision in the Mojave Desert, covers 100,000 acres, with sales in excess of \$100 million. Arizona, New Mexico, and west Texas bear the bulk of new raw land development, especially around Tucson. Albuquerque, and El Paso, to indicate that their states are prime areas for retirement-home exploitation. One authority estimates that one million acres of Arizona have already been sold in remote subdivisions. And 461 subdivisions are registered with HUD.

Sales pitch aimed at GIs

Overseas, some of the same large developers are hawkling their wares to Vietnam soldiers on "rest and recreation" at Hong Kong, Bangkok, and several other Asian cities. The newspaper Stars and Stripes, in a series of articles published last month, estimated that U.S. companies sell \$30 million worth of land a year to American military and civilian personnel in Europe. Americans touring in Rome, Spain, and London are sold land in Florida and the Southwest, after being approached at tourist attractions or outside the American Express office with "free dinner" offers.

Europeans and South Americans, anxious to invest outside their countries, are purchasing, sight unseen, undeveloped U.S. land at prices they do not realize are highly inflated. In Norway, 97 citizens who invested several hundred thousand dollars in Florida swamp-land that cannot be built upon, now are trying to get their money back from a New York-based corporation with assets over \$100 million.

And in a reverse thrust, Americans are also taking the often large risks of buying land on installment in foreign countries. Developers have filed registrations with HUD to sell land in Mexico, the Bahamas, Spain, Israel, Canada, France, the British West Indies, British Honduras, the New Hebrides, Costa Rica, Ireland, Australia, Colombia, and Jamaica.

Although the amount of rural land being subdivided still appears to be on the increase, at least as can be measured by HUD registrations, many of the major developers and some smaller ones now are experiencing financial difficulties. A combination of factors hit the industry in 1972, putting many developers on the defensive for the first time, sharply reducing profits, and bringing promises of corrective measures against sales misrepresentations.

County and state governments imposed new restrictions. HUD's hearings, civil and criminal lawsuits against developers, and revelations by citizen crusaders produced a spate of publicity that turned on caution lights for many potential buyers.

And Congress began to rumble. Rep. Morris K. Udall (D) of Arizona, the congressman who labels the problem a "national disgrace," is preparing new legislation to tighten control of the industry. "Land-sales abuses are robbing future generations of their right to have a quality environment just for the benefit of a few speculators," says Mr. Udall. "We must act to stop this rape of the land before it is too late."

Tomorrow: The Environmental Challenge

Battling the bulldozer—the big land threat

officials, nearby landowners who would benefit from development, and other growth boosters. These interests are determined that the conservationists will not be allowed to block future expansion inside the park boundaries. They argue that growth is needed to aid an economy that is depressed in some areas. Also, more than one-third of the private land is owned by 626 large landholders, some of whom might want to sell their holdings to land developers.

In spite of some well-planned efforts, glamorous-looking "second home" developments threaten serious ecological damage across America as they attract hundreds of thousands of permanent or part-time residents to areas often ill-prepared to receive them. Second of six articles.

By Robert Cahill
Environment editor
The Christian Science Monitor

Adirondack Park, N.Y.

WHEN THE "VACATION HOME" land developer meets citizens who want to keep a park as a park, that is why controversy over a 24,345-acre slice within the boundaries of New York's 6 million-acre Adirondack Park has erupted into a national cause celebre.

That is why lobbyists for developers and citizens environmental groups vie to push their conflicting views on state legislators who must soon vote on a proposed land plan for the 3.7 million acres of private land within park borders.

Their conflict represents a tension felt across America as installment land-sales development projects threaten "instant urbanization" of rural or wilderness areas or preempt potential future conservation lands. This is forcing state and local governments to face two key issues:

1. How to deal with the growth policy and land-use aspects of potential new population centers promoted by large land sales developments in remote areas.
2. How to cope with immediate problems of pollution, soil erosion, water shortage, or ecological disruptions posed by the development plans.

Arms of friction

These issues are particularly troublesome in Florida, California, New Mexico, and the Pecos area of northwestern Pennsylvania, as well as in New York, where they now are so sharply in focus.

Last spring, the Horizon Corporation of Tucson, one of America's major installment land-sales companies, ventured into the ballgame to purchase the Adirondack site from a lumber company. The developer's plans were disclosed privately to officials from the neighboring village of Colton (population: 400) and St. Lawrence County. They included subdividing the property into 6,000 to 10,000 lots. Horizon expected an eventual population of more than 25,000. Some would stay the year-round. Most would be summer or winter-vacation residents.

The Horizon plan, plus another company's proposed 18,500-acre vacation-home development near Tupper Lake, also within the park boundary, brought conservation forces into battle. The Citizens to Save the Adirondack Park soon drew 2,000 members and hired one of the nation's top conservation attorneys to seek ways to halt the Horizon development.

On the other side are Colton village

dredged material is piled high above the natural level, the productivity is wiped out. The area often becomes almost sterile. Then, when the developers landscape the subdivision, a standard imported firm, the coconut palm, and acres of fir replace the indigenous oaks and pines or the dense mangrove and undergrowth, which had served as a filter. Many of the canals deadened in stagnant green water polluted by increased nutrients from fertilizers and sewage.

No natural impediments

A danger that may not be discovered until too late is the possibility of saltwater intrusion into coastal water supplies caused by extensive pumping to drain swampland for building sites.

"With no mountains or gorges, Florida has no natural impediments to man-made changes," says Joel Kuperberg, director of the state's Internal Improvement Fund, which controls state-owned lands. "Florida is like a big bag of silly putty," he adds, "and it is being reshaped irreversibly in the hands of the big subdivision developers."

The newest large project in Florida, the ITT Community Development Corp.'s Palm Coast, is producing environmental problems although the developer claims to have spent \$1 million on environmental planning, says ITT. It will not build on tidal wetlands, and is devoting much land to open space. Homes now are being built in an attractive, well-planned core set around canals. But most lots are sold in undeveloped sections. The 100,000-acre development accounts for one-third of the land in Flagler County. The current population of 4,500 people is overwhelmed by the 750,000 people projected by ITT when the development is complete. Neither state resource officials nor local citizens were involved in the original planning for the project.

Land Buyers Guide—2. Be environmentally aware

Even if the property looks appealing, before signing an agreement to purchase, home seekers should ask questions about water supply, sewage disposal, and other things that may be vital to a pleasant environment.

Will trees be saved? How much land is provided for open space? Is the property on a flood plain? If so, what safeguards are there against flooding? Is the house to be built on fill? How much will it cost for water connection? Is the water supply sufficient?

Sewage arrangements are especially important. Does the local county have laws banning or restricting septic tanks? They may allow them in the development today, but not in five years when density is higher and you are ready to build. If not satisfied with the answers you get, show the property report to your local environmental citizen leaders and get their advice.

Finally, try to visualize what the environment would be like in this new subdivision. Will the developer be able to sell all the lots and you had well-to-do neighbors, five horses to the acre, crowded recreational areas, and all the usual environmental problems you are seeking to escape.

Establishment of a company-controlled water district that would regulate sewage and drainage now is being contested by the state. The state and federal government are also concerned about the impact of 200 miles of canals planned by ITT. They have embargoed any further canal connections to waterways.

The state's department of pollution control is embroiled in hearings and controversy with four major developers and 30 smaller ones after having denied water certification for new subdivisions. The Deltona Corporation on Marco Island, Punta Gorda Isles, General Development Corporation at Port Charlotte, and GAC properties at River Ranch Shores have been denied permits. And Cavanaugh Leasing Corporation is selling lots and digging 33 miles of canals at Hoboken West, although it has not yet applied for water-pollution control certification.

Growth effects sketched

"We are having problems with 85 percent of the land sales developments that are adjacent to any water," says Bernard A. Barnes, certification officer for the Florida Department of Pollution Control.

The effects of unregulated growth on agriculture and small towns are most visible in central Florida near Disney World, where many urban subdivisions and rural installment land-sales operations have sprouted.

Land prices have shot up like a Cape Kennedy missile. With tax assessments escalating, farmers can no longer afford to keep their land in agriculture. This produces overnight millionaires, but it radically changes the face of central Florida.

For a town like Kissimmee, 15 miles from Disney World, 1970 population, 7,119 present total according to the chamber of commerce, is evolving with little increase, so far. In tax revenues, A newly started 20,000 kw. electric power plant, expected to meet the town's needs for years to come, is already inadequate.

Meanwhile, in California the state's Division of Soil Conservation reported in 1970 that 500,000 acres of land had been carved up in foothill subdivisions during the previous five years, resulting in polluted streams, loss of fish and wildlife habitat, severe erosion, and sedimentation.

At Lake Tahoe, shared by California and Nevada, one developer was halted by court action because construction activities were causing erosion and polluting the lake. And largely to pressure from proposed subdivision developments in what was wilderness a few years ago, the Tahoe Regional Planning Agency drastically restricted future growth by dropping the zoning limit by two-thirds. Instead of the planned 700,000 daily limit for daily use of the 200,000-acre Tahoe basin by residents and recreation visitors, the agency has set building regulations to keep the maximum daily use at 216,000.

Damage identified

A report on a coastal area near San Francisco by two expert geologists and six other scientists says that the state's Marin Property is "subject to very active landsliding." They strongly suggested that the planned development would be unwise.

cessful. They advised that "some of the proposed buildings and roads will eventually slide down the bluff toward the sea."

A 1970 "memorandum of facts" by the California Environmental Quality Study Council, an advisory group to the governor, stated that in one area, Nevada County, 180 miles or 37 percent of the stream mileage had been damaged by siltation, stream bank alterations, and domestic waste discharges resulting from subdivision development. The study council also said that much of the land being subdivided is deer winter range already in critically short supply.

Water availability

In the Shelter Cove subdivision in Humboldt County in northern California, the council said, roads, drainage ditches, and some utilities were washed out by heavy rains and required replacement by the county soon after all the lots were sold at a cost to taxpayers of \$2 million.

In New Mexico, the availability of water has been a central issue. Experts estimate that, given the present demands for water, the state's supply can only support 850,000 people without taking away from farming or industry or without tapping exhaustible groundwater. The population now is 1 million, and more than 1 million acres have already been subdivided in remote areas. Sales of New Mexico lots for future building are being strongly promoted across the nation.

Whatever water is taken from underground to supply the needs of these developments will be at the expense of existing users. The Albuquerque City Commission recently voted to deny extension of water and sewage lines to any subdivisions outside of the city limits.

In the Pecos area, the relatively small, mountainous sector of northeastern Pennsylvania has become a mecca for out-of-state vacationers. An estimated 35,000 to 40,000 lots have been sold at high prices for vacation homes, mostly to urban residents of New York, New Jersey, and Pennsylvania. Trees have been bulldozed mercilessly in many of the more than 100 rural land-sales developments. To make every lot accessible, roads have been constructed, often without regard for soil runoff and erosion. Small lots are frequently laid out four or five to the acre. Some are on steep slopes or in floodplains. Worse problems are yet to come when the lots are paid for and more people start to build.

Mostly septic tanks

A recent survey by Lehigh University showed that, among Pecos developers contacted, 89 percent said they supplied no sewers, thus forcing most home builders to use septic tanks. Yet the Pike County Soil and Water Conservation Commission says that the county's soils "are not suitable for septic-tank systems because of shallow soil conditions, light substrate, and a high water table. Erosion and excessive surface runoff are creating problems in most areas of development." And in Monroe County, state and township regulations now require satisfactory soil percolation tests before granting septic-tank permits.

In the Pecos area, as is the case throughout the nation, where remote land is sold for vacation or retirement homes or for investment, the environmental problems of a subdivision often directly affect the purchaser of a lot. The immediate or future environmental costs frequently are hidden from the prospective customer of installment land sales. This requires more stringent state and federal control of developers and consumers who are alert to find the truth before signing for a 10-year, \$10,000-or-more purchase contract.

Tomorrow: Tricks of the trade

When promises turn to dust

By Robert Cahn

Environment editor of The Christian Science Monitor

Washington, D.C.

FORTY-FIVE MILES WEST OF Atlanta, the lake bed at Treasure Lake is half dug out, a dam partially built, the golf course nearly complete. Along the streets, markers display names of lot buyers. But the sales office is out of action — at least temporarily.

Just outside of Santa Fe, sand drifts from piles placed near yet-to-be-built golf course greens at the new land development, Colonias de Santa Fe. Signs along vacant ground read: "club house" or "tennis courts." Lots on unpaved streets also show buyers' names. But here, too, the sales office is not selling. Near Cape Haze on Florida's Gulf coast, the fading billboard reads: "Portofino — Italian Riviera in Florida." Behind it, tattered flags, a few canals that lead nowhere, vacant streets, and two tennis courts. No sign of activity anywhere.

Evidence accumulates

In many other states the telltale evidence accumulates. Land developments are halted in midstride or have become dormant. Some have financial problems. Some are being sued by federal or state agencies or by citizens. Some have run afoul of environmental restrictions and cannot get necessary construction permits.

"The vacation home seeker who buys the future, not the present, has to be especially cautious," says Richard H. Helder, chief of enforcement for the federal government's Office of Interstate Land Sales Registration (OILSR). "However good intentioned and honest the developer may be — and unfortunately many are not — that is not enough. The value of what is being sold is based entirely on the developer's making good on his promises."

Many of these premature subdivisions differ basically from the new communities in which the developer first builds the lake, golf course, utilities, and improvements and then sells the lots or lots and dwelling units combined. Some vacation homestead developers use whatever capital they have to finance their promotional campaigns. They then use the down payments for salesmen's commissions. Thus they depend on cash flow from buyer's monthly payments to finance the promised improvements.

Companies listed

Mr. Helder lists some of the companies that have recently entered some form of bankruptcy proceedings:

The Wendell West Company of Seattle with large subdivisions in Washington, Arizona, Texas, Pennsylvania and New Mexico, Colchese College Park and Great Southwestern Land Company in Arizona, Four Seasons of Georgia. He lists operations that have been shut down because of lawsuits or for environmental reasons — Boise Cascade's 19 subdivisions in California and Nevada, Lake Havasu Estates in Arizona, Charnita in Pennsylvania, and Lake Winnebago in Missouri.

When a developer fails to deliver on his promises, either because of his own actions or due to factors he claims are outside his control, it brings disappointment and distress to purchasers. Every time federal officials have to consider taking an action against a developer, Mr. Helder says, they weigh carefully the potential harm to buyers against the possibly more serious harm that may come from not taking enforcement action, especially when it may mean hundreds or thousands of others becoming victims of a developer's mistakes or malfeasance.

Limits of the law

"The law provides only that developers fully disclose the facts of operation and use ethical practices," says Mr. Helder. "But when they continue misrepresentation or illegal practices after we have warned them, we have no choice."

"The Land Sales Registration Office, which administers the federal law, has been criticized for its registration procedures. The law itself is basically weak, requiring only disclosure of the pertinent facts. The developer is allowed to prepare his own property statement. OILSR accepts what the developer says, checking only the documents submitted. Admittedly, the small office, which must split its 60 people among registra-

tion, enforcement, and administrative duties, is inadequate to investigate all of the more than 4,400 subdivisions now registered.

This incomplete scrutiny of registration is used to advantage by some developers. They note in their advertising that the subdivision is registered with the Department of Housing and Urban Development, thereby giving it an unofficial aura of approval. Few readers know that the HUD property report stipulates that registration does not constitute a recommendation or endorsement.

Investigators hired

OILSR has received some praise for its enforcement activities, especially since the appointment last March of George K. Bernstein as administrator. Mr. Bernstein hired six ex-FBI men as special investigators to supplement the four staff investigators. He held public hearings in 17 cities to encourage citizen complaints. He has encouraged and assisted the Justice Department in starting criminal actions against flagrant violators of the act.

The latest case to result in a criminal conviction concerned two subdivisions south of Kansas City — Lake Winnebago and Lake Winnebago South. The developer, Robert V. Steinhilber, started a dam to form a lake. He sold 400 lots on "Lake" Winnebago, promising, and so stating in official registration records sent to OILSR, that a 304,000-gallon water tank and a water purification plant were under construction.

More than 160 homes had already been built by the time complaints began to arrive. These charged that neither the water tank nor purification plant had even been started. They also charged that all properties were being served through a single one-inch water line from a town seven miles away. At times water uses were restricted.

Developer convicted

When the developer also started Lake Winnebago South, he sold more than 300 lots, some on the edge of a proposed lake. Then the federal government obtained an indictment based on alleged false statements made to HUD. Last month, Mr. Steinhilber was

Land Buyers Guide—4: Know your seller

In buying land on installment you are buying the future. It is important to examine the record of the seller and see if he appears capable of making the future a reality. Find out if he has posted bonds or is putting part of the sales income into escrow to assure completion of the facilities promised.

What liens are there on the property? Are there protections for your investment in case the developer goes broke? Has he lot construction contracts for the work to be done?

When you visit the site, look at what has already been completed and judge his future standards by what he has done. Is the development well-planned, or is it all "front"? How candid are the answers you get about taxes, and future assessments? If answers are evasive, be wary.

Ask what happens when all the lots are sold and the developer leaves. Who will pay for the maintenance of the community buildings and roads? At what point will the property owners have to pay? What is being done with assessments paid by purchasers into a property owners association?

Before purchasing, contact others who have bought and see if they are satisfied with their deal. To find out if buyers have made complaints against the developer, contact local consumer organizations, the state real estate commission or consumer agency, or write to the Office of Interstate Land Sales Registration, Department of Housing and Urban Development, Washington, D.C. 20410.

convicted and given a three-year sentence. The case now is being appealed.

Meanwhile, the subdivider has been in bankruptcy proceedings for over a year. Home and lot owners are in a quandary. Buyers who built around "Lake" Winnebago won't have a lake until the dam is completed. That will cost more than \$350,000. They are hoping someone can be found to take over the properties.

In another case, Treasure Lake of Georgia has also run into trouble recently. There, the developer used television spots and other advertising showing people swimming, riding, and playing golf and tennis. The ads did not mention that the scenes were taken at another subdivision.

William and Cherry Siebert, a young Atlanta couple, visited Treasure Lake of Georgia in May, 1971. They were curious about the development. But they had no plans to buy land. Before they left, though, they were purchasers of a lot.

Buyer sues

"The salesman assured us that the lake would be finished within 120 days, the golf course and clubhouse within a year, the swimming pool soon," recalls Mr. Siebert. "We could buy a \$5,500 lot with only 10 percent down and pay it off in seven years. Meanwhile, we could use the golf, tennis, boating, and other facilities."

"He told us the lot would appreciate 35 percent annually. And if, at any time, we were not satisfied, Treasure Lake would sell the land for us at a substantial profit."

Mr. Siebert claims that during the tour the salesman had a two-way radio switched on which several times announced lots being sold that day to other buyers. This produced a feeling that, unless they acted fast, they would miss out. The Sieberts also encouraged his father to come out a few weeks later. The elder Siebert purchased a "lakefront" lot for \$16,495.

A year later, none of the salesman's promises had come true, says the younger Siebert, who, with his father, has filed a \$25 million class-action civil suit to void all Treasure Lake sales contracts, and collect damages. "Treasure Lake was still only a big hole in the ground with little construction activity, our sewer lines had not been started, no clubhouse or swimming pool had been built," William Siebert says.

Complaints filed

Other Georgians, and some buyers from other states, also became disenchanted with their land purchases. They complained to federal and state authorities. Investigations were started by the federal trade commission and by the federal Office of Interstate Land Sales Registration together with the U.S. attorney for the Northern District of Georgia. The FTC issued a proposed complaint in July, 1972, alleging that Treasure Lake of Georgia and its parent company, Great Northern Development Company, used false and misleading advertising and also violated the Truth in Lending Act while selling.

In October a federal grand jury in Atlanta issued a 22-count indictment, charging four corporate officers and eight salesmen with misrepresentation and fraud.

Listed in the indictment are false advertising, use of high pressure sales tactics, promises of completion dates that were never met, and preparation of plans for construction of water and sewer service for only 900 of the 3,600 lots in the subdivision.

The 2,000 lot buyers at Treasure Lake of Georgia may get their lake and at least some of what they feel was promised to them. Westinghouse Credit Corporation, which had been financing Treasure Lake and its parent company, has taken over control and now is working to complete the facilities substantially as represented to buyers in the property report.

Developer settles

On the other side of the country, Boise Cascade is trying to extricate itself from a much more massive array of lawsuits as it attempts to complete an out-of-court settlement of charges by the State of California, and by five citizen class-action lawsuits, all alleging fraud and misrepresentations. Boise Cascade had sold \$360 million worth of land in 19 subdivisions in California and Nevada. Yet according to the lawsuits and numerous complaints received by government agencies and consumer groups, recreational amenities and utilities were not completed in many subdivisions, or in some cases, not even started.

Last month, in a settlement proposal accepted by the litigants, Boise Cascade offered \$24 million to buyers who want cash refunds. It also offered \$34.5 million in maintenance and assurance of promised developments for those who decide to keep their lots. Now the company is seeking to get out of the recreation land-sales business. It would like other companies or associations of property owners to take over its projects across the nation.

Meanwhile, enforcement efforts by HUD's Office of Interstate Land Sales Registration has halted a number of other developers. Twenty-four companies agreed to voluntary

suspensions of sales for failure to disclose facts in their property reports. And 47 more were suspended after formal proceedings.

In addition to the Steinhilber conviction, two other developers were sentenced in federal courts. Edward L. Parker of Miami was fined \$5,000 for selling lots at two North Carolina developments without registering with HUD or providing property reports to purchasers. Charles G. Geotis of Danvers, Mass., was given a two-year sentence for fraudulent use of mails, for failure to file required details about land he was selling, and for selling lots by misrepresentation and deception.

Costs can skyrocket

In New Mexico, the Colonias de Santa Fe development now is halted because of environmental, legal, and administrative actions. These have been suspended by OILSR for misstatements and misrepresentations in their disclosure statement.

Also, the City of Santa Fe and the state say the developer has not complied with local ordinances. The availability of water for the development has been questioned. And a federal court of appeals in Denver has ruled that, even though the land is being leased from the Tesuque Indians, an environmental impact statement must be prepared before development can continue.

A number of subdivisions have been halted by state, local, or federal agencies on environmental grounds. While most of these suspensions are temporary, the costs of putting in the required environmental measures often may be more than an under-financed developer can afford. In any case, the delays may force increasing construction costs above what had been planned. As a result, lot owners may find themselves forced to pay large assessments to meet costs the developer had been expected to pay. Otherwise, the whole project may fail.

Despite protests from some developers that OILSR administrator Bernstein has been treating the land-sales industry unfairly, Mr. Bernstein shows no signs of stopping his outspoken opposition to the practices of the industry.

"I believe the idea that an agency such as ours should be an extension of the industry is all wrong," says Mr. Bernstein. "I feel we are in an adversary position with the land-sales industry. Our responsibility is to the people who purchase, not to the developers. And because the abuses of the industry are as widespread as they are, the consumers need all the help they can get."

Monday: What is land really worth?

What is being done about installment land sales

Ry Robert Cahn

Environment editor of *The Christian Science Monitor*
Washington

IN THE CRAMPED, SPARTAN OFFICES OF the Retired Professional Action Group, a cadre of retired citizens organizes to battle abuses by land developers across America.

Most of them had written to Ralph Nader's Public Citizen, Inc., asking how to help his work. They have signed on as members of a newly formed Nader task force that, among other things, will seek out evidence of illegal land-sales activities.

Meanwhile across town at the House of Representatives, Congressman Morris K. Udall (D) of Arizona seeks support for two proposed bills he has authored. The legislation would place added consumer and environmental controls on subdividers who are selling millions of acres of the nation's rural and wilderness land, including big chunks of Arizona.

And in Santa Fe, N.M., as a new session of the New Mexico Legislature opens, a block away, Sally Rodgers, Harvey Mudd, and Brant Calkins gather interested citizens at the Clearing House to plot strategy. They will try to defuse industry-lobbying efforts which last year narrowly defeated a strong bill to control and regulate the sale of subdivisions that now cover more than a million acres of the state.

These activities typify a growing undercurrent of resistance to the sales tactics and land-development actions of the installment land-sales industry. Many land-sales companies feel its pressure at their most vulnerable point, the case drawer, as prospective buyers become more cautious. Almost overnight windfall company profits have turned into huge corporate losses. Some elements of the industry now look inward and seek ways of correcting abuses and improving their public image.

New disclosure law backed up

Nevada, for example, has a new disclosure law augmented by stiff regulations on advertising and promotion. State real-estate administrator B. E. Hansen, with assistance from federal investigators, has been cramping the style of developers who have been using the Las Vegas gambling and vacation center as the location for their biggest off-site sales operations. Where a year ago 15 developers were running major operations out of sales rooms located just off of casino floors, only six companies now are operating. And the biggest seller, GAC Properties, Inc., has dropped from 11 sales teams to three.

GAC is the largest of the land-selling companies in terms of volume. It is the subject of much consumer and environmental criticism. Now it is in the midst of major changes, GAC officials say. According to Edward J. Wren, vice-president for public relations, the sales force has been cut from 2,000 to approximately 550, sales sessions are being monitored by professional investigators, and services of salesmen who engage in misrepresentation have been terminated. Instead of the former concentration on land sales (91 percent of the present sales volume), emphasis now will be placed on increasing home construction at GAC subdivisions. GAC's high-pressure telephone sales operation and vacation certificate programs have been eliminated.

Legislative battles now are shaping up in a number of states as conservation and consumer groups seek stronger controls. Generally, states have a long way to go. While 39 of them have some form of control over remote land sales, many vest jurisdiction in a real-estate commission dominated or heavily influenced by subdividers.

No states provide adequate manpower or investigative funds to land-sales supervisory organizations that are established. And no state yet has a model law in this field.

California leads the way

California now leads the way with its 14-day unwaivable right for buyers to cancel a land-sale agreement, its appraisal of fair value for out-of-state lots marketed in California (although it has no such requirement for California land), its requirement for surety performance bonds, and its framework for environmental controls by counties.

New York State law is strict on out-of-state sales. The inspection of proposed subdivisions is better there than in most states. And the state attorney general's office has been praised for its work in getting restitution for buyers victimized by misrepresentation.

Florida has a weak law. It gives little support or funds to its land-sales division. The 1972 state land-use law should help protect the environment when implemented. Warnings of most citizens not to tarnish the state's image in the land are not as yet reflected in political

action.

For its part, the federal government's ability to cope

with corporate, consumer, and environmental problems associated with the industry remains inadequate. The Federal Trade Commission, Securities and Exchange Commission, and postal inspectors work on a few flagrant violations of existing law but they are not equipped to discover or investigate most abuses. The Office of Interstate Land Sales Registration (OILSR) of the Department of Housing and Urban Development (HUD) tries hard to correct abuses. Its capability also is limited by size, budget, and legislative authority.

What can be done to correct some of the consumer and environmental abuses pointed out in previous articles in this series?

To protect the consumer, several actions could be taken:

- Passing a law for federal appraisal of "fair value" pricing for all lots to be sold in interstate commerce, similar to the California requirement for out-of-state land.

- Requiring developers to have surety bonding under federal supervision to guarantee performance of all proposed improvements.

- Requiring federal licensing of salesmen.

- Requiring prior approval of a developer's advertising by federal or state agencies, or restricting of advertising to those elements of a subdivision already completed.

- Providing a longer "cooling off" period that is nonwaivable, so that buyers can have an opportunity to think over their actions and cancel sales agreements made during a high-pressure sales pitch.

- Passing a law to give an individual the right to sue for himself and others in a class action regarding alleged fraud in installment land sales.

To protect the land requires difficult actions at many levels. The possibilities include:

- Provision that environmental-impact statements be required for all proposed subdivisions before any actions are taken by the developer to alter the natural resources.

- Provision that all zoning, dredging, draining, or sewage permits be in hand before any lots are sold, and that an adequate water supply be assured for maximum allowable density if people should build on all the lots offered.

Most needed, however, is a method for states to control location of subdivisions. This requires state and county land-use plans, and state and county officials willing to withstand the pressures from developers to get exemptions once plans are adopted.

A first step would be for Congress to pass the proposed national land-use policy act which would require states to inventory their natural resources and devise plans, under federal standards, to protect critical areas. As part of state plans, regulations should specifically require that all applications for remote subdivisions be in conformity with the environmental carrying capacity and the population-density criteria set by state and local governments.

Many other actions could be taken, but are not currently feasible. A change in tax structure to penalize those who speculate with land has been suggested. And formation of an independent federal regulatory agency just to control installment land sales is sometimes voiced but not currently being considered either by the administration or by Congress.

Clearly, in an industry where fraud and high-pressure tactics exist, the average citizen needs more than normal protection. But even more important is the urgency for environmental safeguards, not just because of laws prohibiting harm to the land, but because of a too-often-forgotten ethic: Man is a steward of the land. He has a responsibility to future generations to ensure that those who inherit the earth will have something worth inheriting.

LANE COUNTY

COURTHOUSE
EUGENE, OREGON 97401

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BOARD OF
COUNTY COMMISSIONERS

NANCY M. HAYWARD
~~KENNETH QUINCY~~
FRANK A. ELLIOTT

OREGON STATE ARCHIVES

February 12, 1973

S. ENV. & LAND USE COM.

Senator Ted Hallock, Chairman,
Environment and Land Use Committee,
Oregon State Senate,
Salem, Oregon 97310

Mr. Chairman and Members of the Committee:

At the outset I must say that I am no stranger to local government and especially county government and councils of governments. My involvement covers ten years as Lane County Assessor and four years as Lane County Commissioner. During the past four years I have been closely involved with the Lane Council of Governments, beginning my third one year term as its Chairman. L-COG is deeply involved in comprehensive regional planning -- total planning -- social services, manpower, economic development, parks and open space, criminal justice, transportation, natural resources, education, and many other areas of human needs -- everything that affects people and their environment.

When we speak of land use planning we must realize that what is done on the land affects all other aspects of community life. I get the impression from the news media reports that all testimony to date has come from a tunnel vision perspective. Nothing has been reported that indicates the comprehensiveness of planning. Most officials

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know of the imminence of a federal land use planning act, but few realize the existence of the Water Quality Act, the Rural Community Development Act, and the Coastal Zone Management Act. With or without state legislation such as SB 100, these acts alone will have drastic effects upon state and local government, and therefore private enterprise. The present rapid decentralization of the federal bureaucracy provides local government with the opportunity to recapture local responsibilities and decision making authorities lost over the past four decades of centralization.

By now, we should be aware of the pledge to decentralize the federal government -- returning the decision making authority of our domestic service delivery system to the states. Funds for program areas will flow to fifty states for local needs and use. The federal government then not only protects the rights of states, but also eliminates the red tape involved with dealing with several thousand units of local government.

Would it not then follow that states would also minimize this red tape of dealing with, in the case of Oregon, almost two thousand units of government. The states would have three alternatives -- (1) the slow process of restructuring local government, (2) voluntary associations of local governmental units (COG's), or (3) new state regional agencies.

At this point I might pose the question that no doubt has crossed everybody's mind, what does all of the foregoing have to do with SB 100? It supports my contention that previous testimony has been from a

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tunnel vision perspective. Senator McPherson and his ad hoc committee may not have realized it during their months of discussions, but in SB 100 they have laid a groundwork that can provide the impetus for local government to accept the responsibilities and authority that can be theirs in this federal decentralization process -- the first chance in four decades. From that standpoint alone, all of local government and state legislators should give strong support to the general concepts of the bill.

Legislation requiring state control over critical areas of land use has already been enacted by Congress and additional land use legislation presently in the mill will certainly become effective prior to another session of the Oregon Legislature and it will certainly require state sub-regional administration as does the aforementioned legislation. The question we face is not if we need state sub-districts to meet new requirements but what they will be -- state agencies, new regional governments, or voluntary associations of existing units of local governments. The state agencies could be the same as those that presently administer such services as mass transit and boundary commissions -- no elected officials. All are appointed by the Governor. Is this the type of local government our citizens want? Or do they want their present system protected?

Regardless of federal legislation the people of Oregon, through polls, the Governor's Land Use Congress, the Oregon Conservation and Development Commission, Project Foresite, local planning commissions, and the Western States Growth Conference have indicated a strong desire for dependable land use planning with citizen participation.

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They have indicated that state standards are necessary to insure against local weakness in dealing with pressures and emotional issues and controversies. The people of Oregon no longer regard land solely as a commodity. They view it as a non-renewable resource occupied as a stewardship for those who follow.

Local participation and local control of local regional problems can best be insured if the vehicle is set up now through state legislation. With federal legislation very probably ~~be~~ before another session, the Governor can use the local government regional association rather than a state agency in each region. A state agency is too remote where locals are concerned, even where the agency is located within the region.

The regional or district association of local governments are then also in business to do the regional planning for the other community service and facility needs, perform the A-95 review function, and administer state and federal grant funds for regional planning.

At this point I would like to suggest that the committee consider inserting the regional planning body defined in legislation presently in the legislative mill known as the COG Bill to replace the district planning council portions of SB 100. The COG Bill preserves the concept of presently operating COG's, defines their roll as associations of local governments for planning and coordinative management. They would have no taxing or implementing authority, but they would be legally constituted and required agencies.

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Next issue of concern to local government and private enterprise is the establishment of guidelines. There is a general feeling that guidelines should be established to define the parameters for the guidelines. To allay this fear it would be my suggestion that Section 44-1(b) be amended to put the revised objectives and regulations back through the process established in Section 44-1(a). We must all realize that this is a process -- a process that would be difficult to define guidelines for guidelines. We must have a cooperative attitude. We must depend upon the powers of persuasion both from local officials and lay citizens.

Section 21 mandates a fifty percent planning commission membership. This would impose too great a burden on planning commission members who are presently overburdened to the point of not being able to spend the amount of time on planning presently needed. Liaison with planning commissions is desirable and should be accomplished through other means.

If the proposed COG bill is not substituted for the district councils, Section 20 poses problems. First the choice of membership from City Councils, Boards of County Commissioners and Special Districts should be the decision of the policy bodies. The term of membership should not be limited, at least not at the end of their learning period. Subsection three implies the establishment of another level of government thereby compounding the problems of coordination and cooperation in our presently overfractured structure of local government. This section should be clarified if its intentions are only to call for a method of changing the representation of existing governments.

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Subsection 5 of Section 23 should be clarified to not imply taxing and implementing authority. It should state, "Provide any other planning and coordinative management services it considers necessary."

The heart of SB 100 has created its greatest opposition; that is Part III, Areas and Activities of State Concern. While the bill recognizes the need for a process to establish statewide objectives and regulations with local government and citizen participation, no such process was recognized for the determination of areas and activities of state concern. Recognizing the need for a beginning point, I would suggest that the Areas and Activities designated in Sections 31 and 32 be treated as interim or preliminary only, and that the hearing process in Section 44 be incorporated in Sections 31 and 32. This will allow the bill to be effective while providing a process for full public consideration and revision.

A final concern expressed by many who continually deal with governmental red tape is the vagueness of who can issue permits and where and what time will be involved. There are fears being espoused that all building permits will have to come out of Salem. There are fears that all zonings, rezonings, building permits, and subdivision reviews will have to run the gamut from local to district to the state commission. We all know this is not practical and not intended, but there is always the fear of a requirement through an AG opinion or a court decision if the legislation is vague enough for that interpretation.

In closing, I would repeat that Oregonians are asking for leadership in protecting their resources -- human and natural -- and for a method of reducing the waste of tax dollars that no planning produces.

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SB 100 is far from being perfect. It is the beginning we need. It can and will be amended to make a more perfect document. I would urge the committee to consider the recommendations made, and pass it out with a do-pass recommendation.

Respectfully submitted by



Ken E. Omlid
Lane County Commissioner

KEO:eh

A BILL FOR

AN ACT

Relating to councils of government.

Be It Enacted by the People of the State of Oregon:

Section 1. The Legislative Assembly finds that:

(1) As governmental functions become increasingly complex at all governmental levels, interaction of the functions becomes increasingly prevalent, and coordination of the functions becomes increasingly necessary.

(2) Territorial overlapping in local, state, and federal governmental planning areas and programs leads to confusion among citizens and public officials, complicates coordination, and frustrates implementation of public policies, programs, and projects.

(3) Cities and counties increasingly need to coordinate their programs with one another and to recognize that areawide plans, adopted by locally elected representatives, strengthen the ability of local government to serve its constituents and to solve physical and social problems that transcend political boundaries.

(4) Common geographic boundaries for local, state, and federal governmental functions, including planning, are increasingly necessary for solving governmental problems and for economically and effectually providing public services.

(5) Confederations or councils of local government are effective governmental instrumentalities for planning and coordinating intergovernmental relations.

Section 2. The following planning districts are hereby created, each 199
to include the county or counties listed immediately after its number: S. ENV. & LAND USE COM.

- (1) District 1: Clatsop and Tillamook Counties.
- (2) District 2: Clackamas, Columbia, Multnomah, and Washington Counties.
- (3) District 3: Marion, Polk, and Yamhill Counties.
- (4) District 4: Benton, Lincoln, and Linn Counties.
- (5) District 5: Lane County.
- (6) District 6: Douglas County.
- (7) District 7: Coos and Curry Counties.
- (8) District 8: Jackson and Josephine Counties.
- (9) District 9: Hood River, Sherman, and Wasco Counties.
- (10) District 10: Crook, Deschutes, and Jefferson Counties.
- (11) District 11: Klamath and Lake Counties.
- (12) District 12: Gilliam, Grant, Morrow, Umatilla, and Wheeler Counties.
- (13) District 13: Baker, Union, and Wallowa Counties.
- (14) District 14: Harney and Malheur Counties.

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Section 3. The Governor shall designate as follows a council of S. ENV. & LAND USE COM. governments for each planning district named in Section 2 of this Act:

(1) For a planning district where a council of governments is operating at the time this Act takes effect, the Governor shall designate that council as the council for the district, provided:

(a) The council has a constituency and organizational structure such as Section 4 of this Act requires;

(b) By resolution of its governing body the council declares that it is prepared to act as the council of governments for the district and to carry out the duties prescribed by law for such councils; and

(c) The resolution is transmitted to the Governor within 45 days after this Act takes effect.

(2) For a planning district where a council of governments is not operating at the time this Act takes effect or is so operating but does not meet the conditions specified in subsection (1) of this section, the Governor shall designate a newly formed council of governments as the council for the district, provided that, within 75 days after this Act takes effect, the council meets the conditions specified in subsection (1) of this section.

(3) For a planning district where the Governor cannot designate a council of governments in accordance with subsection (1) or (2) of this section, the Governor shall establish a council of governments and appoint to its governing body seven elected officials of the county or counties and the cities in the district. The governing body shall effect an organizational structure for the council in accordance with this Act and otherwise carry out the functions of a council of governments.

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Section 4. The organizational structure and operating procedures of a council of governments shall meet the following requirements:

(1) All counties in the district for which the council is designated shall be members of the council and shall be represented on its governing body.

(2) Membership in the council shall be open to all cities in the district and to whatever other governmental units the constitution of the council specifies.

(3) At least two-thirds of the members of the governing body of the council shall be representatives of cities and counties that are members of the council.

(4) Subject to the requirement of subsection (3) of this section, county and city officials in the governing body of the council may collectively appoint as additional members of that body officials of limited-purpose governmental units in the district and residents of the district who hold no public office.

(5) The governing body of the council shall adopt a constitution and bylaws which, subject to the requirements of this Act and of other statutes of the state, shall govern the organizational structure of the council and its operations.

Section 5. A council of governments may, in accordance with its constitution and bylaws, appoint advisory committees to assist it with its functions.

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S. ENV. & LAND USE COM.

Section 6. A council of governments may:

(1) Do whatever is necessary or convenient to enable it to discharge its duties under this Act.

(2) In its own name, or on behalf of one or more of its constituents, apply and contract for, receive, manage, expend for its own purposes, and transmit to its constituents for which it acts as applying and contracting agent, funds and grants from any source.

(3) Contract with federal and state agencies, other public agencies, quasi-public agencies, and private parties for the purpose of carrying on its functions.

(4) Cooperate with other councils of government and planning agencies in programs and projects such as it is authorized to carry on in its own district.

Section 7. A council of governments shall prepare, adopt, and amend from time to time as necessary comprehensive plans for the district for which the council is designated, as follows:

(1) The plans shall include statements of policy, goals, programs, and standards and whatever maps, graphs, and charts are necessary to illustrate the statements, all for the purpose of prescribing guidelines for orderly public and private development of the district.

(2) The plans shall concern natural resources, human resources, economic development, public safety, education, transportation, and administrative support, and shall recognize physical, social, health, and economic needs and future developments regarding water, sewerage, land use, parks, open space, airports, public thoroughfares, transportation facilities, hospitals, public facilities, community facilities, and other matters of public interest.

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S. ENV. & LAND USE COM.

(3) District plans shall be made only after consideration of, and shall be coordinated with, related plans of the state and of councils of government in adjoining districts.

(4) In its deliberations on a district plan a council of governments shall consider pertinent policies and plans of other public agencies in the district.

(5) A council of governments may adopt or amend a district plan only after study and public hearings conducted in accordance with the bylaws of the council.

(6) In preparing plans a council of governments shall afford, to citizens who are not representatives in the council, opportunities to participate in the study and deliberations preliminary to adoption of the plans.

Section 8. For all state and federal programs, for the carrying out of which in a district a regional or district planning agency or plan is required by law, the council of governments designated for the district shall be the official planning agency and shall have all powers necessary to function as such.

Section 9. (1) For each fiscal year the State Treasurer shall remit to each council of governments a sum not less than 25 cents for each person who, at the beginning of that year, resides in the district for which the council has been designated.

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(2) Prior to each fiscal year a council of governments shall adopt OR ENV. & LAND USE COM. budget for its operations for that year. Additions and changes to the budget may be made by the council from time to time during the year at official meetings held for that purpose.

(3) Council members shall contribute financially to the council in accordance with the bylaws of the council.

(4) The council shall account for all its income and expenditures, and its accounts shall be independently audited at least once each fiscal year. A report of each such audit shall be presented to the council, to the Secretary of State, and to all grantors of funds to the council.

FEDERALLY-SPONSORED

MULTIJURISDICTIONAL PLANNING AND POLICY DEVELOPMENT ORGANIZATIONS

A Major Policy and Action-Oriented Study
for the
Office of Management and Budget

by:

Council of State Governments
International City Management Association
National Association of Counties
National Governors' Conference
National League of Cities
National Legislative Conference
United States Conference of Mayors

December 29, 1972

state
county
city
SERVICE
CENTER

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December 29, 1972

Dwight A. Ink
Assistant Director
Executive Office of the President
Office of Management and Budget
Washington, D.C., 20503

Dear Dwight:

Pursuant to your letter of authorization of June 30, 1972, the Coordinating Committee takes pleasure in submitting the attached report under Contract No. EB-114, entitled, "Federally-Sponsored Multijurisdictional Planning and Policy Development Organizations".

This report was adopted unanimously at the December 13 meeting of the Coordinating Committee. During the discussion, several suggestions were advanced for implementation during the coming year. The study team for this contract was asked to stay together to prepare a leaflet for use by the memberships and to prepare drafts of suitable language for legislative guidance in the future.

We would like to take this opportunity to thank you for having given us this chance to undertake this major policy and action-oriented effort, as a part of the FAR program. We wish to thank all the members of your staff and other OMB officials who have been so helpful.

Sincerely,

Charlie
Charles A. Byrley
Chairman

Coordinating
Committee

COUNCIL OF
STATE GOVERNMENTS
Brevard Criffield
Executive Director

INTERNATIONAL CITY
MANAGEMENT ASSOCIATION
Mark E. Keane
Executive Director

NATIONAL ASSOCIATION
OF COUNTIES
Bernard F. Hillenbrand
Executive Director

NATIONAL GOVERNORS'
CONFERENCE
Charles A. Byrley, Director
Office of Federal-State Relations

NATIONAL LEAGUE
OF CITIES
Allen E. Pritchard, Jr.
Executive Vice President

NATIONAL LEGISLATIVE
CONFERENCE
Earl S. Mackey
Executive Director

U.S. CONFERENCE
OF MAYORS
John Gunther
Executive Director

cc: Edward Rizzo
Coordinating Committee
Assistant Directors
FAR Leads

PROPOSED
 COORDINATED BIG SEVEN POLICY STATEMENT on
MULTIJURISDICTIONAL PLANNING AND POLICY DEVELOPMENT ORGANIZATIONS

Note: Current policy statements of the Big Seven are shown on Pages 57-67 as applicable to this study. For a summary of the key provisions, see Pages 55-56

Preamble: The design of this study identified the existence of "fragmented and uncoordinated public interest group response to federal agency policies due to a lack of identified consensus on basic principles and policy positions". The study undertook to "develop a coordinated public interest group national policy statement" on multijurisdictional organizations exclusive of the "need, validity or rationale" for the use of such organizations.

Caution must be exercised as to the significance of this policy statement. Until each of the seven participating public interest organizations place this statement before their respective policy committees and memberships for ratification during the coming twelve month cycle of annual meetings, this statement remains a proposed staff document.

* * * * *

1. Multijurisdictional planning and policy development organizations should be public bodies with governing boards composed, at a minimum, of a majority of elected officials, selected by and representing general purpose local governmental units, representing at least a majority of the population of the region served by the organization. There should be clear authority for localities to work toward boards made up entirely of elected officials if the localities choose.
2. Umbrella multijurisdictional organizations should be the general purpose organization in a given region, providing a forum for locally elected officials to address problems, issue and functions of an areawide nature. Such organizations should be empowered to make decisions in order to resolve competing objectives and to set regional priorities which should be recognized by both federal and state funding agencies.

Functions of an umbrella multijurisdictional organization should include:

- a. development and coordination of areawide policies and plans;
- b. coordination of the policies and plans of separate functional organizations;

POLICY STATEMENT (Continued)

Functions:

- c. promotion of mutual problem solving and exchange of information; and
 - d. such other services as may be requested by local governments.
3. Federal and state policies should recognize a single umbrella multijurisdictional organization as the desirable objective for each designated region of the state. Until the desirable objective is attained, it may be necessary to fund separate multijurisdictional organizations within the same region; if so, the governing board of such separate organizations should be composed of predominately elected officials.
4. The umbrella multijurisdictional organization should function as the review and comment agency for all federal and state funded programs and projects that will have an impact within the region.
5. Federal, state and local governments should contribute funds for the operation of the umbrella multijurisdictional organizations.
6. State governments should:
 - a. provide broad, flexible enabling legislation for umbrella multijurisdictional organizations;
 - b. conform state planning areas to the regional boundaries of the umbrella multijurisdictional organizations;
 - c. conform administrative areas of state programs which are exclusively administered by states to the regional boundaries of the umbrella multijurisdictional organizations;
 - d. provide general policy guidance and reasonable criteria for substate umbrella multijurisdictional planning and policy development organizations; and
 - e. cease the establishment of separate, single purpose multijurisdictional organizations.
7. Federal and state programs administered on an areawide basis should move toward organizational integration with the umbrella multijurisdictional organization. At a minimum, such programs should include specific requirements for coordination with multijurisdictional organizations in accordance with the Intergovernmental Cooperation Act of 1968.

POLICY STATEMENT (continued)

8. The weighting of the votes of the representatives on the umbrella multi-jurisdictional organizations' boards should be left to the determination of the localities represented on the board.
9. Boundaries of the umbrella multijurisdictional organizations should be set by the states, but the boundaries should be acceptable to local general purpose governments concerned or involved with provision for future boundary changes.
10. In interstate urban areas, the thrust of federal programs concerned with areawide planning and intergovernmental coordination should be on increasing the abilities of local and state governments to act effectively in a concerted fashion, notwithstanding the multi-state character of the area. Toward this end, priority among federal programs concerned with areawide planning and intergovernmental coordination in large interstate areas should be directed to strengthening the ability of the interstate umbrella multi-jurisdictional organization to deal with areawide problems. In small interstate urban areas, due recognition and coordination will have to be given to the affected state planning and development agencies.

The interstate coordination of planning and development programs is a special problem requiring unique solutions worthy of a major study.

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TO THE STATES

Based upon this policy and action-oriented study of federal multijurisdictional planning and development programs and organizations, it is evident that the roles of states, counties and cities are pivotal if objectives such as areawide priorities and resource allocations, representation and responsiveness, and policy leadership and cross-functionalization are to be achieved. The coordinated policy statement, proposed by the seven participating organizations to be placed before their committees and memberships during the coming year, is founded upon principles which result in the following recommendations:

1. States should enact enabling legislation for multijurisdictional (single or multi-county) planning and policy development purposes. Such legislation should include:
 - a. authority and a process for the recognition of substate regions that are acceptable to local governments;
 - b. authority and a process for the recognition of official umbrella multijurisdictional organizations;
 - c. composition criteria for the policy board of the umbrella multijurisdictional organization. At a minimum, such composition should be a majority of elected officials of local general purpose units of government with authority for localities to work toward boards made up entirely of elected officials.
 - d. relationships recommended between the policy board of the umbrella multijurisdictional organization, the state, and the general purpose local governments;
 - e. functions which should include:
 - 1) development and coordination of areawide policies and plans;
 - 2) coordination of the policies and plans of separate functional agencies;
 - 3) promotion of mutual problem solving and exchange of information; and
 - 4) such other services as may be requested by local governments.

TO THE STATES

- f. provisions concerning the weighting of the votes of the representatives on the umbrella policy board should be left to the determination of the localities; and
 - g. authorization to the governor, in those states where portions of interstate urban areas are located, to enter into cooperative arrangements with the governors of adjoining states toward the creation and joint designation of umbrella multijurisdictional organizations.
2. States should appropriate funds to assist umbrella multijurisdictional organization in the performance of their planning and coordination functions and should provide a program of technical assistance.
 3. States should recognize and utilize a single set of geographic regions of the state for the planning and the delivery of its own services as well as for the system of multijurisdictional areas. This recognition should also include funding priorities as established by the umbrella multijurisdictional organization.
 4. To the maximum practical extent, states should seek to stabilize their substate regional boundaries.
 5. Participation by state officials on the umbrella multijurisdictional organization policy board should be on an ex-officio, non-voting basis.
 6. The chairperson of each umbrella multijurisdictional organization policy board should be provided opportunities for direct consultation with the Governor, particularly during the formulation of geographic and program priorities during the executive budget process. Recommended is a state priority and planning process that is tied to the budgeting process which can give access, through the development of local goals and objectives, to the state decision-making processes.
 7. States should designate the umbrella multijurisdictional organizations and the State A-95 Clearinghouses for review and comment on an application for assistance from any unit of general or special purpose local government or any state agency.

TO THE CITIES AND COUNTIES

Based upon this policy and action-oriented study of federal multijurisdictional planning and development programs and organizations, it is evident that the roles of cities, counties and states are pivotal if objectives such as areawide priorities and resource allocations, representation and responsiveness, and policy leadership and cross-functionalization are to be achieved. The coordinated policy statement, proposed by the seven participating organizations to be placed before their committees and memberships during the coming year, is founded upon principles which result in the following recommendations:

1. Cities and counties, seeking solutions to areawide problems, are encouraged to consider the establishment of an umbrella multijurisdictional organization which will provide a forum for the elected officials of the general purpose units of government.

Functions should include:

- a. development and coordination of areawide policies and plans;
 - b. coordination of the policies and plans of separate functional organizations;
 - c. promotion of mutual problem solving and exchange of information;
 - d. authority to make decisions to resolve competing objectives and to set priorities which will be recognized by federal and by state funding agencies; and
 - e. such other services as may be requested by the general purpose local governments.
2. Elected officials should recognize the necessity for serving personally on the policy board of the umbrella multijurisdictional organization. If felt necessary, a permanent alternate, with similar credentials, may be provided for.
 3. The umbrella multijurisdictional organization should have sufficient flexibility of funding to permit independence of the influence of federal or state governments or any single member unit in making the best possible areawide decisions. Local general purpose units of government should provide funds for general administration and for coordination, in addition to state and federal contributions. Local funding for non-federally-oriented programs should be available, permitting local officials to carry out their own programs.

Formal Recommendations (Continued)

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TO THE CITIES AND COUNTIES

4. All multijurisdictional planning and policy development programs should be encouraged to permit designation of the umbrella multijurisdictional organization as the policy board for each. Functional advisory task forces, consisting of the program's constituents, would report directly to the policy board.
5. To the extent possible, the umbrella multijurisdictional organization should bring together the information resources of all separate multijurisdictional organizations and local governments within the state's substate region, permitting a sharing of each other's common data, maps, surveys, etc., as well as the development of compatibility among program terminology and requirements.
6. The umbrella multijurisdictional organization, in developing its comprehensive regional plan should examine the individual capital improvement plans of its local general and special purpose governments to determine where there are any inconsistencies. Such inconsistencies should be pointed out and the umbrella multijurisdictional organization should seek to mediate the differences.

Testimony before Senator Ted Hallock and Senator McPherson on
Senate Bill 100. Land Use Guidelines. 214a

S. ENV. & LAND USE COM.

By Charles Quaintance, 32 years a resident of LaGrande, Oregon

Are citizens protected now from over-zealous development of the land? In many cases, no. Those who run for office on city or county commission, or who get on the planning commission too often have an axe to grind.

Will the guidelines of Senate Bill 100 protect the public interest any more than the present situation? i.e. tax wise, economically, and environmentally?

Senate Bill 100 will only set up guidelines. Can the membership of the Commission be structured so that those with conflict of interest are not board members? e.g. full disclosure required.
[page 5, line 13]

To a major extent, in my judgment, the State Forestry Commission with its legal makeup controlled by lumber corporation executives has regretably permitted overcutting, log export, and devastation of watershed like ██████████, documented by OSPIRG, without taking suitable corrective action. *MOLLALA*

How can Senate Bill 100 be favorably acted upon by legislators who have themselves conflicts of interest, i.e. developers, owners of land capable of development, owners of timber, etc.

Hopefully Senate Wingard's bill on full disclosure will help. Those who vote against the various provisions of the bill should in good conscience, present their alternatives and show how their proposal would protect the public from such manipulation as has occurred so often in my home community, LaGrande, in Pendleton, in Lane County and elsewhere.

There are also invisible conflicts
Many people in LaGrande, for example, feel that their State Representative really represents the Board of Directors of the Chamber of Commerce. Weekly telephone conversations between the Chamber officers and the state representative are closed to reporting by the press. (Current president of Chamber is ██████████ *Calif.*
██████████ Tom Gurney).
Pacific's

A dog-in-the-manger attitude to provisions of Senate Bill 100 without a viable alternative would not be in the best public interest. Granted, there will be many who, in spite of conflict of interest, will vote for the public interest.

What steps beyond present bill should be considered?

1. Set a speculator's tax to discourage political chicanery and to secure open and responsible dealing with the taxpayers.
2. Set criteria for those members on the Land Development Commission, prohibit conflict of interest persons from serving.
3. Pass Senator Wingard's bill to secure disclosure on the part of elected officials, Senators and Representatives.

Testimony
Page 2

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4. For forest land use, eliminate the present state forestry commission which seems to have been asleep in making and enforcing good forestry practices.
5. Reconsider Senator Groener's bill providing an adequate severance tax on timber.
6. Repeal Oregon Statute.

S. ENV. & LAND USE 2142
COMM.

My proposed admendments to

Senate Bill 100 are outlined

(1 pages three (3) and seven

(7). The justification for

these admendments can also be

found on those pages.

Stan Biles

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Mr. Chairman, Mr. Vice-Chairman, and Committee members:

My name is Stan Biles. I reside in a city that is rapidly becoming famous state-wide for being the "Sodom and Gomorrah" of local land use planning. That city is of course Beaverton. I am a former member of "Friends of the Earth", and the American Civil Liberties Union. I am also a former student advisor to the Washington County Planning Commission. I am presently a member of the Oregon Environmental Council and I am serving as an assistant to State Representative Pat Whiting with special emphasis on land use legislation. However, in my testimony this evening I shall represent none of the previously mentioned individuals or organizations. Rather I shall represent my own personal, private interests. As such I shall receive no financial reimbursement for my comments.

Gentlemen I urge you to favorably report Senate Bill 100 out of your committee. The need for state-wide land use planning is paramount. In the past thirty years local land use planning has been ineffectual in, among other things co-ordinating urban growth, subdivision development, and the preservation of our cropland, pasture, and woodland. With the remarkable predicted growth for our state, one is frightened to think what Oregon will look like thirty years from now.

The status quo which (for the most part) has been created by decisions made by local planners, local county commissioners, and local city councilmen all of which were held accountable for their decisions by the local voting public is a drastic failure. One only has to drive down Canyon Road in Washington County or

Barber Boulevard in Multnomah County or even Market Street near the I-5 underpass in Marion County to witness firsthand the effects local land use planning has had on our environment.

My observations are of course far from being original. Take for example the Sunday Oregonian editorial of January twenty-eighth 1973. I quote:

It is obvious that the present system (of local control) is proving something of a disaster in most areas of the state....."

Another Sunday editorial in the same newspaper one week later on Febuary fourth re-emphasized the point. I quote:

"Local control, except for health and environmental quality standards governing water and sewage, is what the state now has, and it has proved impotent, inadequate, and neligent in dealing with the pressures of an expanding population and economy."

Attempting to convince you of the need for state-wide as opposed to local planning at this late date, in the few minutes I have before the committee would be a waste of your time and a waste of my time. Indeed, if you are not already convinced of such a need considering the testimony you have heard, the research your staffs have respectively compiled, and the data you yourselves have located, I doubt that you could ever be convinced. Thus I would like to dedicate the rest of my time to proposing two admendments, rasing several important questions, and making one final general comment with the hope of making a good bill even better.

I would like to propose the following admendment as an addition to section 11.

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"Preparing and implementing state-wide educational and motivational programs relating to land conservation and development. Program emphasis shall be placed upon increasing public awareness and understanding of land use decisions and the role each citizen can play in the decision-making process."

The justification for this admendment is as follows. The basic, fundamental foundation of Senate Bill 100 is identical to that of the present system, public hearings. Indeed before the commission may approve any state-wide planning goal, guideline, or regulation an intricate process of fourteen district hearings must be complied with. It is at this moment in time that the public, the people most affected by the eventual decision must make their criticisms, revisions, or accláims. Yet in the past local hearings whether they be district, county or city have been poorly attended. Those hearty souls who have appeared have often been unorganized, uncoordinated and misinformed. Consequently they have had little chance to effectively combat the testimony of numerous professional lobbyists. As a result many "local public hearings" have transformed into "private interest hearings."

Obviously there is a tremendous need for a governmental program to encourage citizen participation at local hearings. In far too many cases the government has said in essence, "We will tell the people the who, what, when, and where about the hearing and we will be there. The rest is up to the people." I am suggesting a more active role for our officials. I suggest that the government assist in organizing citizens so that they may have a more influential posture in deessiion-making.

However organization without adequate information is useless. At the present time I would venture to predict that most Oregonians are ignorant of what "Land Conservation and Development" really is. Needless to say they are also ignorant of how drastically local land use decisions can affect them. Lastly and most importantly the public is ignorant of the influential role they can play in the local land use decision-making process.

Once again the government by way of the Land Conservation and Development Commission should step in and fill the public's information void. I am not asking the Commission to provide every citizen with a file folder of statistics on every decision confronting him. I am asking the Commission to accept the responsibility of informing each and every Oregonian of what land use planning is all about. Once Mr. Public has been organized and once Mr. Public had been informed then, and only then can he become an active, influential and responsible citizen. With this additional citizen input, input from those who are most affected and most knowledgeable, the quality of future decisions based on this form of local hearings will be greatly enhanced.

Gentlemen I would now like to direct your attention toward section 20 of the bill. This section provides for the composition of the District Councils. I seriously question this section and my doubts are based on three major complaints. First of all there is a definite lack of rural representation on the Councils. We have a representative from the Board of County Commissioners and we have a representative from the city council

of the city which has the greatest population within the District and finally these men together, at random select the other Council member. Yet there is nothing in this section that guarantees the suburban or rural citizens adequate representation. On the other hand it is observed that the largest urban community within the district will be guaranteed representation equivalent to 1/3 of the entire Council. Oregon, relatively speaking, is still a predominantly rural state. As such many of the important future land use decisions will be geared toward preserving this rural atmosphere. I feel that those citizens which live in suburban and rural sections of the planning district should be allowed more representation on the District Council than section 20 provides for.

My second complaint with section 20 attacks the people who are to fill the positions of District Councilmen. It appears that the same men who have made the decisions which have put land use planning in the disastrous position it now finds itself will once again be assigned the responsibility of dictating land use under the provisions of section 20. In most cases these city councilmen and county commissioners have little or no expertise or background in planning. Instead they are usually elected to their offices on the basis of a long-standing business interest in the community. As a result they are often quite sympathetic to the interests of other businessmen even at the expense of proper land use. These characteristics of local decision makers have played a significant role in the planning or shall we say lack of planning within our communities. Yet there is little in

section 20 that can help to remedy the dilemma.

My final complaint with this portion of the bill concerns the intra-county powers granted to the District Councilmen. I challenge those who feel a Washington County Commissioner is qualified to participate in creating a decision that will govern land use in Troutdale Oregon. Heaven knows that Washington County has been unable to cope with their own problems, how can we expect them to now accept the responsibility of coordinating land use in three additional counties? Section 20 overburdens those who will serve as District Councilmen. This can only result in poor-quality decisions, similiar to those made on the county level within the past few years.

Let us now look at section 21 which creates a District Planning Commission. I question this section on grounds which are very similiar to my critisims of section 20. First I feel that we cannot expect city and county planners to adequately accept the additional responsibility of planning for up to four counties in addition to their "normal" requirements. The local planners are already poorly funded, understaffed, and overworked. It is unrealistic to expect these men to accomplish so much with so little. Secondly I again ask "Is a Beaverton city planner qualified to make recommendations on land use in East Multnomah county?" A planning commission with a regional scope of interest is an excellent step in the right direction. However we should think twice about filling the positions on this commission with men who have previously enjoyed a scope of interest which has been limited to a single county or a single city.

Section 22 which outlines the responsibilities of the District Councils is the recipient of my second and final proposed admendment which reads as follows:

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"Prepare and implement district-wide educational and motivational programs relating to land conservation and development. Program emphasis shall be placed upon increasing public awareness and understanding of land use decisions and the role each citizen can play in the decision-making process."

The wording, purpose, and justification for this admendment is identical to the one I proposed for section 11. The only difference between the two is that whereas section 11 concerns itself with a state-wide approach, section 22 limits itself to a more specific district-wide appeal. Since the foundation which this form of an admendment rests upon has already been outlined above I shall not waste our time by further discussing it here.

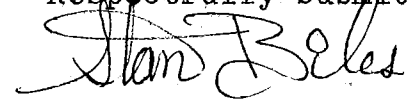
Instead I would now like to turn to section 35 and make one final comment before concluding. Throughout the bill but particularly within this section a great deal of confidence is placed in the comprehensive plans, both city and county, that are already in existence. I will be the first to say that many of these plans are excellent. They are far-reaching and forward looking and consequently they confront urban sprawl and other land use problems quite adequately. These plans are something the entire public can be proud of. However, I sadly report that in far too many cases local reality is a great deal different from the comprehensive plan. A varience from the plan to permit a service station is granted here, and a varience to permit a neon sign is granted there and eventually this process leads to

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a situation which is a significant change from the original plan. Thus what begins as a map of an excellent comprehensive plan is altered into a map of variances. I suggest then, that before we place too much confidence in the comprehensive plan we look twice, once at the plan, and once at the reality of the community under consideration.

In conclusion it appears to me that the future of Oregon land use planning can take one of three contrasting routes. First, it can continue with some form of local control which has proven to be a disaster. Second, it can wait for Federal land use legislation. But time to wait for Congressional action is seriously lacking. Things are already out of control. The third and final alternative is the enactment of a form of state-wide control. I support this alternative and thus endorse Senate Bill 100.

Respectfully submitted,



Stan Biles

1973

JUL 1 OCT 1 JAN 1 APR 1 JUL 1 OCT 1 JAN 1

1974

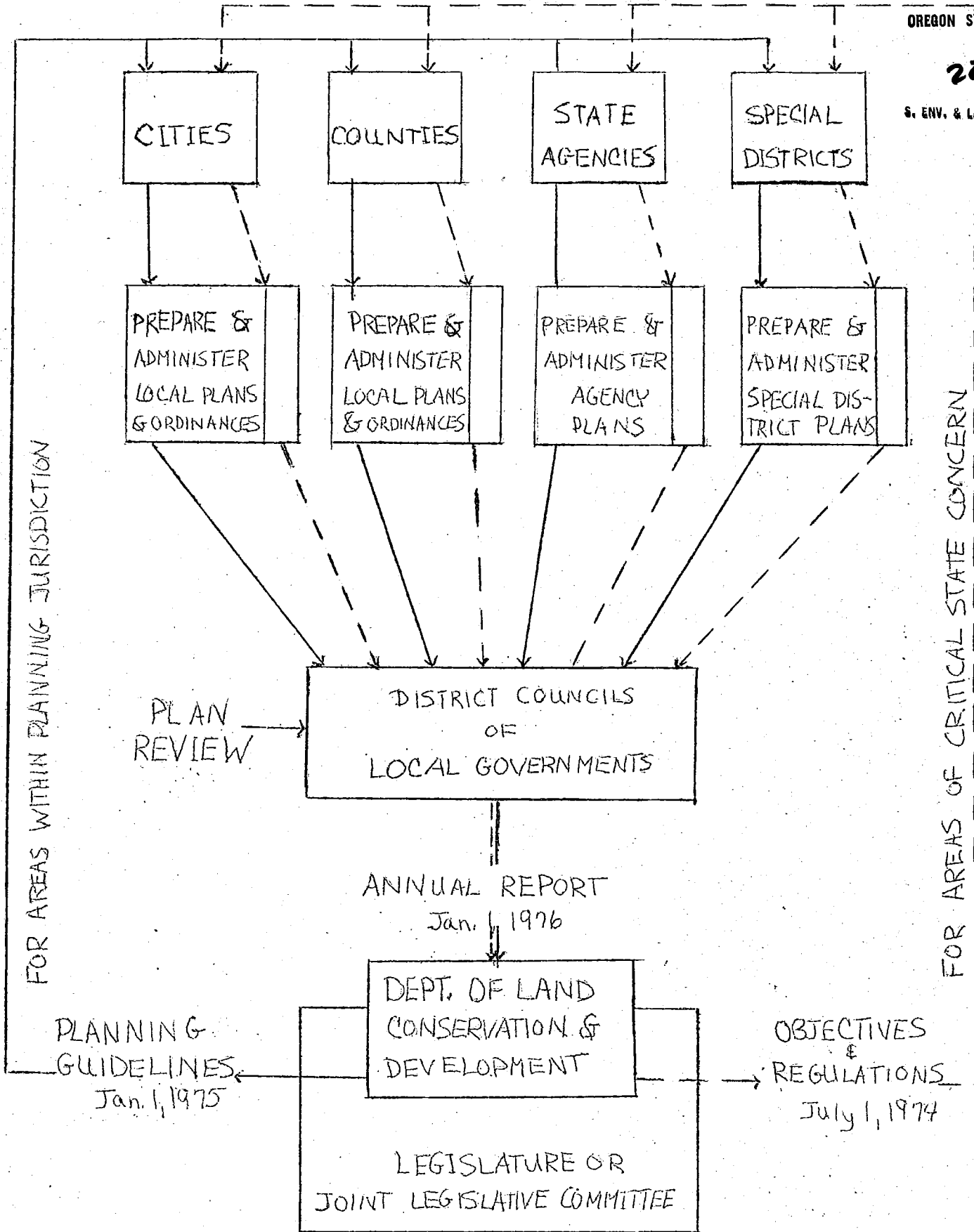
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1975

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CITIES AND COUNTIES	CRITICAL AREAS	COMPREHENSIVE PLANS ZONING, ETC.	TO COMPLY WITH PROVISIONS OF SB 100	TO COMPLY WITH OBJECTIVES AND REGULATIONS
	NON CRITICAL AREAS	NON CRITICAL AREAS		
STATE AGENCIES AND SPECIAL DISTRICTS	PLANNING FOR CRITICAL AREAS		TO COMPLY WITH PROVISIONS OF S.B. 100	TO COMPLY WITH OBJECTIVES & REGULATIONS
	PLANNING FOR NON-CRITICAL AREAS		TO COMPLY WITH PROVISIONS OF S.B. 100	TO COMPLY WITH PLANNING GUIDELINES
DISTRICT COUNCILS OF LOCAL GOVERNMENTS		ESTABLISHED	PLAN REVIEW FUNCTIONS: 1. FOR COMPLIANCE WITH GOALS AND CONSIDERATIONS 2. CRITICAL AREAS OTHER FUNCTIONS: 1. PETITION COMMISSION 2. PREPARE INVENTORY	4. FOR COMPLIANCE WITH CONSIDERATIONS FOR COMPLIANCE WITH OBJECTIVES AND REGULATIONS (PLAN & ZONING, ETC.) 3. FOR COMPLIANCE WITH PLANNING GUIDELINES (PLANS) REPORT TO COM.
DEPT. OF LAND CONSERVATION AND DEVELOPMENT		ESTABLISHED	PREPARATION AND ADOPTION: 1. STATEWIDE OBJECTIVES & REGS. OTHER FUNCTIONS: 1. PREPARE INVENTORY 2. COMMISS. TO RECEIVE PETITIONS 3. ISSUE DEVELOPMENT PERMITS FOR PROJECTS CONSTITUTING ACTIVITY OF CRITICAL STATE CONCERN	3. MODIFY GUIDELINES, OBJECTIVES, REGULATIONS AS NECESSARY
JOINT LEGISLATIVE COMMITTEE ON LAND USE		ESTABLISHED	FUNCTIONS: 1. ADVISE DEPARTMENT 2. REVIEW GUIDELINES, OBJECTIVES & REGULATIONS 3. SUBMIT COMMENTS & RECOMMENDATIONS TO '75 LEG.	REVIEW REVISIONS TO COMMISSIONS FINAL REPORT
LEGISLATIVE ASSEMBLY	DESIGNATE AREAS AND ACTIVITIES OF CRITICAL STATE CONCERN			TO APPROVE COMMISSION'S FINAL REPORT
GOVERNOR				TO APPROVE COMMISSION'S FINAL REPORT

PLANNING PROCESS S. B. 100



REPRINT

Senate Bill 100

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Sponsored by Senators MACPHERSON, HALLOCK

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Creates Department of Land Conservation and Development, composed of Land Conservation and Development Commission, director and employees. Establishes Joint Legislative Committee on Land Use, as standing committee, to advise and assist department in carrying out its duties.

Designates areas and activities of critical state concern and provides for additional designations, subject to approval of Legislative Assembly. Requires commission, subject to approval of Legislative Assembly, to promulgate and implement state-wide objectives and regulations for such areas and activities and state-wide planning guidelines for all land use planning in state. Requires state agencies, planning districts, cities, counties and special districts to comply with state-wide planning guidelines and state-wide objectives and regulations in adoption of comprehensive plans and zoning, subdivision or other ordinances and regulations.

Requires development permit to be issued by commission for development projects constituting activities of critical state concern. Provides for enforcement of permit requirements. Declares certain development projects to be public nuisances, subject to civil abatement proceedings by commission.

Establishes 14 planning districts in state to advise, assist and review actions and comprehensive plans of state agencies, cities, counties and special districts with respect to such districts.

Requires, within one year after approval of state-wide planning guidelines, all comprehensive plans and zoning, subdivision or other ordinances or regulations to comply with such guidelines. Authorizes Governor to prescribe comprehensive plans and such ordinances and regulations where none exist or to revise existing noncomplying plans, ordinances and regulations. Permits Governor to charge for his services. Provides, in case of nonpayment by city or county, for reimbursement of Governor from city or county share of state liquor and cigarette revenues.

Provides for review by commission of specified land conservation and development actions and plans. Establishes Land Conservation and Development Account in General Fund for use by department.

Declares emergency and takes effect July 1, 1973.

NOTE: Matter in bold face in an amended section is new; matter [italic and bracketed] is existing law to be omitted; complete new sections begin with SECTION.

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1 A BILL FOR AN ACT
2 Relating to land use; creating new provisions; amending ORS 215.055,
3 215.510, 215.515, 215.535 and 227.240; appropriating money; and declar-
4 ing an emergency.

5 **Be It Enacted by the People of the State of Oregon:**

6 **PART I INTRODUCTION**

7 **PREAMBLE**

8 **SECTION 1.** (1) Uncoordinated use of lands within this state threaten
9 the orderly development, the environment of this state and the health,
10 safety, order, convenience, prosperity and welfare of the people of this
11 state.

12 (2) To promote coordinated administration of land uses consistent
13 with comprehensive plans adopted throughout the state, it is necessary to
14 establish a process for the review of state agency, planning district, city,
15 county and special district land conservation and development plans for
16 compliance with state-wide planning guidelines.

17 (3) Except as otherwise provided in subsection (5) of this section,
18 cities and counties should remain as the agencies to consider, promote
19 and manage the local aspects of land conservation and development for
20 the best interests of the people within their jurisdictions.

21 (4) To promote coordinated conservation and development of all land
22 uses within geographic areas of this state, it is necessary to establish
23 planning districts and district councils to coordinate efforts of state agen-
24 cies, cities, counties and special districts within each planning district.

25 (5) The promotion of coordinated state-wide land conservation and
26 development in areas and for activities of critical state concern requires
27 the creation of a state-wide planning agency to prescribe planning ob-
28 jectives and regulations to be applied by state agencies, cities, counties,
29 district councils and special districts within areas of critical state concern
30 throughout the state.

31 (6) The impact of proposed development projects, constituting activi-
32 ties of critical state concern, upon the public health, safety and welfare
33 requires a system of permits issued by a state-wide agency to carry out

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1 state-wide objectives and regulations prescribed for application for activi-
2 ties of state-wide concern throughout this state.

3 **POLICY STATEMENT**

4 **SECTION 2.** In order to assure the highest possible level of live-
5 ability in Oregon, it is necessary to provide for properly prepared and
6 coordinated comprehensive plans for cities and counties, regional areas
7 and the state as a whole. These comprehensive plans:

8 (1) Must be adopted by the appropriate governing body at the local,
9 regional and state levels;

10 (2) Are expressions of public policy in the form of policy statements,
11 generalized maps and standards and guidelines;

12 (3) Shall be the basis for more specific rules, regulations and ordi-
13 nances which implement the policies expressed through the comprehensive
14 plans;

15 (4) Shall be prepared to assure that all public actions are consistent
16 and coordinated with the policies expressed through the comprehensive
17 plans; and

18 (5) Shall be regularly reviewed and, if necessary, revised to keep
19 them consistent with the changing needs and desires of the public they
20 are designed to serve.

21 **DEFINITIONS**

22 **SECTION 3.** As used in this Act, unless the context requires other-
23 wise:

24 (1) "Activity of critical state concern" means a land conservation and
25 development project designated pursuant to section 32 of this Act.

26 (2) "Area of critical state concern" means a geographic area of the
27 state designated pursuant to section 31 of this Act.

28 (3) "Commission" means the ^{appropriate Regional} Land Conservation and Development
29 Commission.

30 (4) "Committee" means the Joint Legislative Committee on Land Use.

31 (5) "Comprehensive plan" means a generalized, coordinated land use
32 map and policy statement of the governing body of a state agency, plan-
33 ning district, city, county or special district that interrelates all functional
34 and natural systems and activities relating to the use of lands, including

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[4]

1 but not limited to sewer and water systems, transportation systems, edu-
 2 cational systems, recreational facilities, and air and water quality manage-
 3 ment programs. "Comprehensive" means all-inclusive, both in terms of
 4 the geographic area covered and functional and natural activities and
 5 systems occurring in the area covered by the plan. "General nature" means
 6 a summary of policies and proposals in broad categories and does not
 7 necessarily indicate specific locations of any area, activity or use. A plan
 8 is "coordinated" when the needs of all levels of governments, semi-public
 9 and private agencies and groups have been considered and accommodated
 10 as much as possible. "Land" includes water, both surface and sub-surface,
 11 and the air.

(6)

"Council of Governments" means the council of local governments established for an association of local governments pursuant to section 19 of this Act.

15 operation, or the material change in the use or appearance of any structure
 16 or land, or the change in the intensity of the use of land, or the departure
 17 from the normal use of land for which permission has been granted.

18 "Development," as designated in an ordinance, rule or development permit,

(7) "Development" means the following activities, including but not limited to the carrying out of any building or mining operation, or the material change in the use or appearance of any structure or land, or the change in the intensity of the use of land, or the departure from the normal use of land for which permission has been granted, to be designated by the appropriate regional Conservation and Development Commission and Councils of Government.

24 (9) "District Council" means the district council of local governments
 25 established for an association of local governments pursuant to section
 26 19 of this Act.

27 (8) (10) "Planning district" means a geographic area of the state designated
 28 pursuant to section 18 of this Act.

29 (9) (11) "Special district" means any unit of local government, other than
 30 a city or county, authorized and regulated by statute and includes, but
 31 is not limited to: Water control districts, irrigation districts, port districts,
 32 air pollution control districts, fire districts, school districts, hospital dis-
 33 tricts, mass transit districts and sanitary districts.

SB 100

[4]

1 but not limited to sewer and water systems, transportation systems, edu-
2 cational systems, recreational facilities, and air and water quality manage-
3 ment programs. "Comprehensive" means all-inclusive, both in terms of
4 the geographic area covered and functional and natural activities and
5 systems occurring in the area covered by the plan. "General nature" means
6 a summary of policies and proposals in broad categories and does not
7 necessarily indicate specific locations of any area, activity or use. A plan
8 is "coordinated" when the needs of all levels of governments, semi-public
9 and private agencies and groups have been considered and accommodated
10 as much as possible. "Land" includes water, both surface and sub-surface,
11 and the air.

12 ~~(6) "Department" means the Department of Land Conservation and~~
13 ~~Development.~~

14 (7) "Development" means the carrying out of any building or mining
15 operation, or the material change in the use or appearance of any structure
16 or land, or the change in the intensity of the use of land, or the departure
17 from the normal use of land for which permission has been granted.
18 "Development," as designated in an ordinance, rule or development permit,
19 includes all associated building, mining, changes and departures, unless
20 otherwise specified. When appropriate to the context, "development"
21 also includes the act of developing and the result of development.

22 (8) "Director" means the Director of the Department of Land Con-
23 servation and Development.

24 (9) "District Council" means the district council of local governments
25 established for an association of local governments pursuant to section
26 ~~19 of this Act.~~

27 (8) (10) "Planning district" means a geographic area of the state designated
28 pursuant to section 18 of this Act.

29 (9) (11) "Special district" means any unit of local government, other than
30 a city or county, authorized and regulated by statute and includes, but
31 is not limited to: Water control districts, irrigation districts, port districts,
32 air pollution control districts, fire districts, school districts, hospital dis-
33 tricts, mass transit districts and sanitary districts.

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~~PART II ORGANIZATION, ROLES AND RESPONSIBILITIES~~~~DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT~~

~~SECTION 4. The Department of Land Conservation and Development is established. The department shall consist of the Land Conservation and Development Commission, the director and their subordinate officers and employees.~~

~~SECTION 5. (1) There is established a Land Conservation and Development Commission consisting of five members appointed by the Governor, subject to confirmation by the Senate in the manner provided in ORS 171.560 and 171.570.~~

~~(2) In making appointments under subsection (1) of this section, the Governor shall select from residents of this state one member from each congressional district and one member from the state at large.~~

~~(3) The term of office of each member of the commission is four years, but a member serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor. No person shall serve more than two full terms as a member of the commission.~~

~~(4) If there is a vacancy for any cause the Governor shall make an appointment to become immediately effective for the unexpired term.~~

~~SECTION 6. Notwithstanding the term of office specified in section 5 of this Act, of the members first appointed to the commission:~~

~~(1) Two shall serve for a term ending June 30, 1974.~~

~~(2) One shall serve for a term ending June 30, 1975.~~

~~(3) One shall serve for a term ending June 30, 1976.~~

~~(4) One shall serve for a term ending June 30, 1977.~~

~~SECTION 7. (1) The commission shall select one of its members as chairman and another member as vice chairman, for such terms and with duties and powers necessary for the performance of the functions of such offices as the commission determines. The vice chairman of the commission shall act as the chairman of the commission in the absence of the chairman.~~

~~(2) A majority of the members of the commission constitutes a quorum for the transaction of business.~~

~~1 SECTION 8. Members of the commission are entitled to compensa-~~ ENV. & LAND USE COM.
2 tion and expenses as provided in ORS 292.495.

3 SECTION 9. The commission shall:

4 (1) Direct the performance by the director and his staff of their
5 functions under this Act.

6 (2) In accordance with the provisions of ORS chapter 183, promulgate
7 rules and regulations that it considers necessary in carrying out this Act.

8 (3) Cooperate with the appropriate agencies of the United States, this
9 state, any other state, any interstate agency, any person or groups of
10 persons with respect to land conservation and development.

11 (4) Appoint advisory committees to aid it in carrying out this Act
12 and provide technical and other assistance, as it considers necessary, to
13 each such committee.

14 (5) Consult with advisory committees, appointed by each district
15 council pursuant to subsection (5) of section 22 of this Act, in carrying out
16 its duties under this Act.

17 SECTION 10. The commission may:

18 (1) Apply for and receive moneys from the Federal Government
19 and from this state or any of its agencies or departments.

20 (2) Subject to the approval of the Governor, contract with any public
21 agency for the performance of services or the exchange of employees or
22 services by one to the other necessary in carrying out this Act.

23 (3) Contract for the services of and consultation with professional
24 persons or organizations, not otherwise available through federal, state and
25 local governmental agencies, in carrying out its duties under this Act.

26 (4) Perform any other functions that it considers necessary to carry
27 out this Act.

28 SECTION 11. Pursuant to the provisions of this Act, the commission
29 shall be responsible for:

30 (1) Establishing state-wide planning goals;

31 (2) Issuing permits for activities of critical state concern;

32 (3) Preparing state-wide objectives and regulations for areas and
33 activities of critical state concern;

34 ~~(4) Preparing inventories of land uses;~~

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- ~~1 (5) Preparing state-wide planning guidelines;~~
- 2 (6) Reviewing comprehensive plans for conformance with state-wide
- 3 objectives and regulations and state-wide planning guidelines.
- 4 (7) Reporting to the legislature as provided in sections 64 and 68 of
- 5 this Act; and
- 6 (8) Performing any other duty required by law.

7 **SECTION 12.** If an interstate land conservation and development
 8 planning agency is created by an interstate agreement or compact entered
 9 into by this state, the commission shall perform the functions of this
 10 state with respect to the agreement or compact. If the functions of the
 11 interstate planning agency duplicate any of the functions of the commission
 12 under this Act, the commission may:

- 13 (1) Negotiate with the interstate agency in defining the areas of
- 14 responsibility of the commission and the interstate planning agency;
- 15 (2) Suspend by rule the performance of any functions granted to the
- 16 commission under this Act that duplicates a function of the interstate
- 17 planning agency; and
- 18 (3) Cooperate with the interstate planning agency in the performance
- 19 of its functions.

20 **SECTION 13.** (1) The commission shall appoint a person to serve
 21 as the Director of the Department of Land Conservation and Development.
 22 The director shall hold his office at the pleasure of the commission and his
 23 salary shall be fixed by the commission unless otherwise provided by law.

24 (2) In addition to his salary, the director shall be reimbursed, subject
 25 to any applicable law regulating travel and other expenses of state of-
 26 ficers and employes, for actual and necessary expenses incurred by him
 27 in the performance of his official duties.

28 **SECTION 14.** Subject to policies adopted by the commission, the di-
 29 rector shall:

- 30 (1) Be the administrative head of the department.
- 31 (2) Coordinate the activities of the department in its land conserva-
- 32 tion and development functions with such functions of federal agencies,
- 33 other state agencies, district councils, cities, counties and special districts.
- 34 ~~(3) Appoint, reappoint, assign and reassign all subordinate officers and~~

~~1 employees of the department, prescribe their duties and fix their compensa-
2 tion, subject to the State Merit System Law.~~

~~3 (4) Represent this state before any agency of this state, any other
4 state or the United States with respect to land conservation and develop-
5 ment within this state.~~

~~6 SECTION 15. (1) There is established in the General Fund in the
7 State Treasury the Land Conservation and Development Account. Moneys
8 in the account are continuously appropriated for the purpose of carrying
9 out the provisions of this Act.~~

~~10 (2) All fees, moneys and other revenue received by the department
11 or the committee shall be deposited in the Land Conservation and Develop-
12 ment Account.~~

13 **OREGON COASTAL CONSERVATION AND**
14 **DEVELOPMENT COMMISSION**

Section 16. The Oregon Coastal Conservation and Development Commission, created by ORS 191.120, shall be responsible for, in addition to the responsibilities designated in ORS chapter 191:

- (1) Establishing regional planning goals;
- (2) Issuing permits for activities of critical state concern;
- (3) Preparing regional objectives for areas and activities of critical state concern;
- (4) Preparing inventories of land uses;
- (5) Preparing regional planning guidelines;
- (6) Reviewing comprehensive plans for conformance with state-wide objectives and state-wide planning guidelines;
- (7) Performing any other duty required by law.

Section 17. The Oregon Coastal Conservation and Development Commission may provide staff and financial assistance to Councils of Government within the region.

~~26 Coastal Conservation and Development Commission may carry out, within
27 the coastal zone described in subsection (4) of ORS 191.110 and during the
28 time period specified in subsection (2) of ORS 191.140, the functions of
29 the Land Conservation and Development Commission in preparing state-
30 wide objectives and regulations for areas and activities of critical state
31 concern.~~

32 **DISTRICT COUNCILS OF LOCAL GOVERNMENT**

33 SECTION 18. To assure the orderly development and conservation of
34 the state through the encouragement of coordinated federal, state, regional

~~1 employees of the department, prescribe their duties and fix their compensa-~~
~~2 tion, subject to the State Merit System Law.~~
3 (4) Represent this state before any agency of this state and other

~~15 SECTION 16. (1) The Land Conservation and Development Commis-~~
~~16 sion may delegate, by agreement, to the Oregon Coastal Conservation and~~
~~17 Development Commission, created by ORS 191.120, any of its functions;~~
~~18 however, the Land Conservation and Development Commission shall review~~
~~19 and grant prior approval for any action taken by the Oregon Coastal Con-~~
~~20 servation and Development Commission with respect to a delegated~~
~~21 function.~~

~~22 (2) The Land Conservation and Development Commission may provide~~
~~23 staff and financial assistance to the Oregon Coastal Conservation and De-~~
~~24 velopment Commission.~~

~~25 SECTION 17. Pursuant to subsection (1) of section 16, the Oregon~~
~~26 Coastal Conservation and Development Commission may carry out, within~~
~~27 the coastal zone described in subsection (4) of ORS 191.110 and during the~~
~~28 time period specified in subsection (2) of ORS 191.140, the functions of~~
~~29 the Land Conservation and Development Commission in preparing state-~~
~~30 wide objectives and regulations for areas and activities of critical state~~
~~31 concern.~~

32

DISTRICT COUNCILS OF LOCAL GOVERNMENT

33

SECTION 18. To assure the orderly development and conservation of
34 the state through the encouragement of coordinated federal, state, regional

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1 and local land use planning, the following planning districts are created:

2 (1) District 1 which is composed of Clatsop and Tillamook Counties.

3 (2) District 2 which is composed of Columbia, Washington, Multnomah
4 and Clackamas Counties.

5 (3) District 3 which is composed of Yamhill, Polk and Marion Counties.

6 (4) District 4 which is composed of Lincoln, Benton and Linn Counties.

7 (5) District 5 which is composed of Lane County.

8 (6) District 6 which is composed of Douglas County.

9 (7) District 7 which is composed of Coos and Curry Counties.

10 (8) District 8 which is composed of Jackson and Josephine Counties.

11 (9) District 9 which is composed of Hood River, Sherman and Wasco
12 Counties.

13 (10) District 10 which is composed of Deschutes, Jefferson and Crook
14 Counties.

15 (11) District 11 which is composed of Klamath and Lake Counties.

16 (12) District 12 which is composed of Gilliam, Morrow, Umatilla,
17 Wheeler and Grant Counties.

18 (13) District 13 which is composed of Wallowa, Union and Baker
19 Counties.

20 (14) District 14 which is composed of Harney and Malheur Counties.

21 **SECTION 19.** (1) There is created a district association of local gov-
22 ernments in each planning district of this state. Each association shall be
23 comprised of all cities, counties and special districts situated within the
24 planning district.

25 (2) There is created for each association a [district] council of local gov-
26 ernments with a membership as provided in section 20 of this Act. Not later
27 than the expiration of 10 days after the effective date of this Act, the
28 chairman of the county governing body of the most populous county in each
29 ^{Council of Government} [planning-district] shall call a meeting of the members of the council for the
30 planning district described in section 20 of this Act.

31 **SECTION 20.** (1) The membership of a [district] council of local gov-
32 ernments for a planning district shall consist of:

33 (a) The chairman of the board of commissioners, or in his stead, a

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1 member of the county commission selected by the county commission, for
2 each county within the planning district;

~~3 (b) The mayor of the most populous city in each county, or, in his~~

(b) The mayor of each incorporated city in each county, or, in his stead, a member of the city council selected by the mayor or the city council; and

(c) One member from each of the remaining cities and special districts in the planning district who serves as an elected official of the city or special district.

10 (1) of this section shall comprise at least two-thirds of the
11 membership.

12 (2) (b) The term of a member of a [district] council^{of government} described in subsection

13 (1) of this section shall be limited to two years.

14 (3) The voters of a planning district, from time to time and in the exer-
15 cise of their power of the initiative or by approving a measure referred to
16 them by the ^{council of government} [district-council], may alter or revise the number, qualifications
17 and manner of selecting members of the [district] council provided in sub-
18 sections (1) and (2) of this section.

19 SECTION 21. Each [district] council^{of government} shall establish a district planning
20 committee with a membership as determined by the council; however, at
21 least 50 percent of the membership of the committee shall be composed of
22 representatives of city and county planning commissions within the plan-
23 ning district.

24 SECTION 22. Each [district] council^{of government} with the advice of its district plan-
25 ning committee, shall:

26 (1) Coordinate land conservation and development by the cities, coun-
27 ties and special districts within the planning district.

28 (2) Review the comprehensive plans prepared and proposed by cities,
29 counties and special districts within the planning district for compliance
30 with state-wide planning guidelines prescribed by the commission or ap-
31 proved by the Legislative Assembly.

32 (3) Review other comprehensive plans and zoning, subdivision and
33 other ordinances or regulations prepared, proposed or adopted by cities,
34 counties and special districts within the planning district for compliance
with state-wide objectives and regulations prescribed by the commission

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1 member of the county commission selected by the county commission, for
2 each county within the planning district;

~~3 (b) The mayor of the most populous city in each county, or, in his
4 stead, a member of the city council selected by the mayor and city council
5 of the most populous city in each county; and~~

~~6 (c) Such other members representing the remaining cities and special
7 districts in the planning district as shall be deemed appropriate in the
8 bylaws adopted by the district council.~~

~~9 (2)(a) Representatives from cities and counties described in subsection
10 (1) of this section shall comprise at least two-thirds of the district council
11 membership.~~

12 (2) (b) The term of a member of a [district] council^{of government} described in subsection
13 (1) of this section shall be limited to two years.

14 (3) The voters of a planning district, from time to time and in the exer-
15 cise of their power of the initiative or by approving a measure referred to
16 them by the ^{council of government} [district council], may alter or revise the number, qualifications
17 and manner of selecting members of the [district] council provided in sub-
18 sections (1) and (2) of this section.

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27 ties and special districts within the planning district.

28 (2) Review the comprehensive plans prepared and proposed by cities,
29 counties and special districts within the planning district for compliance
30 with state-wide planning guidelines prescribed by the commission or ap-
31 proved by the Legislative Assembly.

32 (3) Review other comprehensive plans and zoning, subdivision and
33 other ordinances or regulations prepared, proposed or adopted by cities,
34 counties and special districts within the planning district for compliance
with state-wide objectives and regulations prescribed by the commission

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1 with respect to land conservation and development in areas and activities
2 of critical state concern within the planning district.

3 (4) Cooperate with the department, other state agencies, other district
4 councils, special districts, cities and counties outside the planning district
5 to coordinate land conservation and development within the state.

6 (5) Appoint advisory committees within the planning district, as neces-
7 sary, to aid it in carrying out its land conservation and development func-
8 tions within the planning district; provide technical and other assistance
9 for such committees and consult with; and consider the recommendations
10 of such committees in carrying out its duties under this Act.

11 SECTION 23. A [district] council, ^{of government} with the advice of its district planning
12 committee, may:

13 (1) Provide land conservation and development planning, advisory and
14 technical services to each special district, city or county engaged in land
15 conservation and development within the planning district upon request
16 and subject to payment therefor.

17 (2) Provide information, maps and other data pertinent to its duties
18 to the commission or other agency of the state, other [district] councils, ^{of government}
19 special districts, cities and counties within or without the planning district.

20 (3) Conduct, arrange or assist in the promotion of educational programs
21 relating to land conservation and development in the state or planning
22 district and the need for the coordinated planning thereof.

23 (4) Subject to the prior approval of the ^{regional} commission, join with any
24 similar council or planning agency with jurisdiction over contiguous land
25 situated in another state to form an interstate [district] council. ^{of government}

26 (5) Provide any other services or perform any other functions that it
27 considers necessary in carrying out its duties under this Act.

(6) The Council of Government may promulgate rules and
regulations that it considers necessary in carrying out the
provisions of this Act.

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31 with this Act and the state
32 wide] planning guidelines approved under this Act.

33 SECTION 25. Pursuant to this Act, each city and county in this state
34 shall:

(1) Prepare and adopt comprehensive plans consistent with the state-

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1 with respect to land conservation and development in areas and activities
2 of critical state concern within the planning district.

3 (4) Cooperate with the department, other state agencies, other district
4 councils, special districts, cities and counties outside the planning district
5 to coordinate land conservation and development within the state.

6 (5) Appoint advisory committees within the planning district, as neces-
7 sary, to aid it in carrying out its land conservation and development func-
8 tions within the planning district; provide technical and other assistance
9 for such committees and consult with; and consider the recommendations
10 of such committees in carrying out its duties under this Act.

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14 technical services to each special district, city or county engaged in land
15 conservation and development within the planning district upon request
16 and subject to payment therefor.

17 (2) Provide information, maps and other data pertinent to its duties
18 to the commission or other agency of the state, other [district] councils, ^{of government}
19 special districts, cities and counties within or without the planning district.

20 (3) Conduct, arrange or assist in the promotion of educational programs
21 relating to land conservation and development in the state or planning
22 district and the need for the coordinated planning thereof.

23 (4) Subject to the prior approval of the ^{regional} commission, join with any
24 similar council or planning agency with jurisdiction over contiguous land
25 situated in another state to form an interstate [district] council. ^{of government}

26 (5) Provide any other services or perform any other functions that it
27 considers necessary in carrying out its duties under this Act.

28 CITIES AND COUNTIES

29 SECTION 24. Cities and counties shall exercise their planning and
30 zoning responsibilities under ORS chapters 92, 215 and 227 in accordance
31 with this Act [~~and the state-wide objectives and regulations~~] and the ^{regional} state-
32 wide] planning guidelines approved under this Act.

33 SECTION 25. Pursuant to this Act, each city and county in this state
34 shall:

(1) Prepare and adopt comprehensive plans consistent with the state-

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1 wide objectives ~~[and regulations]~~ for areas and activities of state concern
2 and ^{regional} ~~[state-wide]~~ planning guidelines approved by the ^{appropriate} commission; and
3 (2) Enact zoning, subdivision and other ordinances or regulations to
4 implement their comprehensive plans.

5 SPECIAL DISTRICTS AND STATE AGENCIES

6 SECTION 26. Special districts shall exercise their planning duties,
7 powers and responsibilities that are authorized by law with respect to
8 programs affecting land use in accordance with ^{regional} ~~[state-wide]~~ planning guide-
9 lines and state-wide objectives ~~[and regulations]~~ approved pursuant to this
10 Act.

11 SECTION 27. State agencies shall carry out their planning duties,
12 powers and responsibilities that are authorized by law with respect to
13 programs affecting land use in accordance with ^{regional} ~~[state-wide]~~ planning guide-
14 lines and state-wide objectives and regulations approved pursuant to this
15 Act.

16 JOINT LEGISLATIVE COMMITTEE ON LAND USE

17 SECTION 28. The Joint Legislative Committee on Land Use is estab-
18 lished as a joint committee of the Legislative Assembly. The committee
19 shall select an executive secretary who shall serve at the pleasure of the
20 committee and under its direction.

21 SECTION 29. (1) The Joint Legislative Committee on Land Use
22 shall consist of four members of the House appointed by the Speaker and
23 three members of the Senate appointed by the President. No more than
24 three House members of the committee shall be of the same political
25 party. No more than two Senate members of the committee shall be of
26 the same political party.

27 (2) The committee has a continuing existence and may meet, act and
28 conduct its business during sessions of the Legislative Assembly or any
29 recess thereof, and in the interim period between sessions.

30 (3) The term of a member shall expire upon the convening of the
31 Legislative Assembly in regular session next following the commencement
32 of the member's term. When a vacancy occurs in the membership of the

1 committee in the interim between sessions, until such vacancy is filled,
2 the membership of the committee shall be deemed not to include the
3 vacant position for the purpose of determining whether a quorum is pres-
4 ent and a quorum is the majority of the remaining members.

5 (4) Members of the committee shall be reimbursed for actual and
6 necessary expenses incurred or paid in the performance of their duties as
7 members of the committee, such reimbursement to be made from funds
8 appropriated for such purposes, after submission of approved voucher
9 claims.

10 (5) The committee shall select a chairman. The chairman may, in
11 addition to his other authorized duties, approve voucher claims.

12 (6) Action of the committee shall be taken only upon the affirmative
13 vote of the majority of the members of the committee.

14 SECTION 30. The committee shall:

15 (1) Advise the ^{regional conservation and development commissions} [department] on all matters under the jurisdiction of
16 the ^{commissions} [department];

17 (2) Review and make recommendations to the Legislative Assembly
18 on proposals for additions to or modifications of designations of areas
19 or activities of critical state concern;

20 (3) Review and make recommendations to the Legislative Assembly
21 on state-wide objectives [and regulations] and ^{regional} [state-wide] planning guide-
22 lines approved by the ^{commissions} [commission]; and

23 (4) Make recommendations to the Legislative Assembly on any other
24 matter relating to land use planning in Oregon.

25 PART III AREAS AND ACTIVITIES OF STATE CONCERN

26 DESIGNATION

27 SECTION 31. The following geographic areas in this state are desig-
28 nated as areas of critical state concern:

~~29 (1) Any scenic waterway designated as such in accordance with ORS
30 390.805 to 390.925, including any related adjacent land.~~

~~31 (2) Any waterway in this state designated as a wild and scenic river
32 pursuant to the federal Wild and Scenic Rivers Act, Public Law 90-542,
33 including any adjacent lands regulated thereunder.~~

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~~1 (3) All of the following lands, including adjacent lands situated within
2 one-quarter of one mile of such lands' boundaries:~~

~~3 (a) State parks and recreation areas administered by the Highway
4 Division of the Department of Transportation.~~

~~5 (b) Recreation, primitive or wilderness areas on lands administered
6 by the U.S. Forest Service, the Bureau of Land Management, the National
7 Parks Service and U.S. Army Corps of Engineers.~~

~~8 (c) Lands subject to the regulation of the State Game Commission,
9 Fish Commission of the State of Oregon, Federal Bureau of Sport Fisheries
10 or the Wildlife Refuge Division of the U.S. Department of Interior.~~

~~11 (d) Parks or recreation areas situated outside an incorporated area
12 and administered by a unit of local government.~~

~~13 (e) Parks or recreation areas on lands under the jurisdiction of the
14 State Board of Forestry or the Division of State Lands.~~

15 (1) (4) Lands situated within a radius of one-half of one mile from the
16 center of the right of way of a state highway that is a part of the National
17 System of Interstate and Defense Highways established pursuant to sec-
18 tion 103 (d), title 23, United States Code, at the point of its interchange
19 with any other public highway where such point of interchange is not
20 located within an incorporated area and such lands situated within a
21 radius of one-quarter of one mile where such point of interchange is located
22 within an incorporated area.

~~23 (5) All lands west of the Oregon Coast Highway as described in
24 ORS 366.235, except that:~~

~~25 (a) In Tillamook County, Oregon, only the lands west of a line
26 formed by connecting the western boundaries of the following described
27 roadways: Brooten Road (County Road 887) northerly from its junction
28 with the Oregon Coast Highway to Pacific City, McPhillips Drive (County
29 Road 915) northerly from Pacific City to its junction with Sandlake Road
30 (County Road 871), Sandlake-Cape Lookout Road, (County Road 871)
31 northerly to its junction with Cape Lookout Park, Netarts Bay Drive
32 (County Road 665) northerly from its junction with the Sandlake-Cape
33 Lookout Road (County Road 871) to its junction at Netarts with State~~

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1 Highway 131, and northerly along State Highway 131 to its junction with
2 the Oregon Coast Highway near Tillamook.

3 (b) In Coos County, Oregon, only the lands west of a line formed by
4 connecting the western boundaries of the following described roadways:
5 FAS 263 southerly from its junction with the Oregon Coast Highway to
6 Charleston; Seven Devils Road (No. 33) southerly from its junction with
7 FAS 263 to its junction with the Oregon Coast Highway, near Bandon.

8 (6) All estuaries including all land extending 1,000 feet on a horizontal
9 plane from the mean higher high-tide mark as located by reference to
10 the tidal bench mark date prepared by the United States Coast and
11 Geodetic Survey. As used in this subsection, "estuaries" means partially
12 enclosed bodies of water where the tide ebbs and flows and where fresh
13 water from the land meets the salt waters of the Pacific Ocean from the
14 Pacific Ocean on the west to a point on the east where there exists a
15 bottom salinity of five parts per thousand as measured at the time of the
16 lowest water flow in summer.

17 (7) All lands within the area bounded on the west by the mouth of
18 the Sandy River, on the north by the ordinary high water line of the
19 Columbia River, on the east by the western boundary of the City of The
20 Dalles, Oregon, and on the south by the ridge of the cliffs of the Columbia
21 River Gorge.

22 (2) (8) All lands situated within 1,000 feet from the right of way bound-
23 aries of highways designated under ORS 377.530 as scenic highways if
24 such highways are not located within an incorporated area and all lands
25 situated within 200 feet from the right of way boundaries of such high-
26 ways if such highways are located within the boundaries of an incorpo-
27 rated area.

(3) All counties that have shown an annual population increase, as determined by the Center for Population Research at Portland State University, in excess of 3%.

(4) Any area having a population density in excess of 200 persons per square mile, and all land extending 1/2 of one mile from the periphery of such area.
33 way systems or any portion thereof.

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1 Highway 131, and northerly along State Highway 131 to its junction with
2 the Oregon Coast Highway near Tillamook.

3 (b) In Coos County, Oregon, only the lands west of a line formed by
4 connecting the western boundaries of the following described roadways:
5 FAS 263 southerly from its junction with the Oregon Coast Highway to
6 Charleston; Seven Devils Road (No. 33) southerly from its junction with
7 FAS 263 to its junction with the Oregon Coast Highway, near Bandon.

8 (6) All estuaries including all land extending 1,000 feet on a horizontal
9 plane from the mean higher high-tide mark as located by reference to
10 the tidal bench mark date prepared by the United States Coast and
11 Geodetic Survey. As used in this subsection, "estuaries" means partially
12 enclosed bodies of water where the tide ebbs and flows and where fresh
13 water from the land meets the salt waters of the Pacific Ocean from the
14 Pacific Ocean on the west to a point on the east where there exists a
15 bottom salinity of five parts per thousand as measured at the time of the
16 lowest water flow in summer.

17 (7) All lands within the area bounded on the west by the mouth of
18 the Sandy River, on the north by the ordinary high water line of the
19 Columbia River, on the east by the western boundary of the City of The
20 Dalles, Oregon, and on the south by the ridge of the cliffs of the Columbia
21 River Gorge.

22 (2) (8) All lands situated within 1,000 feet from the right of way bound-
23 aries of highways designated under ORS 377.530 as scenic highways if
24 such highways are not located within an incorporated area and all lands
25 situated within 200 feet from the right of way boundaries of such high-
26 ways if such highways are located within the boundaries of an incorpo-
27 rated area.

28 **SECTION 32.** (1) The following developmental activities are desig-
29 nated as activities that by their nature or magnitude are of critical state
30 concern:

31 (a) The planning, siting and construction of airports.

32 (b) The planning, siting and construction of state and federal high-
33 way systems or any portion thereof.

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1 (c) The planning, siting and construction of mass transit systems or
2 any portion thereof.

3 (d) The planning, siting and construction of solid waste disposal sites
4 and facilities.

5 (e) The planning, siting and construction of high-voltage power, gas
6 and oil transmission lines.

7 (f) The planning, siting and construction of sewerage systems and
8 water supply systems.

9 (g) The planning, siting and construction of thermal power plants and
10 nuclear installations.

11 (2) Nothing in this Act supersedes any duty, power or responsibility
12 vested by statute in any state agency relating to its activities described in
13 subsection (1) of this section; except that, a state agency may neither im-
14 plement any such activity nor adopt any plan relating to such an activity
15 without the prior approval of the commission.

16 **SECTION 33.** (1) In addition to the areas of critical state concern
17 designated in section 31 of this Act and the activities of critical state con-
18 cern designated in section 32 of this Act, ²the commission may recommend
19 to the committee the designation of additional areas or activities of critical
20 state concern. Each such recommendation shall specify the reasons for the
21 proposed designation of the area or activity of critical state concern, the
22 dangers that would result from uncontrolled development within the area
23 or by the activity, the reasons for the implementation of ^{regional} ~~state-wide~~ plan-
24 ning objectives and regulations for the proposed area or activity, and the
25 suggested ^{regional} ~~state-wide~~ planning objectives and regulations to be applied
26 within the proposed area or for the proposed activity.

27 (2) ^A ~~The~~ commission may act under subsection (1) of this section on
28 its own motion or upon the recommendation of a state agency, ~~district~~
29 council, ^{of government} city, county or special district. If the commission receives a recom-
30 mendation from a state agency, ~~district~~ council, ^{of government} city, county or special
31 district and finds the proposed area or activity to be unsuitable for desig-
32 nation, it shall notify the state agency, ~~district~~ council, ^{of government} city, council or
33 special district of its decision and its reasons therefor.

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1 (3) Immediately following its decision to favorably recommend to the
 2 Legislative Assembly the designation of an additional area or activity of
 3 critical state concern, ³~~the~~ commission shall submit the proposed designa-
 4 tion accompanied by the supporting materials described in subsection (1)
 5 of this section to the committee for its review.

6 PERMITS FOR ACTIVITIES OF STATE CONCERN

7 SECTION 34. (1) On and after 90 days after the effective date of
 8 this Act, no proposed development project constituting an activity of critical
 9 state concern designated under section 32 of this Act may be initiated by
 10 any person or public agency without a development permit issued by the
 11 ~~commission~~ ^{council of government} therefor.

appropriate

12 (2) Any person or public agency desiring to initiate a development
 13 constituting an activity of critical state concern shall apply to the ~~depart-~~
 14 ~~ment~~ ^{appropriate council of government} for a development permit for such project. The application shall
 15 contain the plans for the project and the manner in which such project
 16 has been designed to meet the objectives and regulations for activities of
 17 critical state concern and the comprehensive plans for the state and the
 18 planning district within which the development is proposed, and any other
 19 information required by the ~~commission~~ ^{council of government} as prescribed by rule of the ~~com-~~
 20 ~~mission~~ ^{council of government}.

council

21 (3) The ~~department~~ ^{council of government} shall transmit copies of the application to the
 22 ~~appropriate district council and~~ affected state agencies for their review
 23 and recommendation.

24 (4) The ~~district council and the~~ state agencies shall review an appli-
 25 cation transmitted to it under subsection (3) of this section and shall,
 26 within 30 days after the date of the receipt of the application, submit their
 27 recommendations on the application to the ~~commission~~ ^{council of government}.

28 (5) If the ~~commission~~ ^{council of government} finds after review of the application and the
 29 comments submitted by the ~~district council and~~ state agencies that the
 30 proposed project complies with the state-wide objectives and regulations
 31 for activities of critical state concern and the comprehensive plans within
 32 the planning district, it shall approve the application and issue a develop-
 33 ment permit for the proposed project to the person or public agency apply-
 34 ing therefor.

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(6) The ^{council of government} ~~commission~~ may prescribe and shall include in the development permit such conditions or restrictions that it considers necessary to assure that the proposed development project complies with the state-wide objectives and regulations for activities of critical state concern and the comprehensive plans within the planning district.

(7) If the activity requiring a development permit under this section also requires any other permit from any state agency, the ^{council of government} ~~commission~~ with the cooperation and concurrence of the other agency, may provide a joint application form and permit to satisfy both the requirements of this Act and any other requirements set by statute or by rule or regulations of the state agency.

SECTION 35. (1) If an application for a proposed development project constituting an activity of critical state concern designated by section 32 of this Act is received by the ^{council of government} ~~department~~ prior to the adoption of state-wide objectives and regulations for activities of critical state concern, the ^{council} ~~commission~~ shall approve the application and issue a development permit for the proposed development project if such development project is in compliance with the comprehensive plans of a state agency, planning district, city or county and with zoning, subdivision and other ordinances and regulations adopted to carry out such comprehensive plans that are in effect on the date of the receipt of the application by the ^{council} ~~commission~~.

(2) If there are no state agency, planning district, city, or county comprehensive plans in effect within the area in which a development project described in subsection (1) of this section is to be located, the ^{council of government} ~~commission~~ may issue a development permit and prescribe in the development permit reasonable conditions for the protection of the public health, welfare and safety.

SECTION 36. In reviewing under subsection (5) of section 34 of this Act an application for a development permit for a proposed development project constituting an activity of critical state concern, the ^{council of government} ~~commission~~ shall consider whether or not:

(1) The location of a proposed development is essential or appropriate in view of the available alternative locations within or outside the district;

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1 (2) The proposed development will have a favorable impact upon the
2 environment in comparison to alternative manners of development;

3 (3) The proposed development will favorably affect other persons or
4 property in view of any circumstances that are peculiar to the location, size
5 or nature of the development;

6 (4) If the proposed development imposes immediate cost burdens on
7 the city or county within which it is to be located, the amount of similar
8 existing development within such city or county is more than an equitable
9 share of that type of development needed within the planning district;

10 (5) The proposed development will favorably affect the ability of
11 people to find adequate housing reasonably accessible to their employment;

12 (6) The proposed development will favorably affect the provision for
13 city or county services and the burden of taxpayers in making provision
14 therefor;

15 (7) The proposed development will efficiently use public or public-
16 aided school, transportation or other facilities that are existing or that are
17 to be furnished within the foreseeable future; and

18 (8) The proposed development should be approved in view of other
19 considerations deemed necessary by the ~~(district)~~ council^{of government}.

20 **SECTION 37.** (1) If any person or public agency is in doubt whether
21 a proposed development project constitutes an activity of critical state
22 concern, the person or public agency may request a determination from
23 the ^{appropriate regional} commission on the question. Within 60 days after the date of the receipt
24 by it of such a request, the commission, with the advice of the committee
25 and of the ~~(district)~~ council^{of government} for the planning district in which such activity
26 is proposed, shall issue a binding letter of interpretation with respect to
27 the proposed development project.

28 (2) Requests for determinations under this section shall be made to ^a ~~(the)~~
29 commission in writing and in such form and contain such information as
30 may be prescribed by the commission.

31 **SECTION 38.** (1) Any development project constituting an activity
32 of critical state concern that is being carried out without a development
33 permit issued under section 34 of this Act or in a manner contrary to the

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1 conditions set out in a development permit issued therefor under section
2 34 of this Act is a public nuisance.

3 (2) Any development project that does not constitute an activity
4 of critical state concern, that is being carried out within an area of critical
5 state concern and that does not comply with the state-wide objectives and
6 regulations approved by the commission for the area of critical state con-
7 cern is a public nuisance.

8 **SECTION 39.** If ³~~the~~ commission determines the existence of an alleged
9 public nuisance under section 38 of this Act, it may:

10 (1) Investigate, hold hearings, make orders and take action that it
11 deems appropriate under this Act, as soon as possible.

12 (2) For the purpose of investigating conditions relating to the alleged
13 public nuisance, through its members or its duly authorized representa-
14 tives enter at reasonable times upon any private or public property.

15 (3) Conduct public hearings in accordance with ORS chapter 183.

16 (4) Publish its findings and recommendations as they are formulated
17 relative to the alleged public nuisance.

18 (5) Give notice of any order relating to a particular violation of its
19 state-wide objectives and regulations, a particular violation of the terms
20 or conditions of a development permit or a particular violation of the pro-
21 visions of this Act by mailing notice to the person or public body conduct-
22 ing or proposing to conduct the development project affected in the manner
23 provided by ORS chapter 183.

24 (6) Take appropriate action for the enforcement of orders promulgated
25 as a result of any hearing. Any violation of an order of the commission
26 under this section may be enjoined in civil abatement proceedings brought
27 in the name of the State of Oregon. Proceedings thus brought by the
28 commission shall set forth the dates of notice and hearing and the
29 specific order of the commission, together with the facts giving rise to
30 the violation.

31 **SECTION 40.** (1) Proceedings to abate alleged public nuisances under
32 section 38 of this Act may be instituted at law or in equity, in the name
33 of the State of Oregon upon relation of the ⁴~~Land Conservation and De-~~ ^{appropriate council} of
34 ~~velopment Commission~~ governments.

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(2) However, notwithstanding any other provisions of law, ^{the} ~~the~~ commission, without the necessity of prior administrative proceedings or hearing and entry of an order, may institute a suit at law or in equity in the name of the State of Oregon to abate or restrain threatened or existing nuisances under section 38 of this Act, whenever such nuisances create an emergency that requires immediate action to protect the public health, safety or welfare. No temporary restraining order or temporary injunction or abatement order shall be granted unless the defendant is accorded an opportunity to be heard thereon at a time and place set by the court in an order directing the defendant to appear at such time and place, and to then and there show cause, if any he has, why a temporary restraining order or temporary injunction or abatement order should not be granted. The order to show cause, together with affidavits supporting the application for such temporary injunction or abatement order, shall be served on the defendant as a summons. The defendant may submit counteraffidavits at such time and place. The commission shall not be required to furnish any bond in such proceeding. Neither members of the commission nor the director or members of their staffs shall be liable for any damages the defendant may sustain by reason of an injunction or restraining order or abatement order issued after such hearing.

(3) Cases filed under this section shall be given preference on the docket over all other civil cases except those given an equal preference by statute.

**PART IV ~~STATE-WIDE~~ GUIDELINES, OBJECTIVES
AND REGULATIONS**

SECTION 41. All comprehensive plans and any zoning, subdivision and other ordinances and regulations adopted by a state agency, planning district, city, county or special district to carry out such plans shall be in conformity with the ^{regional} ~~state-wide~~ planning guidelines, and the state-wide objectives ~~and regulations~~ approved by the ^{appropriate} ~~commission~~ or the Legislative Assembly.

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~~SECTION 42. (1) Not later than the expiration of one year following the effective date of this Act, the department shall prepare state-wide objectives and regulations to be applied by state agencies, district councils,~~

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~~1 cities, counties and special districts in planning for, regulating, reviewing
 2 and passing upon land conservation and development proposals to be
 3 carried out within areas of critical state concern designated in section 31
 4 of this Act. Within such period the department shall also prepare state-
 5 wide objectives and regulations to be applied by itself, state agencies,
 6 district councils, counties, cities and special districts in planning for, regu-
 7 lating, reviewing and passing upon applications for development permits
 8 for development projects constituting activities of critical state concern
 9 designated in section 32 of this Act.~~

10 (2) Upon completion of the preparation of the proposed state-wide
 11 objectives and regulations pursuant to subsection (1) of this section, the
 12 ~~department shall submit them to the commission for approval.~~

13 **SECTION 43.** In preparing ^{regional} ~~state-wide~~ objectives and regulations for
 14 areas and activities of critical state concern designated under sections
 15 31 and 32 of this Act, ^{a council of governments} ~~the department~~ shall consider the comprehensive
 16 plans of state agencies, planning districts, cities, counties and special
 17 districts in the state in order to preserve functional and local aspects of
 18 land conservation and development.

19 ~~**SECTION 44.** (1) Upon receipt of the proposed state-wide objectives
 20 and regulations prepared and submitted to it by the department pursuant
 21 to section 42 of this Act, the commission shall:~~

22 (a) Hold at least one public hearing within each district on the pro-
 23 posed state-wide planning objectives and regulations for areas and activi-
 24 ties of critical state concern. The commission shall cause notice of the
 25 time and place of each such hearing to be published in a newspaper of
 26 general circulation within the district where the hearing is to be conducted
 27 not later than 30 days prior to the date of the hearing. The department
 28 shall supply a copy of its proposed state-wide objectives and regulations
 29 for areas and activities of critical state concern to the Governor, the
 30 committee, affected state agencies and special districts and to each city,
 31 county and district council upon request and without charge. The depart-
 32 ~~ment shall provide copies of such proposed state-wide objectives and regula-~~

1 ~~tions to other public agencies or persons upon request and payment of the~~
2 cost of preparing the copies of the materials requested.

3 (b) Consider the recommendations and comments received from each
4 of the public hearings conducted under paragraph (a) of this subsection,
5 make any revisions in the proposed state-wide objectives and regulations
6 for areas and activities of critical state concern that it considers necessary
7 and approve the proposed objectives and regulations, as they may be
8 revised by the commission.

9 (2) After the date of the approval by the commission of state-wide
10 objectives and regulations for areas and activities of critical state concern
11 designated in sections 31 and 32 of this Act, all planning, regulation, re-
12 view and action upon land development proposals by the state, district
13 councils, cities, counties or special districts shall be revised, if necessary,
14 to comply with such objectives and regulations. The preparation of new
15 comprehensive plans and any revision of any comprehensive plan of any
16 special district, city, county, planning district or state agency shall comply
17 with such objectives and regulations.

18 **SECTION 45.** Following the approval by the commission of state-
19 wide objectives and regulations for areas and activities of critical state
20 concern under section 44 of this Act, each district council shall review
21 the comprehensive plans for land conservation and development within
22 the planning district to assure that state-wide objectives and regulations
23 approved by the commission for designated areas and activities of critical
24 state concern within the planning district are implemented.

25 **SECTION 46.** (1) Not later than January 1, 1975, the department shall
26 prepare state-wide planning guidelines for use by state agencies, cities,
27 counties, district councils and special districts in preparing, adopting, re-
28 vising and implementing existing and future comprehensive plans.

29 (2) Following the preparation of the proposed state-wide planning
30 guidelines pursuant to subsection (1) of this section, the department shall
31 submit the proposed state-wide planning guidelines for review and ap-
32 proval by the commission in the manner provided in section 44 of this Act
33 for the approval of state-wide objectives and regulations for areas and
34 ~~activities of critical state concern.~~

1 SECTION 47. Following the approval by ^a the commission of ^{regional} ~~state-wide~~
 2 planning guidelines, each ~~district~~ council ^{of government} shall review all comprehensive
 3 plans for land conservation and development within the planning district,
 4 both those adopted and those being prepared. The ~~district~~ council ^{of government} shall
 5 advise the state agency, city, county or special district preparing the com-
 6 prehensive plans whether or not the comprehensive plans are in conformity
 7 with the ^{regional} ~~state-wide~~ planning guidelines.

8 PART V COMPREHENSIVE PLANS

9 SECTION 48. Comprehensive plans and zoning, subdivision, and other
 10 ordinances and regulations adopted prior to the effective date of this Act
 11 shall remain in effect until revised, if necessary, under this Act.

12 SECTION 49. Prior to approval by ^a the commission of its ^{regional} ~~state-wide~~
 13 planning guidelines under section 46 of this Act, the goals listed in ORS
 14 215.515 shall be used in the preparation, revision, adoption or implementa-
 15 tion of any comprehensive plan.

16 SECTION 50. Any zoning, subdivision or other ordinance or regula-
 17 tion adopted by a state agency, ~~district~~ council ^{of government}, city, county or special
 18 district after the effective date of this Act shall be based upon its compre-
 19 hensive plan and a finding by it that:

20 (1) The designation of land use zones is reasonably related to the
 21 effects of permitted land uses upon public facilities and other services, in-
 22 cluding but not limited to, transportation systems, public schools, health
 23 care facilities, fire and police facilities and the impact of such uses upon
 24 the state's finite natural resources.

25 (2) Agricultural zones relate to the need to conserve prime farm lands
 26 and provide for a blocking of agricultural lands in order to minimize con-
 27 flicts between farm and nonfarm uses.

28 (3) Development of urban and nonfarm uses is conditioned upon the
 29 provision for the public facilities necessary to protect the public health,
 30 safety and welfare.

31 (4) Business, commercial and industrial zones relate to the needs of
 32 the area and that the location of such zones and the uses permitted therein

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1 are based upon the effect of such land uses upon the adjacent lands and
2 the community as a whole.

3 (5) Residential zones are located with respect to their respective re-
4 quirements for public facilities and services and provide adequate regu-
5 lations for varying densities of development.

6 (6) If substantial differences exist between adjacent land uses, transi-
7 tional land uses are established between such conflicting land uses or that
8 the development regulations for the more intensive land use provide ade-
9 quate protection for adjacent property.

10 (7) Zoning regulations and ordinances do not prevent:

11 (a) The preservation of unique land uses and characteristics;

12 (b) The protection of life and property involved in the use of lands
13 situated within flood plains; and

14 (c) Adequate housing for persons of low income within the area.

15 Section 51. ORS 227.240 is amended to read:

16 227.240. (1) For each district provided for by subsection (1) of ORS
17 227.230, regulations may be imposed designating the class of use that shall
18 be excluded or subjected to special regulations and designating the uses
19 for which buildings may not be erected or altered, or designating the
20 class of use which only shall be permitted. These regulations shall be
21 designed to [*promote the public health, safety and general welfare. The*
22 *council shall give reasonable consideration, among other things, to the*
23 *character of the district, its peculiar suitability for particular uses, the*
24 *conservation of property values and the direction of building development*
25 *in accord with a well considered plan*] **comply with the considerations speci-**
26 **fied therefor in section 50 of this 1973 Act.**

27 (2) The regulations provided for by subsection (2) of ORS 227.230 shall
28 be uniform for each class of buildings throughout each district. The regu-
29 lations in one or more districts may differ from those in other districts. The
30 regulations shall be designed to secure safety from fire and other dangers
31 and to promote the public health and welfare, and to secure provision for
32 adequate light, air and reasonable access. The council shall pay reasonable
33 regard to the character of buildings erected before May 29, 1919, in each

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1 district, the value of the land, and the use to which it may be put to the
2 end that the regulations may promote public health, safety and welfare.

3 SECTION 52. Each city or county shall prepare and the city council or
4 the county governing body shall adopt the comprehensive plans required
5 by ORS 215.505 to 215.535 and 215.990 in accordance with section 49 of this
6 Act for those plans adopted prior to the expiration of one year following
7 the date the ^{appropriate} commission approves its ^{regional} ~~state-wide~~ planning guidelines ~~under~~
8 ~~section 46 of this Act~~. Plans adopted by cities after the expiration of one
9 year following the date of approval of such guidelines by the commission
10 shall be designed to comply with such guidelines and any subsequent
11 amendments thereto.

12 Section 53. ORS 215.055 is amended to read:

13 215.055. (1) ~~[The]~~ Any comprehensive plan ~~[and all legislation and~~
14 ~~regulations]~~ and all zoning, subdivision or other ordinances and regula-
15 tions authorized by ORS 215.010 to 215.233 ~~[and adopted prior to the ex-~~
16 ~~piration of one year following the date of the approval of state-wide plan-~~
17 ~~ning guidelines under section 46 of this 1973 Act]~~ shall be designed to pro-
18 mote the public health, safety and general welfare and shall be based on
19 the following considerations, among others: The various characteristics of
20 the various areas in the county, the suitability of the areas for particular
21 land uses and improvements, the land uses and improvements in the areas,
22 trends in land improvement, density of development, property values, the
23 needs of economic enterprises in the future development of the areas,
24 needed access to particular sites in the areas, natural resources of the
25 county and prospective needs for development thereof, and the public need
26 for healthful, safe, aesthetic surroundings and conditions.

~~27 (2) Any plan and all zoning, subdivision or other ordinances and regu-~~
28 ~~lations authorized by ORS 215.010 to 215.233 and adopted after the expira-~~
29 ~~tion of one year after the date of the approval of state-wide planning~~
30 ~~guidelines under section 46 of this 1973 Act shall be designed to comply~~
31 ~~with such state-wide planning guidelines and any subsequent revisions or~~
32 ~~amendments thereof.~~

33 (2) (3) Any zoning, subdivisions or other ordinances or regulation author-
34 ized by ORS 215.010 to 215.233 and adopted after the effective date of this

1 1973 Act shall be based upon the considerations specified in section 50 of
2 this 1973 Act.

3 [(2)] (4) In order to conserve natural resources of the state, any land
4 use plan or zoning, subdivision or other ordinance adopted by a county
5 shall take into consideration lands that are, can or should be utilized for
6 sources or processing of mineral aggregates.

7 SECTION 54. (1) Following the approval by ^{each} the commission of ^{regional} state-
8 wide planning guidelines ~~[under section 46 of this Act]~~ each ~~[district]~~ council ^{of government}
9 shall review the comprehensive plans and all revisions thereof of state
10 agencies, special districts, cities and counties within the planning district
11 for compliance with ^{regional} state-wide planning guidelines and state-wide objec-
12 tives ~~[and regulations]~~ approved by the commission.

13 (2) The ~~[district]~~ council ^{of government} shall approve comprehensive plans and re-
14 visions thereof that comply with the ^{regional} state-wide planning guidelines and
15 state-wide objectives ~~[and regulations]~~ approved by the ^{appropriate} commission.

16 (3) Upon the expiration of one year after the date of the approval of
17 ^{regional} state-wide planning guidelines and annually thereafter, each ~~[district]~~ coun-
18 cil ^{of government} shall report to the ^{appropriate} commission on the status of comprehensive plans
19 within each planning district. Each such report shall include:

20 (a) Copies of comprehensive plans reviewed by the ~~[district]~~ council.

21 (b) For those areas or jurisdiction within the planning district without
22 comprehensive plans, a statement and review of the progress made toward
23 compliance with the ^{regional} state-wide planning guidelines and the state-wide
24 objectives ~~[and regulations]~~.

~~25 SECTION 55. (1) Notwithstanding any other provision of law, after
26 the expiration of one year after the date of the approval of the initial state-
27 wide planning guidelines under section 46 of this Act, the Governor shall
28 prescribe, may amend and shall thereafter administer comprehensive plans
29 and zoning, subdivision or other ordinances and regulations for lands
30 within the boundaries of a county, whether or not within the boundaries
31 of a city that:~~

32 (a) ~~Are not subject to ORS 390.640 or to a comprehensive plan and
33 zoning, subdivision or other ordinances and regulations adopted pursuant~~

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~~1 to ORS 215.010 to 215.233 and subsections (1) and (2) of ORS 215.990 or
2 zoned pursuant to any other state law or city ordinance; or~~

~~3 (b) Are subject to a comprehensive plan or a zoning, subdivision or
4 other ordinance or regulation, that does not comply with the state-wide
5 planning guidelines or state-wide objectives and regulations approved under
6 this Act and any subsequent revisions or amendments thereof.~~

~~7 (2) If the city or county shall have under consideration a comprehen-
8 sive plan or zoning, subdivision or other ordinances or regulations for lands
9 described in subsection (1) of this section, and shall have shown satisfactory
10 progress toward the adoption of such comprehensive plan or such ordi-
11 nances or regulations, the Governor may grant a reasonable extension of
12 time after the date set in this section for completion of such plan or such
13 ordinances or regulations.~~

~~14 (3) Any comprehensive plan or zoning, subdivision or other ordinance
15 or regulation adopted by the Governor under subsection (1) of this section
16 shall comply with the state-wide planning guidelines and state-wide ob-
17 jectives and regulations approved under this Act and all subsequent revi-
18 sions or amendments thereof.~~

~~19 (4) The department shall cooperate with and assist the Governor in the
20 preparation and administration of any comprehensive plan or zoning, sub-
21 division or ordinances or regulations prescribed by him under subsection
22 (1) of this section.~~

~~23 Section 56. ORS 215.510 is amended to read:~~

~~24 215.510. (1) Any comprehensive [land use plans] plan for any city or
25 county prescribed or amended by the Governor pursuant to ORS 215.505
26 or section 55 of this 1973 Act shall be in accordance with the standards
27 provided in ORS 215.515 and the notice and hearing requirements provided
28 in ORS 215.060.~~

~~29 (2) Any zoning, subdivision or other ordinances and regulations for
30 any city or county prescribed or amended by the Governor pursuant to
31 ORS 215.505 or section 55 of this 1973 Act shall be in accordance with the
32 standards provided in ORS 215.055 and the notice and hearing require-
33 ments provided in ORS 215.223.~~

1 ~~(3) A comprehensive [land use] plan or zoning, subdivision or other~~
 2 ~~ordinance or regulation for any city or county prescribed or amended by~~
 3 ~~the Governor pursuant to ORS 215.505 or section 55 of this 1973 Act may be~~
 4 ~~for any purpose provided in ORS 215.010 to 215.233 and subsections (1)~~
 5 ~~and (2) of 215.990, except that the Governor may not prescribe build-~~
 6 ~~ing regulations. The Governor may, however, cause to be instituted an~~
 7 ~~appropriate proceeding to enjoin the construction of buildings or perform-~~
 8 ~~ance of any other acts which would constitute a land use that does not con-~~
 9 ~~form to the applicable [land use] comprehensive plan or zoning, subdivi-~~
 10 ~~sion or other ordinance or regulation.~~

11 (4) Any hearings required by this section may be held by the Governor,
 12 or by a person designated by the Governor, and all such hearings shall be
 13 held in the county seat of the county or in the city in which said compre-
 14 hensive [land use] plan or zoning, subdivision or other ordinance or regu-
 15 lation is to be prescribed.

16 Section 57. ORS 215.515 is amended to read:

17 215.515. (1) Comprehensive physical planning, ~~adopted by the Gov-~~
 18 ~~ernor prior to the expiration of one year following the date of the approval~~
 19 ~~of state-wide planning guidelines under section 46 of this 1973 Act,~~ should
 20 provide guidance for physical development within the state responsive to
 21 economic development, human resource development, natural resource
 22 development and regional and metropolitan area development. It should
 23 assist in attainment of the optimum living environment for the state's citi-
 24 zenry and assure sound housing, employment opportunities, educational
 25 fulfillment and sound health facilities. State plans should relate to inter-
 26 mediate and long-range growth objectives. The plans should set a pattern
 27 upon which state agencies and local government may base their programs
 28 and local area plans. Goals for comprehensive physical planning are:

29 [(1)] (a) To preserve the quality of the air [and], water and land
 30 resources of the state.

31 [(2)] (b) To conserve open space and protect natural and scenic re-
 32 sources.

33 [(3)] (c) To provide for the recreational needs of citizens of the state
 34 and visitors.

- 1 [(4)] (d) To conserve prime farm lands for the production of crops
2 [and].
- 3 (e) To provide for an orderly and efficient transition from rural to
4 urban land use.
- 5 [(5)] (f) To protect life and property in areas subject to floods, land-
6 slides and other natural disasters.
- 7 [(6)] (g) To provide and encourage a safe, convenient and economic
8 transportation system including all modes of transportation: Air, water,
9 rail, highway and mass transit, and recognizing differences in the social
10 costs in the various modes of transportation.
- 11 [(7)] (h) To develop a timely, orderly and efficient arrangement of
12 public facilities and services to serve as a framework for urban and rural
13 development.
- 14 [(8)] (i) To diversify and improve the economy of the state.
- 15 [(9)] (j) To ensure that the development of properties within the
16 state is commensurate with the character and the physical limitations of
17 the land.
- 18 ~~(2) Comprehensive physical planning adopted by the Governor after~~
19 ~~the expiration of one year after the date of the approval of state-wide plan-~~
20 ~~ning guidelines under section 46 of this 1973 Act shall be designed to~~
21 ~~comply with such state-wide planning guidelines and any subsequent~~
22 ~~revisions or amendments thereof.~~
- 23 Section 58. ORS 215.535 is amended to read:
- 24 215.535. In addition to the remedy prescribed in subsection (3) of ORS
25 215.510, the Governor may cause to be instituted any civil action or suit he
26 considers appropriate to remedy violations of any comprehensive [land
27 use] plan or zoning, subdivision or other ordinance or regulation pre-
28 scribed by the Governor pursuant to ORS 215.505 of section 55 of this 1973
29 Act.
- 30 SECTION 59. Whenever the Governor prescribes a comprehensive plan
31 or zoning, subdivision or other ordinances or regulations for lands des-
32 cribed in subsection (1) of section 55 of this Act, the costs incurred by the
33 ~~Governor and the department in the preparation and administration of~~

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~~1 such plan or ordinances or regulations shall be borne by the city or county
 2 for which the Governor has proposed such plan or ordinances or regula-
 3 tions. Upon presentation by the Governor to the governing body of the city
 4 or county of a certified, itemized statement of costs, the governing body
 5 shall order payment to the Governor out of any available funds. With re-
 6 spect to a city or county, if no payment is made by the governing body with-
 7 in 30 days thereafter, the Governor shall submit to the Secretary of State his
 8 certified, itemized statement of such costs and the Governor shall be re-
 9 imbursed upon the order of the Secretary of State to the State Treasurer,
 10 from the city's or county's share of the state's cigarette and liquor revenues.~~

PART VI APPEALS

12 SECTION 60. (1) In the manner provided in sections 61 to 63 of this Act, ^athe commission shall review upon:

14 (a) Petition by a [district] council, ^aa comprehensive plan provision ^{of government, state agency, city, county, or special district}
 15 of a state agency, city, county or special district that the [district] council ^aof government
 16 considers to be in conflict with approved ^{regional} [state-wide] planning guidelines

17 or approved state-wide objectives ^a[or regulations].
 18 (b) Petition by a [district] council, ^aa land conservation and development ^{of government, state agency, city, county, or special district}
 19 action taken by a state agency, city, county or special district with respect
 20 to an area or activity of critical state concern that the [district] council ^aof government
 21 considers to be in conflict with approved ^{regional} [state-wide] planning guide-
 22 lines or approved state-wide objectives ^a[or regulations].

23 (c) Petition by a state agency, city, county or special district, any dis-
 24 trict council action that the state agency, city, county, or special ^adistrict ^{of government's}
 25 considers to be improperly taken or outside the scope of the [district] ^acouncil
 26 council's authority under this Act.

27 (d) Petition by any person or group of persons, a provision of an
 28 adopted comprehensive plan or an action taken by a [district] council. ^aof government

29 (2) A petition filed with ^athe commission pursuant to subsection (1)
 30 of this section must be filed not later than 60 days (excluding Saturdays
 31 and holidays) after the date of the final adoption or approval of the
 32 action or comprehensive plan upon which the petition is based.

33 SECTION 61. (1) All review proceedings conducted by ^athe com-
 34 mission pursuant to section 60 of this Act shall be based on the admini-

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1 strative record, if any, prepared with respect to the proceedings for the
2 adoption or approval of the comprehensive plan provision or action that
3 is the subject of the review proceeding.

4 (2) ^A[The] commission shall adopt such rules, procedures and regulations
5 for the conduct of review proceedings held pursuant to section 60 of this
6 Act, in accordance with the provisions of ORS 183.310 to 183.500 for
7 hearings and notice in contested cases.

8 (3) A ^{of government}[district] council, city, county, state agency, special district or
9 any person or group of persons may intervene in and be made a party
10 to any review proceeding conducted by ^a[the] commission with the approval
11 of the commission upon the request of the hearings officer appointed to
12 conduct such proceeding or upon the approval by the hearings officer
13 of a request by such agency, person or group of persons for intervention
14 in the review proceeding.

15 **SECTION 62.** (1) In carrying out its duties under section 60 of
16 this Act, the chairman of ^a[the] commission shall assign each petition to be
17 reviewed by the commission to a hearings officer who shall conduct the
18 review proceeding.

19 (2) A hearings officer shall conduct a review proceeding in accord-
20 ance with the rules, procedures and regulations adopted by ^a[the] commission.
21 Upon the conclusion of a hearing, the hearings officer shall promptly
22 determine the matter, prepare a recommendation for commission action
23 upon the matter and submit a copy of his recommendation to the com-
24 mission and to each party to the proceeding.

25 (3) ^A[The] commission shall review the recommendation of the hearings
26 officer and the record of the proceeding and issue its order with respect to
27 the review proceeding within 60 days following the date of the filing of
28 the petition upon which such review proceeding is based. The commission
29 may adopt, reject or amend the recommendation of the hearings officer
30 in any matter.

31 (4) No order of ^a[the] commission issued under subsection (3) of this
32 section is valid unless all members of the commission have received the
33 recommendation of the hearings officer in the matter and at least three
34 members of the commission concur in its action in the matter.

1 (5) Any party to a review proceeding before ² [the] commission who is
 2 aggrieved by the order issued by the commission in the matter may appeal
 3 the order of the commission in the manner provided in ORS 183.480 to
 4 183.500 for appeals from final orders in contested cases.

5 **SECTION 63.** (1) If, upon its review of the recommendation of a
 6 hearings officer and the record of the review proceeding prepared follow-
 7 ing a review proceeding before the commission, the commission is unable
 8 to reach a decision in the matter without further information or evidence
 9 not contained in the record of the proceeding, it may refer the matter back
 10 to the hearings officer and request that the additional information or evi-
 11 dence be acquired by him or that he correct any errors or deficiencies
 12 found by the commission to exist in his recommendation or record of
 13 the proceeding.

14 (2) In case of a referral of a matter back to the hearings officer pur-
 15 suant to subsection (1) of this section, the 60-day period referred to in
 16 subsection (3) of section 62 of this Act is suspended during the period
 17 beginning on the date of the commission's referral to the hearings officer
 18 and ending on the date that the hearings officer submits the revised
 19 recommendation or record as requested by the commission.

20 PART VII LEGISLATIVE REVIEW

21 **SECTION 64.** (1) Prior to the expiration of 60 days after the date
 22 of the convening of the Fifty-eighth Legislative Assembly of the State
 23 of Oregon, ^{each} [the] commission shall prepare and submit a report to the
 24 Legislative Assembly. Such report shall include:

25 (a) The modifications of and additions to areas or activities of critical
 26 state concern as recommended by the commission under section 33 of this
 27 Act.

28 (b) ^{Regional} [State-wide] planning guidelines approved by the commission [under
 29 section 46 of this Act].

30 ~~[(c) State-wide objectives and regulations for areas and activities of
 31 critical concern approved by the commission under section 44 of this Act.]~~

32 (c) (d) A summary of the orders issued by the commission following
 33 review proceedings conducted pursuant to section 60 of this Act; and

1 (e) A summary of the activities of the department, ~~[district]~~ ^{of government} councils,
2 cities and counties in land conservation and development in the state.

3 (2) In addition to the contents of the report required under subsection
4 (1) of this section, ^a~~[the]~~ commission may also submit proposed legislation
5 that it considers necessary in furthering the purposes of this Act.

6 **SECTION 65.** The committee shall submit to the Legislative Assembly
7 its comments and recommendations on the contents and provisions of the
8 report required by section 64.

9 **SECTION 66.** (1) The report submitted by ^a~~[the]~~ commission to the
10 Legislative Assembly pursuant to subsection (1) of section 64 of this Act
11 shall be considered approved by the Legislative Assembly upon:

12 (a) The passage by both Houses of the Legislative Assembly of a joint
13 resolution approving the report; or

14 (b) The expiration of 90 days after the date of the submission of the
15 report to the Legislative Assembly, or the date of the adjournment of
16 such legislative session, whichever occurs first.

17 (2) The Legislative Assembly may amend or revise the contents of
18 ^a~~[the]~~ report or may refer the report back to the ^{appropriate} commission for further
19 study with a statement of the provisions of the report that it finds unsuit-
20 able, accompanied by the reasons for each such finding, and its suggestions
21 for the amendment or revision by the commission of the report.

22 (3) Upon the date of the completion and publication by ^a~~[the]~~ commission
23 of the revision of its report in conformity with the directions of the
24 Legislative Assembly, the report shall be considered approved by the
25 Legislative Assembly under this section.

26 (4) The committee shall determine whether or not ^a~~[the]~~ report, if
27 revised by ^a~~[the]~~ commission under subsection (2) of this section, is in con-
28 formity with the directions of the Legislative Assembly.

29 **SECTION 67.** (1) Following the approval under section 66 of this
30 Act by the Legislative Assembly of the report, ^a~~[the]~~ commission may
31 revise the ^{regional}~~[state-wide]~~ planning guidelines ~~[and its state-wide objectives~~
32 ~~and regulations]~~ for areas and activities of critical state concern ~~[in the~~
33 ~~manner provided in sections 44 and 46 of this Act for the initial adoption~~
34 ~~of such guidelines, objectives and regulations].~~

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1 (2) Any revision or amendment approved by ^a [the] commission under
2 subsection (1) of this section shall be submitted to the next following regu-
3 lar session of the Legislative Assembly for final approval.

4 (3) Any action that is taken by any agency of this state, ^a [the] commis-
5 sion, a [district] council, ^{of governments} a city or county of this state in reliance upon a
6 ^{regional} [state-wide] planning guideline or a state-wide objective [or-regulation] or
7 any amendment thereof that has been approved by ² [the] commission shall
8 not be invalidated by subsequent refusal by the Legislative Assembly
9 to approve or by any subsequent amendment thereof by the Legislative
10 Assembly.

11 SECTION 68. During each biennium following July 1, 1975, ^{each} [the] com-
12 mission shall review its activities under this Act and submit a report to
13 the Legislative Assembly. Such report shall include:

14 (1) Modifications of and additions to designations of areas or activities
15 of critical state concern in the state;

16 (2) Modifications of and additions to state-wide objectives and regu-
17 lations for areas and activities of critical state concern;

18 (3) Modifications of and additions to ^{regional} [state-wide] planning guidelines;

19 (4) A summary of the orders issued under section 60 of this Act since
20 the date of the previous report by the commission to the Legislative
21 Assembly; and

22 (5) A summary of the activities of the ^{commission,} [department, district] councils, ^{of government}
23 cities and counties in land conservation and development in the state
24 since the date of the previous report by the commission to the Legislative
25 Assembly.

26 SECTION 69. The committee shall submit to each legislative session
27 its comments and recommendations on the contents and provisions of
28 each report submitted by ^{each} [the] commission under section 68 of this Act.

29 SECTION 70. Each report submitted to the Legislative Assembly pur-
30 suant to section 68 of this Act shall be considered approved in the same
31 manner and under the same conditions provided for the approval of the
32 report described in section 66 of this Act.

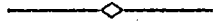
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1 **PART VIII MISCELLANEOUS**

2 **SECTION 71.** The part designations and unit captions used in this Act
3 are provided only for the convenience of locating provisions of this Act,
4 and are not part of the statutory law of this state.

5 **SECTION 72.** This Act being necessary for the immediate preserva-
6 tion of the public peace, health and safety, an emergency is declared to
7 exist, and this Act takes effect on July 1, 1973.



Testimony Given Before the Senate Committee on Environment and Land Use."2/12/73

Chairman Hallock and members of the committee;

Representing myself and the ASUO Survival Center I come before you tonight to speak in favor of Senate Bill#100. Man has come to realize that he can no longer make political decisions with utter disregard to that decisions long range effect on the environment in which man lives. Along with this realization has come the need for some sort of comprehensive over-all planning for the future. The State of Oregon is growing rapidly, it has become a Mecca for people who truly enjoy a beautiful environment. We must do something to prevent this growth from raping the state of the beauty that we have all come to know and love. Past experience has shown us that the planning necessary to insure the preservation of Oregon's beauty simply can not or will not be done on the local level. In the first place the beauty of Oregon is a heritage of all the people in the state and therefore the future of any one region should not be decided simply by the people who reside in that region. Sections 34-40 deal with this problem by the creation of areas of statewide critical concern. Secondly, by creating a state agency that stands as a watchdog over local agencies, we have an agency less vulnerable to the economic pressures of any one area.

To approach the problem of planning for the future of the state on the county level alone is to impose on nature and people an isolation and stagnation that simply does not exist. If the Governor had not had the right to step in when the people of Lincoln County failed to provide proper facilities to dispose of their sewage, it would have been possible for the people of Lincoln County to continue to destroy the beauty of the coastline in their county and we, the other residents of the state, could have done nothing about it. This clearly shows why all the people of the state must have some say about the future of any one region.

Turning to the second point, we content^d that planning on the local level is all too often more concerned with the reaction of the major financial concerns in thier county than with the 100% completion of the duty assinged to them- that of protecting the State of Oregon from rape by urban sprawl and big money intrests in the years to come. Upon the passage of Senate Bill #100 the citizens of the state are assured that when a district commision begins to bow too much to the pressure of financial intrests within that district the state will step in and give that district commision the backbone it needs, to make its decisions with its priorities in the right order. Consider the latest addition to the Coburg Industrial Park just north of Eugene. This addition, according to one of the county commissioners, was unnecessary and was approved because of "the pressure of a few large economically important firms in the area." The agency created in Senate Bill # 100 would have been more immune to this economic pressure than was the existing agency. We are not advocating that financial implications should not be considered in planning, we simply feel that the financial implications must take second priority to the preservation of the natural beauty we the people of Oregon, have been blessed with.

We therefore, because of these two issues, urge the passage of Senate Bill #100 with whatever admendments nessacary to make it workable, as long as it main-tains the philosophy of protecting our beautiful Oregon.

Thank You,

Greg Wasson
Greg Wasson

February 12, 1973

Senator Ted Hallock
Environment and Land-Use Committee
Oregon State Senate
Salem, OR 97310

Dear Mr. Chairman and Members of the Committee:

SUBJECT: Senate Bill 100

Land-use planning is an area that the State heretofore has had little concern or experience with. It has traditionally been an area of concern for local government, although much of the impetus for local planning has come about through State legislation.

Without any real history of activity in the planning field, SB 100 would create five different planning entities above the local level: the Land Conservation and Development Commission, the Joint Legislative Committee on Land Use, the Department of Land Conservation and Development, the District Council and the District Planning Committee. The interrelationships between these five operating entities is at best clouded in the bill. The difficulty of coordinating activity among different agencies and departments is something with which we are both familiar, and the idea of coordinating the activities of five new entities is a bit staggering.

The bill is very weak in the area of ensuring local input into the planning process at the state level. The only mention of public hearings is in Section 44, requiring the commission to hold at least one public hearing in each district. This is scarce recognition of the value of citizen participation in the planning process. There is no provision for citizen participation through public hearing during the period when the state-wide guidelines, objections and regulations are being formulated.

Incidentally, those guidelines must be produced within one year following the effective date of the act, as provided in Section 42. As one who has participated over many years in the formulation of various plans and plan implementations, always with strong emphasis

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on citizen participation in the formation thereof, I can assure you that an allowance of one year for the preparation of state-wide guidelines, objections and regulations is totally unrealistic. Further, the deadline insures that the product will be skimpy, superficial and unresponsive to public attitudes.

I am concerned that the areas and activities of State concern may not be changed by the Joint Legislative Committee when the Legislature is not in session. I believe that the designation of areas and activities of State concern are so vitally important to all of the citizens of the State and all of their elected legislators that if changes were of critical concern, a special session should be required.

I am concerned that the District Council is imposed as another layer of planning approval. In fact, the District Council would be the principal planning agency in each district, whereas now the councils of government (COG's) are merely serving as a coordinating agency for various local planning bodies. I suppose Lane County's COG has as good a track record as any in the State. In fact, it is barely adequate to the coordinating role. It lacks the staff, the expertise and the confidence of the community (including most planning officials) to assume a larger role. As a member of the American Society of Planning Officials, I am continually treated to horror stories of urban planning conflicts with the regional COG's. The COG's are controlled by elected officials of various governmental entities which have relatively little in common. The urban areas are outvoted by the suburban and special districts. I have no faith in the COG's as presently formulated to perform any greater role than their present coordinating function.

I am concerned that permits for activities of State concern are issued only at the State level. I think that if proper criteria were set out for the issuance of permits, such permits could and should be issued at the local level. The expertise and the staff for performance of such duties is already in existence at the local level, and supervision of permit performance can also be done best and with the least expense at the local level.

I am concerned that there are some areas of the State where the planning process has been grossly inadequate, and other areas where it has performed with excellence. I believe that Eugene and Lane County are an example of the latter. I am concerned that Senate Bill 100 will, with a heavy hand, level off the quality of planning in the State, bringing up the standards in some areas, lowering the standards of others.

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I am a public official who has practically no regard for the willingness of some State commissions to respect attitudes and opinions and input on the local level. I refer particularly to the State Highway Commission and the State Liquor Commission. I am very concerned about the creation of a State commission in the planning area, and would fear that such a commission might become equally reluctant to follow any counsel but its own.

I think that the State has legitimate concerns in the area of land-use planning, but this bill does not provide for an effective, positive State planning program at the State level. I think this bill is poorly drafted, poorly conceived and poorly interpreted by its own proponents.

I would like to see SB 100 completely re-drafted by an interim committee formulated with adequate funding to prepare some proposed legislation in the area of State planning that would be well thought out, responsive to local concerns and addressed to the areas where the State properly should be concerned. If the State wishes to place moratoriums on certain activities in the interim, I think that is acceptable.

Ultimately, the kind of bill I want to see is the type of legislation that conceived and directed the OCCDC. This is the legislative approach used by the Federal Government. It is one thing to take away the planning process from the local community; but it is something else to outline for that local community what it must do, what criteria must at least be considered, and what planning efforts must be initiated and perpetuated.

I think the changes in public attitude toward land-use planning generally have been remarkable, not only in the acceptance of planning, but in the resistance to unrestricted development. Good examples are the growing public response to non-growth concepts and reluctance to see the enlargement of an automobile-dominated transportation system. I think Senate Bill 100 underestimates the viability of this strong base of support for good planning at the local level, and I do not believe that local planning efforts can be ignored.

It is easy for someone not in the front trenches to plan his environment in a most meritorious fashion. However, the shifting of control of land-use planning to the State will only serve to concentrate the pressures at the State level--putting State agencies in the front trenches with little or no support from local citizen

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participation. I am concerned that down the road a planning decision for Lane County will be traded off against a good or bad decision in Umatilla County.

I hope these comments are of some benefit to you. I would be most happy to work with this Committee or any interim committee on this matter.

Very truly yours,

James A. Pearson, President
Eugene Planning Commission

JP:th

TESTIMONY PRESENTED BEFORE THE SENATE ENVIRONMENT AND LAND
USE COMMITTEE, TED HALLOCK, CHAIRMAN February 12, 1972

S. ENV. & LAND USE COM.

Good evening, gentlemen. My name is Henry Skade; I am a graduate student in environmental biology at the University of Oregon. I represent myself and the interests of the Survival Center of the Associated Students of the University of Oregon. The ASUO Survival Center is a University and community agency in Eugene which seeks to activate, implement, and facilitate environmental concerns and projects which are aimed toward developing a better quality of life. It is funded and operated by students of the University of Oregon.

I would like to address myself briefly to the value of land-use planning in general, and specifically to some of the major objections to Senate Bill 100.

Human knowledge has become so diverse and so complex that it is ^{often} unmanageable, and, at times, virtually impotent. What we need as human beings and as citizens within social systems now, and even more so for the future, is the knowledge of how to use our knowledge. We need the wisdom of how to apply our knowledge for the social good.

In earlier times, the effects of local misdemeanors against natural resources or natural processes were local disasters. Today, literally the whole world is actuated by events in any one part of it. We are beginning to understand that natural forces and processes cannot easily be manipulated to the short-range demands of man without incurring many long-range consequences to human and other biotic societies. These consequences cannot always be foreseen; they cannot always be reversed.

Political decisions made with disregard for or without knowledge of biological information may endanger man's future, as well as the future of the earth's biological resources for human needs.

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So, as with all the larger and more complex problems facing us today, we need collective and cooperative effort. We need cooperative planning for the efficient use of services and for the preservation and sensible use of amenities held in common. Most importantly, we need regional planning.

We cannot plan locally without regard for regional effects, but we do need information on the local soil, water, and climatological conditions, as well as information on the needs and aspirations of the local populace. Citizen participation in planning is absolutely necessary.

The predominant objection to Senate Bill 100 has been, in fact, the seeming absence of opportunity for citizen participation both in the planning process and in the selection and evaluation of the administrators for the planning process. My main criticism is not the gubernatorial appointment of the members of the Land Conservation and Development Commission, but rather the method of selection for membership on the district council of local governments for each planning district and for membership on the district planning committee for each district as outlined in Sections 20 and 21 of Senate Bill 100.

I feel there should be some direct election of officials to the district councils. It is important for mayors and country commissioners to be part of the planning process, to be sure, but preferably in an advisory capacity. In the situation created by Senate Bill 100, the decision making is too far removed from the populace. I think officials elected directly to an office tend to be more responsive to the electorate than officials residing on a council by virtue of their election to another office. Their performance on a council is not subject to the kind of close scrutiny that their performance in their elected position is. Also, direct election of council members would give the local populace the greater voice it needs in the planning process.

I have strong reservations about the lack of grass roots input in the bureaucratic structure that Senate Bill 100 creates. As you must surely realize, this structure could be a total fiasco without public support.

The laws of our society follow prohibitory principles, delineating, as in the Ten Commandments of the Bible, actions or activities that are not permissible. These laws are poorly suited to governing a complex, changeable, and increasingly crowded world. Our solution has been to augment statutory law with administrative law.

Since it is practically impossible to spell out all the conditions under which it is safe to burn trash in the backyard, say, or to develop in a certain manner a presently isolated area of land, by law we delegate the details of these problems to bureaus. The result is administrative law, which is quite justifiably feared for the problem of control of the bureau administrators who are, admittedly, subject to corruption. The problem is, "who will watch the watchers themselves?" Conflicts of interest among the administrators on all levels of the planning process must be avoided. Until another method of regulation is devised, the greatest challenge of this or any other administrative law is to invent the corrective feedbacks that are needed to keep bureau administrators honest. So, I suggest that you gentlemen search for methods of feedback that will open the procedures of the planning process to close public scrutiny. One such method may be the direct election of district council members.

Often reform measures such as Senate Bill 100 are defeated when opponents of the bill discover a flaw or an imperfection in it. The rejection of the bill could be based on the unconscious assumption that the choice we face is between reform and no action, or delayed action as has been advocated by some in the case of Senate Bill 100.

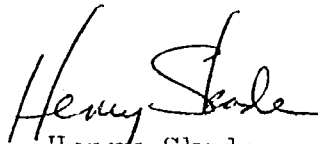
If the proposed reform is imperfect, we presumably should take no action at all, while we wait for a perfect proposal. But, we can never do nothing; the status quo is also action. It also produces evils; it also may be imperfect. Once we see that the status quo is action, we can then compare its observable advantages and disadvantages with the supposed advantages and disadvantages of the proposed reform. On the basis of such a comparison we should be able to make an intelligent and rational choice, knowing that neither alternative is without drawbacks.

The primary goal of Senate Bill 100, as I understand it, is to coordinate the planning efforts of different cities, counties, state agencies and special districts in accordance with state-wide planning guidelines. This fulfills an urgent need that is presently not being met.

We must carefully make value decisions about the future. I strongly feel that judged against the present methods and patterns of land use, Senate Bill 100 offers a positive and most desirable alternative, an alternative that would provide for the efficient use of services and for the preservation and sensible use of amenities held in common.

Gentlemen, I responsibly urge you to recommend for passage Senate Bill 100, with due consideration for amendments or additions that would give greater public voice to the planning process.

Thank you.


Henry Skade

Clackamas
County
Citizens Association

OREGON STATE ARCHIVES

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S. ENV. & LAND USE COM.

P.O. Box 701, Oregon City, Oregon 97045

February 9, 1973

Mr. Chairman & Gentlemen:

I'm Walter F. Brown, 2104 Wembley Park Road, Lake Oswego. At present I'm on the faculty of the Northwestern School of Law, Lewis and Clark College. Professionally, I serve as an adviser to the State Bar Association's Real Property Committee and as vice-chairman of the American Bar Association's Environmental Law Committee.

My testimony is on behalf of the Clackamas County Citizen's Association, Box 1701, Oregon City, 97045, of which I'm President. The CCCA is a non-partisan organization founded in 1971. Our membership currently numbers about 100 members, all living within Clackamas County.

We have 10 points to briefly make.

First, we are gravely concerned about the irresponsible land use practices which we observe in Clackamas County. A recent example-- the building by the David M. Scott Construction Co. of a service station in a single family residential zone right across the street from the front entrance of Clackamas High School. A better known example-- the construction of the vast Charbonneau "executive" residential and golf club complex just east of I-5 and south of the Willamette River-- removed from agricultural production a substantial portion of the county's dwindling prime farm land. We agree with Governor McCall when he told the U.S. Senate Interior Committee on Wednesday, February 7, 1973:

"There are no tomorrow's " without strong measures to protect the nation's land against the pressure of increasing development.

"The land has to be saved and we're in the 9th or 10th inning of the ball game that is nearly over." (The Oregonian, February 8, 1973, at p. 13)

Second, we despair of the inability and/or unwillingness of the majority of our county commissions, and county planning commission members to judiciously enforce our county's several "development patterns."

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Scott's service station is a good example. Our county zoning ordinance specifically states that no service station shall be constructed within 200 feet of any school. The Clackamas County Board of Adjustment -- with the jurisdiction to interpret such a provision -- ruled that it meant from gas station property line to school property line. Our county commissioners, ignoring the statutory requirement for a formal public hearing on any appeal from such a ruling, informally overruled the Board of Adjustment, holding that the distance was to be measured from service station building to school building. The County Planning Commission then recommended a variance despite the fact that Scott failed to carry the burden of proof required by the Oregon Supreme Court in zoning variance cases and our county commissioners then granted the variance despite the opposition of 1,500 high school students, the school superintendent, and the local residents. It is interesting to note that in the fall of 1970 Scott made a major contribution to the re-election of the very same commissioner who in the fall of 1972 moved that Scott's application for a variance be approved.

Third, we despair of the inability and/or unwillingness of the majority of our county commissioners and Planning Commission members to draft a comprehensive plan which complies with the standards set forth in ORS 215.055 and which further takes into consideration the types of land use dictated by the physical characteristics of the land. At the request of our association, the Oregon Environmental Council in April, 1972, prepared a critique of the proposed Clackamas County Comprehensive Plan. Said this critique, in part:

"The major complaint that we have with this plan is that it really is not a plan at all. It is full of grand statements about maintaining the quality and the liveability of the county and protecting natural and scenic resources, but refuses to commit itself to definite controls on land use. Perhaps the most revealing statement in the whole plan occurs on page 49, ' . . . this Plan will not, generally, predetermine the future use of land' Will a land use plan be produced by seeing what happens and then putting it down on a plan afterwards? This type of 'non-planning' has gotten us into our present mess. Predetermining land use is what real planning is all about." (p.1)

Fourth, we believe that there is an increasingly pressing need for the people of Oregon, through their state legislature and such agencies the legislature may create, to take an active role -- if not the leading role -- in intelligently planning and vigorously enforcing proper land use within the state. To paraphrase an adage from two hundred years ago:

"Gentlemen, either we will plan together or most assuredly we will be subdivided separately."

Fifth, turning to Senate Bill 100 which we strongly support, we believe that Part I on page 2 -- the Introduction -- can be strengthened by pointing out that the problem is not primarily the "uncoordinated use of lands within this state." The problem -- bluntly speaking -- is that land use planning and enforcement as we observe it on the county and city level is fair at best and poor to non-existent at worst. What we need is not coordinated land use but proper land use. Proper land use necessarily includes, of course, effective conservation measures, socially responsible development, and effective coordination between units of local government. Our problem in short is not the "uncoordinated use of lands within the state" but improper land use.

Sixth, Part II -- Organization -- on page 5 proposes the establishment of the "Department of Land Conservation and Development" and "the Land Conservation and Development Commission." The job at hand, however, is considerably larger: formulation and enforcement of proper land use plans. Hence, we agree with a former witness, the director of the State Soil & Water Conservation Commission, that the new department should be called the "Department of Land Use" and the new commission the "Land Use Commission" or L.U.C. as in "luck." And with a good "L.U.C.," we may be able to stem the tide of "Los Angelesization" in the Willamette Valley and elsewhere in Oregon. We also propose that the words "but a member serves at the pleasure of the Governor" on page 2, line 15, be deleted. It is our understanding that the Commission has, in part, quasi-judicial functions. If so, they should not be dependent upon the Governor for their tenure. One of the complaints against the British Crown in the Declaration of Independence was that "He has made judges dependent on his will alone, for the tenure of their offices" If Tom Jefferson's criticism was valid then, we believe ours is valid now.

Seventh, we propose as to Part III -- Areas and Activities of State Concern -- the following additions to Section 31 on page 15:

- (9) All privately-owned land in the Sandy River-Mount Hood corridor.
- (10) The Willamette River and all privately-owned lands which are eligible for public acquisition through the assistance of Willamette Greenway funds.
- (11) The Clackamas River from 300 feet above the Carver Bridge to River Mill Dam at Estacada and all lands described in the Clackamas County Natural Rivers Measure Referendum of November 7, 1972.
- (12) All portions of the Old Oregon Trail and the Barlow Road not under Federal jurisdiction, including any related adjacent land.

The Mayor of Wilsonville notwithstanding, we strongly support enactment of Section 31(4) on page 14 which includes, as areas of critical state concern, lands within a radius of one-quarter of one mile from the center of the right of way of a state highway that is a part of the National System of Interstate and Defense Highways where such point is located within an incorporated area.

Eighth, we propose the following addition to Section 32 on page 16:

- (h) The planning, siting and construction of paper mills, aluminum plants, cement plants, and gravel mining operations.

The arguments of the public and private trash collectors to the contrary notwithstanding, we believe it is proper to designate -- on page 16 -- "the planning, siting and construction of solid waste disposal sites and facilities" as "activities that by their nature or magnitude are of critical state concern." With the dump of Rainbow, Oregon, on the MacKenzie River in mind, we do not support exempting sites that serve areas of small population. A dump is a dump!

Ninth, we propose as to Part VI --Appeals -- that subsections (a) and (b) on page 31 be amended to read, in part, as follows:

"considers to be in conflict with approved state-wide planning guidelines, approved state-wide objectives or regulations, or the comprehensive physical planning goals listed in ORS 215.055."

Tenth and last, on behalf of the Clackamas County Citizens Association I would like to thank Senators Hallock and MacPherson for drafting and sponsoring this legislation and to thank all of the committee members for their careful attention to the public witnesses. Justice Lewis F. Powell, Jr., of the United States Supreme Court -- with whom I do not always agree -- recently said:

"The overwhelming concern . . . of large segment of our people often seems to be a highly individualized self-interest"

You have and will hear from the most vocal of this segment. These people unfortunately fail to realize -- using nautical terms -- that we're all shipmates on the good ship Earth. There are rough seas ahead and if we are to sail on safely and comfortable then plan we must. Senate Bill 100, we respectfully submit, is an excellent start. Thank you.

TESTIMONY FOR LAND-USE

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From Nancy Stevens
4334 S. W. Washouga
Portland, Oregon 97201
S. ENV. & LAND USE COM.
Acting for: Multnomah Democratic Central Comm.
and Coalition For Clean Air

I am here tonight as the representative of Multnomah County Democratic Central Committee and in my capacity as chairwoman of the Coalition For Clean Air, speaking in favor of this land use bill. We see as its purpose the greatest good for the greatest number of Oregonians, which is after all the aim of any proposed measure of government.

The history of land use planning in Oregon has been a sorry one--local planning units, directed by the last legislature to come up with over-all plans for their cities and counties have failed to do so. Their lack of accomplishment can be attributed to several causes: 1. Lack of direction for planning. 2. Lack of trained qualified staffs for setting planning standards. Lack of real aim toward a comprehensive plan and time lost reviewing every individual project whether or not it fits present standards and zoning. 3. Makeup of the planning commissions themselves. Most of the time the county and city commissions have been comprised in the majority of local developers who are not representative of the best interests of the majority of the people. These problems cannot be totally solved by the land use bill, but its direction can go far in helping to solve them.

We understand the concerns of farmers and developers where their freedom and right to develop land might be regulated. To the farmers we point out the need now and in the future for farm land from which to feed the world. Of the nine million acres in the Willamette Valley 1/8 is in prime agricultural soil. Of that amount 1/4 has already gone into development. How much land can you regain once it has been paved over. You people are farmers by choice. The purpose of a land use plan is not to take your land from you or tell you where to put a barn, but to give some direction so that in the future our cities will be where they belong and our farms likewise. We all want to prevent urban sprawl. Does that containment really interfere with your freedom?

To the real estate developer we say that planning is also to your advantage. Schools, sewers, fire districts, and police protection that must follow helter-skelter settlement cost more in the long run and consequently raises taxes proportionately.

Lastly, the basic problem of air pollution is tied in with how many automobiles we must use, how many highways we must have, and what kind of mass transit system can best be developed to serve the communities. To quote Walter Daggett, a frustrated director of marketing for Tri-Met: "The key to a metropolitan transit system is land-use planning. You can't have a fixed transit system without having a firm idea on where you want people to live."

In the last election I spoke to hundreds of people about the concept of land use planning. I had been told that the electorate wouldn't understand the concept. Those who said so were wrong. The great majority with whom I spoke agreed wholeheartedly that while there is still time we must give sensible consideration to our future.

2-12-73

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S. ENV. & LAND USE COM.

Senator Ted Hallock: Chairman
Senate Environment and Land Use Committee
State Capitol Bldg.
Salem, Oregon

Dear Senator Hallock:

Sorry not to be able to meet with your Committee today. I attended the last hearing on S.B. #100 but was not called on to speak; hopefully you will read this with some consideration.

I am a life-long resident of Polk County, age 50, owner-operator of 400 acres of farm land. I have been employed for the past several years as a Real Property Appraiser for Polk County.

Great credit is due to yourself and Senator MacPherson and others for the long hours of thought and effort that has gone into the preparation of this bill. No doubt they are sincerely motivated in this endeavor. Please also consider that many of us are just as sincere in our apprehension should this bill pass. Therefore please bear with me as I attempt to communicate my point of view.

To me the Bill appears to be a monster in that the cure it prescribes is worse than the disease it would treat. It sets up a superior Professional Staff (Super C.O.G.) to enforce upon local elected officials the implementation of State guidelines; whatever they may be. This superior planning and zoning staff will be kept secure from the Electorate (no election) and will exercise enormous control over private property. It will expand the police power (legal authority for zoning ordinances) beyond all reasonable limits- with no end in sight. And finally, who knows what this bureaucracy will cost in both money and Liberty?

A personal word please: I am known among the local planning officials as a very bad guy, indeed, yet I do not simply oppose all zoning. But I object to;

The climate of their Hearings as being little short of despotic.
The encouragement of neighbors to testify against each other.
The loss of the right to use private property and the lack of compensation for this loss: Re: 5th Amendment to Constitution of U.S.
Also (among other things) I might add that I object to the C.O.G. Professional Staff concealing a tape recorder at public hearings - in which the zoning

of my farm was in question- recording my remarks (unknown to me) and playing same back to my Boss the next day. As, mentioned, I am a Public employee.

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S. ENV. & LAND USE COM.

I believe that a persons property is his own to do with as he pleases- up to the point where that use impinges on the rights of others. Further I would suggest that first the existing laws on pollution, sanitation etc. be enforced rather their unenforcement being used as an excuse for ever more restrictive zoning.

With state control of land use zoning, might not outside influences (political or financial- or both) negate aspirations of local communitities? They could find themselves expendable to larger more incfluencial interests. - A big swindle in a small community is difficult to accomplish undetected.

I suggest to you that Zoning is fundementaly a local matter, to be treated at the local level, and for that reason communities should elect from themselves, representatives to the County Planning Commission. They shall then determine, with guidelines from the citizens, the manner in which their area is to develope.

Respectfully submitted and with kindest regards;

T. C. Fisher
T. C. Fisher
Rt.2, Box 221
Dallas, Oregon

2-13-73
AD Hoc
Comm

STATEMENT OF MEL GORDON
SECOND VICE PRESIDENT, ASSOCIATION OF OREGON COUNTIES,
before the
SENATE ENVIRONMENT AND LAND USE COMMITTEE
February 13, 1973

OREGON STATE ARCHIVES

SB 100
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S. ENV. & LAND USE COM.

SENATE BILL 100

Chairman Hallock, members of the committee:

My name is ~~Mel Gordon~~, commissioner from Multnomah County.

Today I appear before you as vice president of the Association of Oregon Counties which represents the 36 counties of Oregon. We are here today because we are concerned about land use planning. We recognize the need for state involvement and assistance in land use planning. We understand the intent put forth in Senate Bill 100 to preserve and protect certain areas of the state from development abuse and to coordinate those development activities having impact on all Oregon citizens. We also understand the need for a practical system of implementing land use planning through cooperation and coordination with all levels of government and all interest groups.

While we understand the intent of Senate Bill 100 and while we recognize the need for improved land use planning, we do not feel that we can address ourselves to the many unknowns which are represented in Senate Bill 100. While we appreciate the need for state guidelines in land use planning, we cannot direct ourselves to either the nature or substance of those guidelines until they are defined. While we appreciate the need for areas and activities of critical state concern to be delineated in legislation, we can find neither the rationale or the criteria

utilized in selecting those areas and activities. While we can understand the need for rules and objectives for areas and activities designated as being of critical state concern, we cannot evaluate their impact or fairness until they are selected and rules and objectives are determined. While we understand the intent of Senate Bill 100 in creating the Department of Land Conservation and Development and the Commission, we wonder if other state agencies don't already have similar authority or functions. While we understand the concept of regional planning with local involvement and state guidance, we wonder if the system is premature until the unknowns which we have outlined have been determined. While we understand the sense of urgency for resolution of problems regarding land use, we do not think legislation should be expedited which may result in more problems than it resolves.

Our legislative committee has spent countless hours studying Senate Bill 100 and realizes that to address itself to the specifics of the bill would be to neglect the inherent impact of the many undetermined issues which the bill presents. While each and every unknown I have outlined, when developed, may produce a strong working relationship between all levels of government and interested parties, in addition to producing an effective land use program, it would be a blind assumption to support or oppose their essence until developed. Although federal legislation is currently pending which may mandate state-wide comprehensive plans, we understand there would be a five year phase in provision to give states time to consider the best land

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use planning system and implementing structure.

We have joined with the League of Oregon Cities who presented their testimony last evening to support the revisions they propose for Senate Bill 100. Basically we support the creation of the Department and Commission of Land Conservation and Development which would be responsible for establishing a firm foundation for land use planning in Oregon through development of guidelines, criteria, rules and objectives, and implementing structure.

This would give the general public and affected groups an opportunity to assess, evaluate and, most important, understand the purpose of and design for land use planning.

Inherent in our position is our belief that the bulk of planning and land use control responsibilities should be left with local government and that the preparation of guidelines, criteria, controls, and goals should be developed through coordination and input of local governments utilizing a process similar to the current A-95 review and comment procedure. I think you can understand the reluctance of our association to put our stamp of approval or disapproval on a bill as vague as we find Senate Bill 100 to be. The AOC has committed itself to cooperate and coordinate with this committee and with a newly created Commission and Department of Land Conservation and Development to examine and resolve those unknowns in the bill. Once that is accomplished, it will be much easier for ourselves and all concerned parties to give wholehearted dedication and support to the resulting document.

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Our association stands ready to work with your committee in redrafting Senate Bill 100 to make it acceptable for local government support and to work with the Commission and Department of Land Conservation and Development in preparing a realistic, workable land use planning system for approval at the next legislative session.

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S. ENV. & LAND USE COM.

Oregon Wheat Growers League

SENATE BILL 100

February 13, 1973, 3 p. m.

EARL PRYOR, Taxation and Legislative Chairman of the Oregon Wheat Growers League, is unable to be present today to sit in the panel for SB 100, and he wishes the Committee to know that the Oregon Wheat Growers League is willing to work on the bill representing agriculture. A copy of the resolution passed by the League at the 1972 State Convention in regard to Land Use Zoning and Planning, found on page 10 is attached.

Mr. Pryor is concerned with Section 5 and the make-up of the Commission. He feels that a person from agriculture should be a member of the Commission. His other concern is with Sections 18 through 26, the District Councils of Local Government, and this should be deleted and rewritten to include geographic areas of the state.

Submitted by ~~NAME~~
Legislative Consultant, OWGL

Affiliated with Western Wheat Associates, U.S.A., Inc.

503 276-7330

PENDLETON, OREGON 97801

P. O. Box 400

February 13, 1973

DEAN BRUCE
2.13.73
D.O. MacComm

ASSOCIATED OREGON INDUSTRY'S TESTIMONY REGARDING SENATE BILL 100

OREGON STATE ARCHIVES
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S. ENV. & LAND USE DIV.

As Chairman of the Associated Oregon Industry's Land Use Planning and Zoning Committee, I would like to share with you the objectives of our organization that have developed over two years of our committee's work and a year of conferring with Senator MacPherson's subcommittee on land use policy.

Basic to our position is the conviction that the overall economic and social public needs require a more effective and coordinated approach to assuring the wisest use of our land and water resources.

We believe that the best means by which this can be accomplished is through state assistance in developing and implementing comprehensive land use planning at the local level, where public participation can best take place.

The role of the state in land use planning should be to:

- (1) develop guidelines for comprehensive land use planning,
- (2) establish timetables for implementation of each step of the planning process,
- (3) require compliance with guidelines and timetables to be eligible for federal and state loans and grants,
- (4) provide assistance to local governments in accomplishing their planning function; and
- (5) coordinate the land use planning efforts of all state agencies.

The guidelines should provide a framework for good comprehensive land use planning. By giving adequate attention to all applicable items outlined in the guidelines, a local planning unit could expect its comprehensive plan to meet approval. The economic as well as the environmental concerns of the public should be included as a basis from which comprehensive plans will develop. Maintaining the availability of natural resources such as minerals and timber must be emphasized.

The guidelines provide the appropriate place to deal with the subject of "areas of critical state concern." To say that land use in geographic areas of a sensitive environmental nature must be controlled by the state, is to declare that local government is not capable of protecting these resources, and can be entrusted only with those matters of lesser impact. It would seem that a more reasonable approach would be for the state to establish guidelines for the planned use of these geographic areas. Legislation would require that the guidelines be followed by local government in establishing and maintaining their comprehensive plan.

The solution to past problems in planning land use at the local level should not be to reduce the responsibility of these units of government. It should be found in helping them fulfill their responsibilities by providing financial and technical assistance. Among these aids should be:

- An inventory of the state's land resources
- Projections of future public needs
- A resource library of studies and reports
- Sources of technical help from all state offices with land use experience
- Land use planning training for local planning commissions and their staffs; and
- Educational programs for the public in land use planning alternatives.

As for "activities" of statewide impact, the State of Oregon now has at least nineteen boards, commissions, councils, departments and divisions, each assigned specific responsibility for planning land use. A list of these would include:

- | | |
|---------------------------------|---|
| State Board of Aeronautics | State Game Commission |
| State Board of Agriculture | State Department of Geology
and Mineral Industries |
| Columbia River Gorge Commission | State Board of Health |
| Economic Development Division | |

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Environmental Quality Commission	State Highway Commission
Fish Commission of Oregon	State Land Board
State Board of Forestry	State Marine Board
The Mass Transit Division	The Nuclear Thermal Energy Council
Public Utility Commissioner	Department of Revenue
State Soil and Water Conservation Commission	State Water Resources Board

The need is to effectively utilize the experience in these agencies, and to coordinate their planning efforts. A state department of land use planning could provide that function. It would be productive to establish a vehicle to provide for one-stop approval of all such land use proposals.

To receive public acceptance and successful implementation, the process of land use planning must adequately deal with the subject of property rights. Without just compensation losses in land value due to land use planning implementation will always raise strong opposition.

There are, of course, other methods presently available for acquiring "public rights" to private lands; for example, deeds and easements. Also tied into land values is the property tax and the assessment process.

The proposal of another layer of government between local planning units and a state department to control the planning process is difficult to accept. This separation of responsibility with the attendant unnecessary expense and delay, appears wholly unwarranted. Review of comprehensive plans for compliance with guidelines and subsequent monitoring of changes should not be delegated from the state department. Should two or more counties need to combine their planning efforts, their formation of a district should be voluntary. Such districts should represent the planned area with the state instead of, but not in addition to, the counties involved.

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S, ENV, & LAND USE COM.

Finally, we take exception to the name proposed for the new state department. "Conservation and development" is not only a misnomer which leads to misunderstandings, but suggests the conflict of interest that the planning process attempts to resolve. Say it like it is. "Land Use Planning."

Introductory Remarks

- Here at direction of the - Speech at Oregon Valley COB's.
- Most states have not districted. Oregon 14 districts are not unique

Reason for this is the necessity to develop some area-wide planning and coordinative ^{management} mechanism which is below a political subdivision of the state or below state level and above city-county level. This mechanism is necessary to address area intergovernmental issues including Health, Social programs, Transportation, Land Use, Public Safety and Education. As the president and Congress change their way of doing business and emphasis is placed upon states and local communities these mechanisms must be developed. Several Congressional acts now require districts. Among these are Coastal Zone Management, Rural Community Development, Water Quality Act and Transportation. ^{ACT 91962} Many planning programs now require areas such as HCD, Health, Aging, ^{Solid Waste} Wastewater, etc, and agencies to operate within their areas -

States, in some cases, could perform these local planning functions and some do. In fact an easy way out for states is to assume this responsibility and ship the continuing ^{conflict} fight with cities, counties and special districts. Decentralized Federal government could, and may lead, to centralized state government because no mechanism exists at the level the states need and each of the 50 states have as their states rights, the right power to establish political subdivisions within states at any level.

Here Today we are engaged in this process of change to meet Today's ^{challenge to} ~~meeting~~ ~~for~~ satisfying public's need to get a job done. The choice is clear, we can continue to centralize to state agencies, or to departments or boards such as Boundary Commission and Transit District or we can establish new governments for areas directly elected to their positions (as provided in the multiple service district legislation) or we can ~~more~~ use our cities, counties and special districts through the delegation of new responsibility in areas of interagency concern.

LCO's - mid wild - LRA's are symptomatic of the alternative to a state, ^{dept.} or new agency.

Please remember, the discussion here today is land use. Tomorrow it's Transportation, since the latest issue is social programs.

We must have a common substate districting system established as legal political subdivisions. The LCO's option is the Counties and Cities and Districts. We say no to ~~a~~ ~~an~~ outstretched state department, we say no to new state appointed agencies, we say no to a new level of government. We say use what you've got better. Build, not destroy. We're fractured already, don't add.

Government at all levels is in a state of check, w/in part of it.

I would like to summarize the proposed LOD bill now being worked for consideration.

It builds upon your concept of use what you have.

2043 S.E. 88th Ave.
Portland, Ore. 97216

OREGON STATE ARCHIVES

2/13/73

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S. ENV. & LAND USE COM.

Senator Ted Hallock
State Capitol
Salem, Ore. 97310

Dear Senator:

I am not in favor of Senate Bill ~~the 100~~.
It decreases the value of my land by
limitting its use. If it has less value
because of this bill, the state should
pay the difference in value. The
county planning commissions are now
doing a good job and they could
be somewhat controlled by the state
but do not change from the counties.

I might not even be able to sell
a part off of my farm.

It is easy for the nonproperty owners
to want this type of bill passed when
they have nothing to lose. I, as many
others, could lose all that I have.

Sincerely,
Ivan Munchenke

Webber & Sons, Inc.

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Berry and Fruit Packers

S. ENV. & LAND USE 60M

PHONE 266-9368
 L.D. 266-3660
 Rt. 1, Box 123
 CANBY, OREGON 97013

TO THE COMMITTEE ON SB 100 LAND USE PLANNING

I WELL UNDERSTAND SB 100 AS I STUDIED IT I FIND IT HAS EVERY INDICATION OF A GIANT STEP TOWARD A COMMUNISTIC STATE GOVERNMENT.

NOBODY THAT I KNOW OF HAS EVER INTRODUCED IN ANY STATE IN THE UNITED STATE MAINLAND SUCH DRASTIC LEGISLATION AS SB 100.

SB 100 IS A DIRECT DICTATORSHIP RUN BY THE GOVERNOR AND THE COMMISSION OF 5 PEOPLE. THE COMMISSION IS NOT BONDED NOR RESPONSIBLE TO THE LAND OWNERS. ALTHOUGH IT IS MAKING DECISIONS ON LAND WORTH BILLIONS OF DOLLARS WHICH IS OWNED BY PRIVATE CITIZENS OF OREGON.

GUIDE LINES HAVE NOT BEEN SET UP, THIS DOES NOT MAKE ~~XXXX~~ MUCH SENCE THAT PEOPLE WILL BUY CATS IN A BAG OR A PIG IN A POKE, ESPECIALLY IF IT IS HEADED BY A BUREAURACY SET UP BY THE GOVERNOR.

GUIDE LINES SHOULD BE A PART OF THE BILL. THERE IS NO COST SET UP FOR THE ADMINSTRATION OF THIS PROGRAM. WHAT WILL IT COST 100, 200, OR 500 MILLION THIS LOOKS LIKE VERY IRRESPONSIBLE PIECE OF LEGISLATION. ALSO UNNECESSARY AS ALL OF THIS CAN BE HANDELED AT THE LOCAL LEVEL WITH RESBONSIBLE PEOPLE VOTED IN BY THE PEOPLE AND AT A LOT LESS COST TO THE TAX PAYING PUBLIC.

I FAIL TO SEE WHERE THE CRITICAL CONCERN IS ALONG SIDE OF OUR PUBLIC HIGHWAYS AND OTHER PLACES, IT IS JUST SO MANY WORDS TO TRY TO PUT OVER THE DICTATORSHIP IDEA THAT THE STATE HAS TO CONTROL THE LAND.

THE STATE CAN FLOAT A BOND ISSUE FOR 10 OR 15 BILLION DOLLARS TO PAY FOR CONTROL OF THE LAND THAT IT TERMS CRITICAL CONCERN.

LAND USE PLANNING UNDER SB 100 OR A PERMIT SYSTEM BY THE BUREAURCRATS IS GOING TO GET US INTO THE BIGGEST GRAFT SINCE THE AL CAPONE DAYS IN CHICAGO.

LAND USE PLANNING IS ANOTHER HAIR BRAIN SCHEME TO TAKE AWAY THE LAND OWNERS RIGHTS AND NOT PAY HIM FOR IT. ANOTHER HITLER, AND LENIN SAYING IS ~~XXX~~ FOR HEALTH, SAFTY, WELFARE ORDER AND CONVEYANCE FOR THE PEOPLE OF THE STATE OF OREGON. THE PEOPLE WHO NEVER WORKED FOR THE LAND, AND DO NOT OWN ANY PART OF THE LAND.

SB 100 IS OF VERY CRITICAL CONCERN TO THE LAND OWNERS, AND A INSULT TO THE INTELLIGENCE AND INTEGRITY OF LAND OWNERS AND CITIZENS OF OREGON. LET ME CALL YOUR ATTENTION TO THE FACT THERE ARE MINORITY RIGHTS HERE THAT ARE VIOLATED UNDER THE CONSTITUTION OF THE UNITED STATES.

SB 100 ALSO VIOLATES THE 14 AMENDMENT, 5 AMENDMENT OF THE CONSTITUTION AND ALSO IS CLASS DISCRIMINATION AGAINST ONE CLASS OF OUR CITIZENS AND LAND OWNERS, ESPECIALLY 60 YEARS AND OLDER.

PAGE 2

SB 100 WILL WRECK THE ECONOMY OF THE STATE OF OREGON AND CHEAT THOUSAND OF LAND OWNERS OUT OF A FAIR PRICE FOR THEIR LAND.

PRIVATE OWNERSHIP OF LAND AND FREE ENTERPRISE HAS BEEN THE BACK BONE OF OUR DEMOCRACY , A GOVERNMENT OF THE PEOPLE BY THE PEOPLE AND FOR THE PEOPLE AND THE RIGHT OF PERSUIT OF HAPPINESS SINCE 1776.

NEEDLESS TO SAY THAT FREE ENTERPRISE HAS BUILT THE BIGGEST MOST POWERFUL NATION ON EARTH WITH THE BEST STANDARD OF LIVING IN THE WORLD. THIS NEVER COULD HAVE BEEN DONE WITH BUREAUCRATIC CONTROLL LIKE SB 100 IN THE PICTURE.

SB 100 IS OF CRITICAL CONCERN TO LAND OWNERS & FARMERS AND SHOULD BE VOTED DOWN IN ITS PRESENT FORM, OR TABLED UNTILL THE 1975 LEGISLATURE SESSION TO GIVE THE PEOPLE A CHANCE TO EVALUATE ITS CONTENTS AND DECIDE WHAT THE IMPACT WILL BE ON THE ECONOMY AND OTHER FACTORS INVOLVED.

WE DO NOT APOSE A COMPREHENSIVE PLAN IF IT HAS SOME HORSE SENCE BUILT INTO IT , BUT DO NOT APPROVE OF A DICTATORSHIP BY THE GOVERNOR.

WE HAVE JUST GOT THE VIETNAM WAR OVER WITH (WE HOPE) LETS NOT START A RANGE WAR HERE AT HOME.

WEBBER & SONS, INC.


JOHN C WEBBER PRESIDENT

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Rt 1 Box 376
Canby, Oregon

S. ENV. & LAND USE COM.

February 13, 1973

Senator McPherson and Hallock
State Legislature
Salem, Oregon

Dear Senator:

Being a farmer in the Canby School District, I, too, am very interested in S.B. 100 - McPherson Bill for Land Use Planning.

Actually, I am in favor of this bill or this type of approach to zoning; however, I do take umbrage with some aspects of this bill as it is now written. The fact that multiple county districts for the Portland metropolitan area and for the coastal regions were developed for this plan, leads me to believe that this bill is only interested in stopping land values in these two areas. You have managed to incorporate over 1/2 the state's population within two districts but have allowed the rest of the state to be set up in more than 10 districts. It is obvious to me people cause our present problems. Therefore, how can such a large district, adequately supervise and control the planning for this area. If you can justify putting metropolitan Portland in one district then why not limit the state to 4 districts - Coastal, Salem-Portland, Eugene-Ashland and Eastern Oregon.

Once land is zoned for a particular use, the land value is also somewhat determined. Industrial and commercial properties are obviously worth more than farmland. This bill, consequently, neglects to specify penalties for getting zone changes. Our realtors and planning commissions from both the city and county levels of Government are swamped with applications for variances and zone changes. It is obvious to me that if you can buy property worth \$500/acre for farming and get a zone change, making it worth \$5,000/acre, it becomes a very lucrative business to apply for zone changes. Herein then lies the problem. This bill would partially correct this but would also create another problem. Conceivably, land now selling at \$3,000 would be worth \$800 per acre (based on farm use values) and land now selling for \$800-\$1,000 would actually be worth over \$3,000 per acre. This, in essence, is a shift of the wealth without reasonable compensation.

Another point of concern can be attributed to the fact that farming today is completely nonprofitable. Farm-use values of land have stagnated since 1948. Farmers in the Willamette Valley cannot afford to buy adjacent farmland to increase their farm size. So in order to keep going, many farmers are forced to subsidize their income by only part-time farming. Now, having worked all their lives pinching pennies, they are in a position to sell their farms at a huge windfall profit. To this end the people

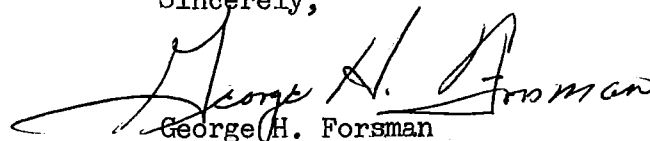
of suburbia Portland are envious. Having invested nothing, they now want the farmlands left as is, in their present state of unprofitableness. It is obvious to me that no matter what type of bill passes the legislature, it will also be passed by the people of Oregon. Why? Because 80 percent of the people own only 20 percent of the land so why not controll the 20 percent of the people who own 80 percent of the land (private).

There are several ways that haphazard subdividing and uncontrolled zoning or zone changes can be effected. One method would be to require minimum acreages based on locations and productivity - ie - in the Willamette Valley, farmland located within 3 miles of a township can only be divided into 5 acres minimum; those located 3 to 10 miles into 10 acre minimum; and greater than 10 miles into 20 acres. Because land is more productive in the Valley than in Eastern Oregon, these minimums should be increased by a factor of 4. for Eastern Oregon. Anyone wishing to subdivide into smaller lots must be incorporated within a city or township and have public water, sewerage and road systems with all cost absorbed by the developer.

Probably trailer courts, being indiscriminately constructed in rural communities, have done more to bankrupt a school district than anything else. Contrary to popular belief, a trailer house does not pay its fair share to the school district, yet County Commissioners will override the Planning Commission to allow a trailer court to be constructed.

For this end we need planning but not at the local level which is controlled by the purse strings of a few profiteering speculators. That is why it is imperative that the districts be expanded as well as including a penalty provision for granting zone changes or variances. I am the first to admit that as time passes we will find a need for change; however, this change should be granted on the needs of the community and not that of the speculator.

Sincerely,


George H. Forsman

P.S. Enclosed is a copy of a letter that I wrote to Governor Tom McCall covering much the same problem.

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Route 1 Box 376
Canby, Oregon

S. ENV. & LAND USE COM.

October 27, 1972

Honorable Tom McCall
Governor, State of Oregon
State Capital Bldg.
Salem, Oregon 97310

Dear Governor McCall:

As you will know, there are two problems facing Oregonians today -- School Financing and State Zoning (Land-Use Planning). Oddly to say both are so interconnected that it is impossible for most people to comprehend; however, people do see its effects. Canby, especially, is one school district that is eroding under our current problems.

Much of the land in our school district is unzoned or at best zoned - RA-1 (Rural Agricultural with 1 acre minimums). Over half of the land is excellent farmland consisting of Willamette soil. Talking as a landowner, I'll predict that within the next 20 years our school district will be a solid mass of houses. The farmers who own this land are on the verge of retirement and all they see is the money they will receive for their land. Consequently, our farmland is being gobbled up by houses.

Each new house built into the school district puts a lien onto all existing properties within the same district. The liens come about in the forms of bonded indebtedness for sewers, water facilities and schools. As our farming area is being developed, our land values and building values outpace our bonded indebtedness and operational losses for the schools. Consequently, the tax rate decreases and the assessed valuation rapidly increases to such an extent that home builders and people are attracted to our area because of a low tax rate and that farmers are forced off their land because the total taxes levied exceeds their return on investment.

In my opinion, your proposed revised tax plan will not solve our problem. Now will land use planning as proposed by Secretary of State, Clay Myers, be the answer. In addition to your plans, I suggest imposing a State Building permit costing somewhere between \$1,000 and \$2,500 per living unit on all new construction with the monies ear-tagged for construction of new schools, thereby, taking new school construction costs off the property tax rolls.

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S. ENV. & LAND USE COM.

Secondly, I would zone the entire State Commercial or Industrial zoning. Why? Because all of our city and county planning departments have been very capricious in passing out zone changes. Anytime a planning body grants someone a zone change while denying others the same type of zoning, they are making this individual independently wealthy. I have personally seen where one person made \$40,000 on 2 acres of ground by obtaining a zone change. None of this money found its way back to the community which granted this person a windfall profit. So, unless this practice isn't stopped, why deny anyone the opportunity to exploit the land?

I for one realize that as a community grows our needs change. So no matter what type of restrictions that are on farm land, time will force an eventual change. However, I feel that the community should be compensated for having its way of life disrupted. In the case of our developer-farmer, I suggest that he should have paid 25% or say \$10,000 for having received this windfall profit. With all derived monies channeled back to the county or city.

Another way of slowing down haphazard development is to impose a restriction on all farmland that prohibits subdividing in less than 5 acre lots. Anyone wishing to divide land into smaller parcels must have public water, sewage, and roads. The developer must pay for these complete services prior to constructing the homes or subdividing the land.

Yes, I realize that my suggestions are extreme and that they will force the cost of new construction ever higher. But, unless the people are not forced to pay for the actual services that they themselves require, in the end we will all have paid for allowing our farm and timber lands to be exploited just like California has lost their rich farmland.

In addition to owning our farm, I am also an idealist and a realist. As my neighbors are being made independently wealthy by our present zoning practices, I too would only expect the same treatment when retirement or taxes force me to sell. Unlike most landowners in my community, age is in my favor as I am only 34 years old, and the average age of the farmers around here is close to 65 years.

Something meaningful must be done now or Canby will grow like Beaverton within the next 10 to 15 years. If I can be of any assistance, please do not hesitate to ask, thank you.

Sincerely,

George H. Forsman

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S. ENV. & LAND USE COM.

Telephone
(503) 426-4343

WALLOWA COUNTY

*Citizens For Sensible Land Use*P. O. Box E
Enterprise, Oregon 97828Affiliated with:
Outdoors Unlimited, Inc.
Western Environmental Trade Association, Inc.

February 13, 1973

Senator Ted Hallock, Chairman,
Senate Committee for Environment
and Land Use,
Room 401, State Capital,
Salem, Oregon 97310.

Re: Bill SB 100

This Bill is a giant step in which the State and The Governor intends to do land use planning in the State of Oregon. It really does not solve the state-wide problem of land use; in fact it will complicate the process because the state will be part in and part out. The Bill is oriented to maximum protection of the environment with little consideration for socio-economic values.

Granted some local planning agencies may not have done a professional job of land use planning in the eyes of the Governor----but did they have guidance or professional assistance from the State?

We maintain that the State of Oregon presently has the tools to do the job without a new land use law and an expensive new department (\$300,000.00 initial expenses).

Presently the State can control land use along certain Scenic Highways, Scenic Waterways, State-owned land, State Parks and recreation areas, certain lakes and some of the Oregon Coast. In addition, through the Department of Environmental Protection, State Health Division, State Water Engineer and the Highway Division the state is already in the land use business.

We think that a better approach would be to leave land use planning at the local level and provide professional assistance to those rural areas that need it. Also, the State should promulgate guidelines, goals, and broad land use policies, and most of all, clean up and clarify the State laws governing the partitioning and sale of real property. Provision should be made for the purchase of lands or payments to offset loss of income or property values when lands are restricted in their use or set aside for open space under a comprehensive plan.

The purpose and objectives shall be to assist in the adoption of practical, effective measures to improve the environment and the economy in which the American Public lives and works. Multiple Use of Public Lands is the best combination of compatible land uses consistent with the greatest benefit for the greatest number including conservation of the environment. Establish liaison between County Planning Commission, Governmental agencies and property owners in all phases of land use and development regulations.

We object most to the AREAS of State concern. This gets the State into too many local decisions and will create problems. Because many local areas are "adjacent to" a critical area, the State is right down into local business.

We do not oppose the Activities of critical state concern; however, these Activities fall or could fall under the jurisdiction of existing departments. Most of the items fall to DEQ. Why have all this expensive and time consuming duplication of effort?

We do not oppose the Council of Governments concept and have worked with our COG; however, we think a COG should stick to the first "C" of the acronym - Coordination! We think the COG planning function in SB 100 should be taken out of the Bill. If the Governor desires to require COGs by law rather than by Executive Order, then it should be expanded into a separate bill.

Action on SB 100 seems premature during this Legislative Assembly, since the U.S. Congress has yet to pass the National Land Use Policy Act. This Act will give states five years to implement after making a thorough inventory of State-wide resources and the identification of critical areas and uses. It appears that the cart is before the horse.

As SB 100 stands, The Citizens For Sensible Land Use oppose it and requests your support in making our views known.

Yours very truly,

CITIZENS FOR SENSIBLE LAND USE


John A. Prag, Legislative Committee

cc: Senator Hector MacPherson
Senator John Burns
Representative Mike Thorne
Representative Ed Patterson

3869 Dakota Rd SE
Salem, Ore. 97302
Feb. 13, 1973

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S. ENV. & LAND USE COM.

Senator Ted Hallock,
The State Capitol,
Salem, Ore. 97301,

Dear Mr. Hallock,

I'm sure you will forgive me for leaving the hearing last night before I was called on to testify. Four hours on that metal chair was about all I could take. Besides, you had such excellent testimony in favor of SB 100 that I felt mine would just unnecessarily take up extra time.

I would like you to know that the Audubon Societies have a great concern in this area. The National Audubon Society is one of the strongest organization working for protection of the environment. The Salem Audubon Society is now one of five Audubon chapters in the state. I am chairman of its Conservation Committee.

Some of our members are bird watchers. Our special concern is the estuaries and the sandspits, also all marshes and wetlands. Some of our members have a special interest in wild flowers and want to see them protected in the Columbia Gorge, the Snake River canyon and fragile mountain areas, by the roadsides, even.

Many of us are concerned about urban sprawl. So we line up for many of the things the bill tries to accomplish. I don't think I have enough expertise to make suggestions about the details of the bill. With the many suggestions you have received, you on the committee will be able to come up with an effective bill, I hope and believe.

The more power to you.

Sincerely,



Thomas McCamant



800 S.W. 5TH AVENUE • PORTLAND, OREGON 97204 • 503-222-5561

OREGON STATE ARCHIVES

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S. ENV. & LAND USE COM.

February 13, 1973

Honorable Ted Hallock, Chairman
Senate Environment and Land Use Committee
Oregon State Senate
Salem, Oregon

Dear Senator Hallock:

SUBJECT: S. B. 100

I regret that time did not permit my presenting orally the comments and suggestions I planned to make last night on S.B. 100, and would appreciate you and members of your committee giving consideration to this written statement.

First, I want to compliment you and your committee on giving this issue the time and attention you have - it is essential Oregon move ahead with a constructive program.

Concerning S.B. 100 specifically, I believe it is necessary to incorporate in the bill a clear statement cautioning all concerned to exercise great care not to overuse the "police power" as an alternative to the condemnation power. This is essential to maintaining a healthy balance between the need for orderly use of property on the one hand and maintaining freedom of choice and private property concepts on the other.

Justice Oliver Wendell Holmes in 1922 said the natural tendency of human nature is to expand the qualification of the police power on the seemingly absolute protection of the 5th Amendment until at last private property disappears. He went on to say:

"...We are in danger of forgetting that a strong public desire to improve the public condition is not enough to warrant achieving the desire by a shorter cut than the constitutional way of paying for the change."

Honorable Ted Hallock

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February 13, 1973

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S. ENV. & LAND USE COM.

My concern is not merely for the private property owners themselves. More important we must be concerned about adverse impact on the economic system through further restrictions and limitations on decision making, freedom of choice and the market system which are the dynamic underpinnings of our society. Just about as important - it is essential to assign a dollar value wherever possible to rights taken. Under the "police power" (zoning or other land use restrictions) nothing is paid for rights taken, and the extent of the loss to the owner and the public is never known. If a dollar value is put on the taking, and the funds must be raised, everyone knows what's happening, and sensible priorities can be worked out.

As you proceed with your study, it is particularly important to consider the fact that S.B. 100 encompasses vastly greater territorial coverage than planning and zoning has covered before. As planners go beyond urban and suburban areas where tradeoffs (benefits/burdens) soften the impact of zoning and land use restrictions on individual owners, the need for restraint and careful judgment in "taking" by police power is far greater. This is particularly critical where aesthetics is a motivating force as it is certainly difficult to put a value on aesthetics - and reasonable minds can differ greatly on this.

Therefore I strongly urge this legislation include guidelines relating to use of police power vs. condemnation.

The next major concern is somewhat related. Great care should be used to prevent burdensome additional procedures, permits and approvals. Already it is becoming terribly costly and time consuming to build anything. If we are to provide the 19,500 jobs each year Governor McCall says we must provide, there has to be a lot of new building activities where there wasn't any before. Job producing activities don't just happen. People make them happen. It takes someone with lots of courage, incentives, capital, raw material, markets for goods and services, engineering and technical knowhow - even before consideration of government regulation of all kinds, let alone land use permits and procedures. Even government agencies have real problems proceeding with necessary public projects.

Viewing the situation from a major corporation involved throughout the country in many activities I want to assure you it is pretty easy to stop a project. Even our 30-level G-P Building project in Portland teetered on the brink over a minor building code interpretation.

Therefore I join a number of other witnesses in urging a "go slow" approach. Establish the state board, develop consensus guidelines, pull together and harmonize if possible existing requirements of the many state and federal agencies already involved in land use planning, help train both professional and volunteer planners, and provide grant funds and technical assistance to local government to help them in their land planning and use regulations. However, until there is a lot more

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Honorable Ted Hallock

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February 13, 1973

S. ENV. & LAND USE COM.

meat on the bones, the detailed sanctions, structure and procedures incorporated in S.B. 100 should be deferred.

Lastly, in keeping with this approach, I strongly urge the committee to eliminate Section 31 which specifically designates large areas as areas of "critical concern." They might well be but many would strongly disagree with some areas specified. Also there are many other areas of critical concern and it does not make sense to single out just a few particularly without the benefit of hearings and studies the Legislature itself is not geared to do.

In fact including the designated areas of critical concern in the bill at this time (before a state board is appointed and staffed) might itself be considered poor planning. I believe S.B. 100 would achieve wider acceptance and greater progress if Section 31 is eliminated.

Thank you for considering these comments.

Sincerely,



William J. Moshofsky
Vice President - Government Affairs,
Transportation and Environment

WJM:ms

cc: Members of the Senate Environment and Land Use Committee
Honorable Jason Boe

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FRANZ B. DRINKER
LLOYD BUILDING
700 N. E. MULTNOMAH STREET
PORTLAND, OREGON 97232

S. ENV. & LAND USE COM.

February 14, 1973.

Senator Ted Hallock, Chairman,
Senate Committee on Environment and Land Use,
Oregon State Senate,
Salem, Oregon, 97310.

Dear Senator Hallock:

Re: Senate Bill 100

I have read with great interest the proposed Land Use Bill, with respect to protecting areas adjacent to Oregon Freeways.

While I am not averse to some sort of proper land use measure, I do feel strongly that the building restriction within one-half mile of Freeways, and one-quarter mile within city limits, is out of reason and would be an economic detriment. This distance seems an unnecessary waste of usable land, and a real hardship on property owners and on a city such as Wilsonville.

Local rights should be recognized.

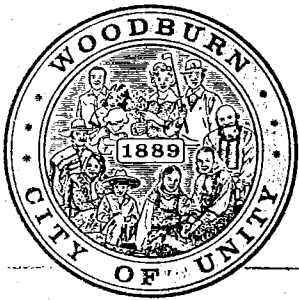
I am an owner of property in Wilsonville which could be materially affected, yet my property is not even visible from the Freeway.

Consideration is respectfully requested in order to bring about a sensible modification of the Bill.

Cordially yours,

Franz B. Drinker
Franz B. Drinker

FBD:D



CITY OF WOODBURN

550 North First Street • Woodburn, Oregon 97071 • 981-7111

Office of the Mayor

February 15, 1973

OREGON STATE ARCHIVES

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S. ENV. & LAND USE COM.

The Honorable Tony Meeker
State Senator
State Capitol Building
Salem, Oregon

Dear Sir:

Time did not allow much discussion with you at the Yamhill Republican Women's Club in Newberg last week so I will use the medium of a letter.

The area of greatest concern to me relating to the City of Woodburn is in land use planning. The organizational process has started for a North Marion County Sewage Corridor. This may serve an area extending from Gervais (if not Brooks) on the south, to include the outskirts of Oregon City on the north. You are a student of urban problems and will recognize this as the last ingredient necessary for continuous urbanization for this entire area.

The natural economic course of events will lead to loss of town and city identity. This process is already in motion with land speculators competing with farmers for prime agricultural land. It is seriously doubted that local entities can muster the will or have effective tools to stop this process.

If growth is to have the desired guidance, assistance is needed from the 1973 legislature.

Thank you for your conscientious effort in the pursuit of good legislation.

Yours very truly,

E. Walter Lawson, Mayor

EWL:rs

2-15-73

OREGON STATE ARCHIVES

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S. ENV. & LAND USE COM.

to: Ted Hallock
Chairman, Environmental & Land Use Committee
Salem, Oregon 97310

After a lengthy discussion and by majority
vote, the members of the West Coast District
Pomona Group # 39, meeting in regular session
wish to go on record as opposing Senate
Bill 100.

Carol Van Cullen, Secretary
West Coast District Pomona Group #39
Box 65
Mapleton, Oregon 97453

Senator Ted Hallock
 Chairman, Senate Environment Committee
 State Capitol Building
 Salem, OR 97301

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S. ENV. & LAND USE COM.

15 February 1973

Dear Senator Hallock:

I received now the reprint of SB 100, the summary of the measure as introduced.

I still feel that it is basically a good bill which will lead to better and more organized planning. Having read the bill twice I found, however, that structure and implementation methods are very complicated and, even when successfully applied, lead to high costs and slow procedure. It may cause difficulties to have power given to district councils.

Relative to my concern about recycling of organic waste, which I mentioned in my letter of Feb. 1st, I find little in the bill that would facilitate a closed cycle ecosystem. The only reference to the important matter of crop production is in the amendment to ORS 215.515, Sec. 57 (d), page 30. To raise enough food we need not only to conserve prime farm land but lower grades also. Suggestions of introducing "artificial ecosystems" have been made, which add green areas into the urban environment.

The question arises whether or not the often generalized language of the bill will be sufficient to accomplish balanced ecosystems. There is variously ambiguous reference made to "comprehensive planning", "natural resource development", "minimize conflicts between farm and nonfarm uses", etc. While urban development is properly related to "public health, safety and welfare" (a traditional concept), the hard core survival question of food production has not been recognized. For this we need to mention specifically proper ecological recycling practices. Perhaps the following amendments would do the job:

(Sec. 3) p. 4, line 1- add after "water systems", eco-systems that return the nutrients from organic waste to the soil,

(Sec. 10) p. 6, line 34, (4) Preparing inventories of land uses and of soil types;

(Sec. 23) p. 11, line 13, (1) after "development planning" add; including methods which prevent leaching of the soil and substitute 3-stage treated organic waste for chemical fertilizers as much as possible;

(Sec. 26) p. 12, line 8, add after "land use", and organic reconstitution of the soil, in accordance...

(Sec. 31) p. 15, after line 27 add new paragraph: (e) all feed lots which provide for nutrients beyond the carrying capacity of the surrounding area and thus adding to the problem of eutrophication.

(Sec. 32) p. 16, after line 8 add new paragraph: (g) The planning and practice of ecological systems which provide for recycling of nutrients from organic wastes. Implementation shall begin with pilot projects in all planning districts. present paragraph (g) would become (h) and should have the word safe added, something that has yet to be developed.

(Sec. 57), p. 29, line 22, add after "area development", provided that the total ecological balance of energy input and output will be maintained.

I would appreciate it if this and my letters of 1 and 13 Feb. 1973 would be made part of the record as my testimony. Your kind consideration is much appreciated. Please let me know if I can be of further assistance.

Sincerely yours,

H. H. Waechter
 H. H. Waechter

34994 E. Danstrom Rd., Creswell, OR 97426

cc: all committee members,
 Rep. Nancie Fadeley

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S. ENV. & LAND USE COM.



DEG

DONALD E. CLARK • MULTNOMAH COUNTY COMMISSIONER

February 16, 1973

Senator Ted Hallock, Chairman
Environment and Land Use Committee
State Capitol Bldg.
Salem, Oregon 97310


Dear Senator Hallock:

I am vitally interested, both as a citizen and as an elected public official, in strong and effective land use planning legislation at the State level. This session of the legislature will be deeply involved in determining what the States role shall be in protecting and preserving land and in assuring its compatible, harmonious and wise development. While fully supporting the concept of strong local control and zoning, I also believe the State has the responsibility and the obligation to supply leadership in this important area of public policy.

It is evident to all interested Oregonians that the Committee on Environment and Land Use will play a crucial part in shaping Oregon's official posture and involvement in land use planning. Few questions before the Legislature can match this concern in either its importance or its complexity.

I wish at this time to simply voice my deep interest in the work with which your committee will be involved and to support the committee in its awesome task. Governor Oswald West is credited in the public mind with saving our open beach lands for posterity. Hopefully, this 57th Legislative Assembly will be similarly long remembered and acknowledged by future generations for its foresight and its contribution to Oregon's livability.

Sincerely,



DONALD E. CLARK
Commissioner

DEC:p

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S. ENV. & LAND USE COM.

Lakeside Real Estate

P. O. BOX 313, (8TH STREET)

LAKESIDE, OREGON 97449

PHONE: 759-3310

February 16, 1973

J. ROBERT FRIEND, BROKER

Senator Ted Hallock
Senate Offices
Capitol Building
Salem, Oregon 97310

Senator Hallock;

After two years study and preparation by an ad hoc committee with a common interest, and after squandering untold thousands of taxpayers dollars commencing with the so-called Governors Fifth Annual Conservation Conference with the intent of indoctrinating the Oregon citizenry that King Tom knew "what was best for them", WHAT POSSIBLE GOOD can be anticipated from a five day rehash by PAID LOBBYISTS representing DIVERSE INTERESTS.

To add insult to injury, you did not see fit to include in this committee either a citizen whose individual property rights would be restricted by Senate Bill 100 or a representative of the Coastal Area where this legislation would have its greatest impact.

As a co-partner to an UNWANTED CONCEPTION, it would have seemed prudent to have let it suffer a NATURAL MISCARRIAGE or underwent a quiet ABORTION. Instead it seems, we are destined to live with the MONSTER, you wish to give birth to.

Respectfully,
J. Robert Friend
J. Robert Friend

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S. ENV. & LAND USE COM.

Reg
Senator Hector Macpherson
Senate Environment and Land Use Committee
State Capitol
Salem, Oregon 97310

Dear Senator Macpherson:

After listening to some of the testimony given during public hearings on Senate Bill 100, I am moved to give you these observations and suggestions. I am a commercial farmer, owning some property and renting other farm land. I have been a member of the Yamhill County Planning Commission for two and one-half years, and am currently chairman of this body. The opinions expressed in this letter are mine alone. I mention my connection with the planning commission only to point up the fact that I am much concerned with, and involved in local land use planning efforts, and am aware of many of the problems SB 100 is intended to help solve as local planning proceeds.

Opposition to SB 100 seems to fall into three general groups: first, there are those who question the constitutionality of regulating private land use; secondly, there are those citizens who distrust, fear, or even hate, the regional council of government concept and have transferred this feeling to the planning district proposal in the bill; and finally, there have been many individuals and organizations recognizing the value of the concept of SB 100, but raising legitimate questions regarding specific sections of the bill. I would like to comment on each of these groups.

I am always disturbed when I hear someone say, "No one is going to tell me what I can or cannot do", then cite the U.S. and/or the Oregon constitution as grounds for his position. I do not believe any freedom, or any right has been granted absolutely, without restriction or condition of use. The constitution that these people interpret to give the right to own property without any outside control of its use or mis-use, is the same document that guarantees my protection from actions of other people that endanger my family, my property, and my economic well-being. Reason says a balance must be reached. The large body of federal and state law developed over the years strives for this balance. Above all we must recognize that the right to own property carries with it responsibilities of ownership. Land is a finite resource, not consumed during a single ownership, traditionally passing from generation to generation as the foundation for family economic stability. In Oregon's pioneer days mis-use of the land usually had little effect outside of the individual ownership. In 1973 this mis-use affects an ever widening circle of neighbors, the local community, the welfare of the county, and eventually the quality of life in Oregon. Landowners should not ignore this responsibility of stewardship.

In re the opposition to existing councils of government and to establishing regional planning districts, I want to make just one point. I believe the poor public image of COG has developed from the fact that these units have not functioned as they were originally intended. Certain problems of government, i.e., transportation planning, public safety, health, and land use planning, require regional guidance and coordination. Representatives from the local jurisdictions, elected by the people and charged with

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the policy making and governing duties of COG, have not always done their job. Many of them have simply not had the time to spend on COG duties, others have not had sufficient interest in regional problems, still others have done a good job of representing their community or county but neglect to tell the folks back home what has been accomplished relative to the regional approach to common problems. The end result has been some assumption of decision making by staff people, and an appearance of "rubber stamping" by the governing council members. If the planning district proposal is retained in SB 100, and the concept of COG is thereby strengthened state-wide, I suggest your committee consider carefully the possibility of direct election of council members from the district. Most of us are apathetic toward government until we have been "wounded"; then we want the rascals plainly identified so we can get at them quickly.

I do not have the background nor experience to suggest amended or added language in specific sections of SB 100, so must make only general suggestions regarding provisions in the bill. My study of the language in sections 21 through 25 indicates that comprehensive planning still must originate at the local level and, if this responsibility is met at this level, district activity would consist mainly of coordination and review. I think it is most important to avoid any pressure from state or regional level where a sincere attempt to develop a comprehensive plan is being made within a city or county. We must not forget however, that inability, or unwillingness to act on local land use problems at the local level may have serious consequences for many Oregonians. This is quite properly a matter of state concern, and we should face the problem now, not in 1975 or later. The proposed Department of Land Conservation and Development, and its Commission, must not be shorn of all its powers to intervene for the common good. The legislative review procedures covered in Part VII are good and should counter check any tendency toward undue executive department pressure. This continuing review will point up future changes needed.

This dissertation is much too long and I do apologize for this. I write you because your proposed bill is much too important to Oregon, and in my opinion much too good in concept, to pass by without any expression of support. If you wish you may share these comments with your committee and other legislators.

Sincerely,

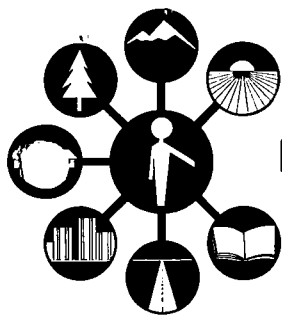
Ernest F. Jernstedt

Ernest F. Jernstedt

Ernest F. Jernstedt
Route 1, Box 35
Carlton, Oregon 97111

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S. ENV. & LAND USE COM.



John - FHI + TO P209 TO file

LANE COUNCIL OF GOVERNMENTS

SERVING CITIZENS OF LANE COUNTY FOR MORE THAN A QUARTER OF A CENTURY

February 19, 1973

The Honorable Ted Hallock
The State Senate
Salem, Oregon 97310

Dear Sir:

I was very surprised to read of the committee suggestions to have counties become the "District Planning Agencies" in the land use bill. If there is one thing we in Lane County have learned, it is that planning for any function must be undertaken jointly by consumers and providers of services at all levels. Citizens and each group or agency must be allowed to participate to a degree commensurate with their roles as consumers or providers. Any one group left out of the process means the product will suffer during implementation or will be shelved as many have been in the past. Counties cannot unilaterally do planning -- any more than can the state or federal government. It's a partnership. That's why COGs came into existence: to allow for a federal-state-county-city-quasi public-special district-private enterprise-citizen planning partnership.

Although federal directives generally stop at state lines and Oregon could adopt any system for planning, the logic of the federal transportation planning requirements (for example) to mandate city-county-state participation in all the nation's urban areas cannot be refuted. All agencies must implement sections of a transportation plan -- which must encompass an entire urban area. One cannot forget that most of our residents live in charter cities -- not in state-dominated counties. Problems are areawide in nature.

In January of 1971 the chairman of L-COG, Kenneth Kohlen (a CPA) proposed a restructuring plan that provided for a COG-type partnership for planning under county government. It provided for ultimate county plan adoption and county veto authority (as charter functions) over COG and city plans. The COG -- in effect with the county as a member -- would become advisory to the county for all areawide plans (including land use), similar to a planning commission but without ordinance review or daily planning responsibility.

MEMBER AGENCIES

City of Coburg
City of Cottage Grove
City of Creswell
Dunes City
City of Eugene
Eugene Water & Electric Board
City of Florence
Junction City
Lane Community College
Lane County
Lane Intermediate Education Dist.
City of Lowell
North Lane Soil & Water Cons. Dist.
City of Oakridge
Port of Siuslaw
Rainbow Water Dist.
Rip Road Park & Rec. Dist.
School District 52 (Bethel)
School District 4J (Eugene)
School District 32 (Mapleton)
School District 19 (Springfield)
Siuslaw Soil & Water Cons. Dist.
City of Springfield
Springfield Utility Board
Upper Willamette Soil
Water Cons. Dist.
City of Veneta
Willamalane Park & Rec. Dist.

CITIZENS' ADVISORY COMMITTEES

Aging
Arts
Comprehensive Health Planning
Coordinating Committee
Criminal Justice Planning
Economic Development
Educational Planning
Housing
Manpower
Metropolitan Study Commission
Natural Resources
Social Services
Transportation Planning

13 SIXTH AVENUE EAST
EUGENE, OREGON 97401
(503) 342-1757

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S. ENV. & LAND USE COM.

The Honorable Ted Hallock
The State Senate
Page Two
February 19, 1973

Enclosed is a copy of Mr. Kohnen's proposal in full. It may be the type of organization you are looking for. It places the county in a final authority role but allows for strong city-district input.

In my opinion, the state would be making a very basic error in attempting to devise a planning structure for land use alone. Seventy percent of L-COG's present program deals with problems other than land use. The state must recognize that life is in fact interrelated -- not isolated in neat, mission-oriented categories. We don't need another tunnel-vision, single-mission bill like what constantly comes from the federal government. This type of legislation is our greatest problem.

Through its legislative committee, L-COG supports the basic provisions of SB 100 -- including the COG provision. Our chairman testified in favor of the bill and suggested some alternative provisions (including a new COG bill draft). Your recent suggestion that counties become the "District Councils" would be opposed by L-COG unless the cities and districts participate somehow. Maybe we do need two more years to explore and discuss all the possibilities for implementation.

Cordially,



Larry Rice
Executive Director

131-m

A:adm

Enclosure

cc-Mid Willamette Council of Governments

- Columbia Region Association of Governments
- Local Government Relations Division
- League of Oregon Cities
- Association of Oregon Counties
- Ken Omlid, Chairman L-COG, County Commissioner

III. RESTRUCTURING

In this proposal the term "Planning" is to be considered in its broadest sense. It includes planning in the seven functional areas of: Human Resources, Public Safety, Natural Resources, Education, Economic Development, Transportation and Administration. Each of these seven functional areas contains many elements such as Health, Social Services, Housing and Manpower (which are included under Human Resources); and Land Use, Water and Sewer Systems, Water and Air Pollution, Resource Development and Use, Recreation, Community Facilities, et cetera (all under Natural Resources).

As an integral part of the final structure proposed, these seven functional areas would be more completely defined, and criteria would be developed allowing for the identification of new or added functions.

Criteria must also be developed and adopted which would allow for the definition of areawide (or District 5) planning activity or function as opposed to a matter of purely local concern. An example of this would be a Eugene-Springfield arterial-expressway-freeway system as opposed to local streets which serve, primarily, the abutting property owners.

"Planning" as used in this proposal must be considered as separate from implementation. The planning process would consist of plan formulation of areawide functions, including development of policy statements and plans for implementation, determination of priorities, identification of financial participants, coordination of implementation

Restructuring Proposal - K. H. Kohnen
January 26, 1971

(including fiscal management where appropriate), and multiagency adoption and maintenance of the plans.

The planning process as defined must involve the following groups: consumers, providers, private enterprise, local and state governments, and quasi-governmental agencies.

Each group or agency must be allowed to participate to a degree commensurate with its role as a consumer or provider of services, facilities and utilities.

Based upon the premises stated previously and the definition of the planning process just given, my conclusion and recommendation is that areawide (or District 5) planning should be done by the cities and the county within the structure of Lane County government.

I would further recommend that Orval Etter, L-COG legal consultant, be requested to prepare ordinances for the cities in Lane County, and for Lane County, for their consideration, refinement and adoption by June of 1971 to allow for this transfer prior to the beginning of the next fiscal year.

The ordinances should include the following basic concepts:

1. Areawide planning as described above would be established as a department or division of the county, and the existing L-COG staff and advisory committees would be transferred to this department or division.
2. The department would be entitled "Lane Council of Governments." On behalf of the county, it would be charged with the responsibility to undertake

Restructuring Proposal - K. H. Kohnen
January 26, 1971

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S. ENV. & LAND USE COM.

all areawide planning. In addition, it would serve as the county's Programming and Capital Budgeting Division for all areawide services, utilities and facilities to be rendered or constructed by the county.

3. "Lane Council of Governments" would be composed of elected officials of each incorporated city in Lane County, and Lane County. Each governmental unit would be allocated votes as follows:

0 - 9,999	1 vote
10,000 - 19,999	2 votes
20,000 - 29,999	3 votes
30,000 - 39,999	4 votes
40,000 - 49,999	5 votes
50,000 - 59,999	6 votes
60,000 - 69,999	7 votes
70,000 - 79,999	8 votes
80,000 - 89,999	9 votes
90,000 - 99,999	10 votes
100,000 - 109,999	11 votes
Over 110,000	Same proration

The votes of each agency would be cast by one representative chosen by the policy body of the agency. The county population would be considered to be the Lane County unincorporated-area population.

Restructuring Proposal - K. H. Kohnen
January 26, 1971

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S. ENV. & LAND USE COM.

4. Lane Council of Governments would have a non-elected, non-voting citizen chairman selected by secret ballot by the Council from among the membership of its active citizen advisory committees.
5. Lane Council of Governments would function under adopted bylaws, and would be authorized to enter into contracts with other agencies, receive and expend funds from public and private sources, and retain staff in accordance with and in conformity to the personnel policies of the county. The Council would select an Executive Director, subject to concurrence by the Board of County Commissioners.
6. Lane Council of Governments would prepare its programs for each fiscal year for consideration in the county budgeting process.
7. Lane Council of Governments would prepare, on behalf of the county and cities, all areawide plans for official adoption and subsequent implementation.
8. Each department of the county would be required to implement those plans prepared by L-COG and adopted by the Board of County Commissioners within fiscal and legal constraints. Each city should adopt those plans adopted by L-COG and the county. Ultimately, each city should change its charter to require the adoption of areawide plans as adopted by the county within fiscal and legal constraints.
9. Lane Council of Governments would act as the review agency clearinghouse for all District 5 applicants as defined from time to time by the federal

Office of Management and Budget.

10. Plans adopted by L-COG would be subject to review and approval by the Board of County Commissioners. The Board of County Commissioners would be required to hold public hearings as necessary and adopt all plans forwarded by L-COG, unless changes were necessary, within 90 days from receipt thereof. If (during the public hearing process or commissioners' deliberation) changes in the L-COG-recommended plan were considered necessary, those changes would be sent to L-COG for its consideration. L-COG would be required to forward its final recommendations within 60 days after receipt thereof. The county could then adopt or reject the final recommended plan or adopt a modified plan.
11. Appropriate assessments against each city and the county would be determined each year by mutual agreement to support the planning process.
12. By action of the Board of County Commissioners, assessments could be waived to allow for small-city participation where extreme financial hardship exists.
13. County ordinances changing the initiating and subsequent ordinance for this department would require referral to each participating city for review and comment 90 days prior to enactment.
14. At the time of initial ordinance passage, all existing L-COG employees would be offered employment with the county at a classification and salary

Restructuring Proposal - K. H. Kohlen
January 26, 1971

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S. ENV. & LAND USE COM.

the same as or better than their existing classifications and salaries.

15. Appropriate city ordinances will be prepared under the provisions of ORS 190.010 to effectuate the transfer of L-COG and the planning function to the county as proposed.

IV. SUMMARY

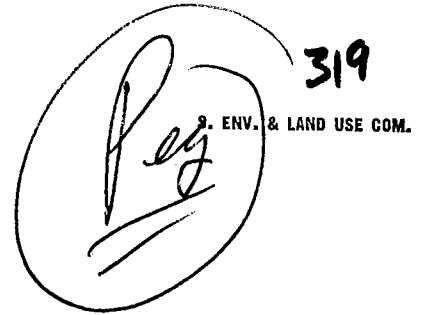
In summary, what is proposed is to make county government the local governmental agency responsible for the adoption of areawide plans in all functional planning areas. These areawide plans would be prepared by the Lane Council of Governments acting on behalf of the county through a department or division of the county. In addition, L-COG would serve as the county's Programming and Capital Budgeting Division for all areawide services, utilities and facilities to be rendered or constructed by the county.

Although, in this proposal, county government would have the ultimate decision in adopting and implementing areawide plans, all cities would be given a voice in the preparation, adoption, and implementation of such plans.

CITIZENS FOR A CLEAN ENVIRONMENT

P. O. Box 255
Corvallis, Oregon 97330

February 20, 1973



Sen. Ted Hallock
Oregon Senate
State Capitol Building
Salem, Oregon

Dear Sen. Hallock:

We have written before to Sen. MacPherson to express our strong support for SB100 which the two of you have introduced. We congratulate you on your effort and have done as much as we can locally to explain and develop support for the Bill. We signed up to testify for the Bill at the last scheduled public hearing but the time was filled up. I am enclosing several lists of names of local people who signed in support of your Bill at two meetings I attended here in Corvallis to explain and support the Bill. Both were small groups but those present were essentially unanimous in its support. I don't think that you should be discouraged by the ranconous opposition to the Bill. Here at least you have strong support for the idea it embodies.

Our thanks to you and Sen. McPherson for your efforts. Please enter this letter and the evidence embodied in the list of names in the Hearings proceedings if this is possible.

Encs.

Sincerely yours,

William K. Ferrell
William K. Ferrell
Co-chairman, Board

We, citizens of Benton County, urge the passage of Senate Bill 100.

Margaret C. Wiley 1505 NW Grant Ave., Corvallis

Ray X. Willey 1505 NW Grant Ave. Corvallis, Or.

Rob Blichensdfer 3312 NW Elmwood Dr. Corvallis, OR

Ken Wicks 1544 Dixie

Barbara Kopke 1544 NW Dixie, Corvallis, Oregon

Mack M. Schwal 2910 Arthur Ave, Corvallis, Ore,

Margaret McDonald 2928 N.W. Taylor, Corvallis, Ore.

Constance H. Schwab 2910 NW Arthur Ave., Corvallis, Ore.

Marjorie R. Murray 1215 NW 16th St., Corvallis, Ore.

Lillian Rochelle 2151 NW Lewisberg Corvallis, OR.

Arthur Slobod 2210 N.W. Kings Blvd., Corvallis, Ore.

Arne Landsberg 1410 N.W. Greenwood Pl., Corvallis, Ore.

Connie Fredriksen 3745 S.W. Country Club Dr. Corvallis, Ore

Dick Fredriksen same

Robert H. Stebbins 1655 NW Hillcat Dr. Corvallis Or

~~Jay Johnson~~ 2426 NW Grant St. Corvallis OR

David A. Bertuch 3510 SW Country Club Dr. Corvallis, Ore.

Edith Yang 1020 NW 30th St. Corvallis, Ore

Lacy H. Miller 721 NW 30th St. Corvallis, OR

Charlyh Leach 2815 NW Arthur Av., Corvallis, OR.

Donald Carlson 3007 NW Garfield Corvallis

Floyd B. McFarland 3230 NW Deer Run Corvallis

Ely D. Duns 1515 Hwy 20 N Corvallis, Ore.

E. Doris Tilles 3115 NW McKinley Dr Corvallis

Jane L. Gorder 3945 N.W. Park Corvallis

Richard Leo Luker 221 NW 6 Corvallis.

We, citizens of Benton County, urge the
passage of Senate Bill 100.

OREGON STATE ARCHIVES

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S. ENV. & LAND USE COM.

Dorothy E. Lukins	221 N.W. 6th	Corvallis, Or
Beverly S. McFarland	3230 N.W. Deer Run	Corvallis, Or.
J. Rogers Doller	1720 NW 27th	u y

300

S. ENV. & LAND USE COM.

We the undersigned voters of Benton County urge the passage of Senate Bill 100.

Betty L. Cooke	1609 N.W. Lester, Corvallis
George W. Ott	1640 N.W. Division, Corvallis
Louise F. Beaudreau	1022 Alder Creek Drive, " "
A. V. Logan	1310 Spring Lane Corvallis
Emily P. Ryan	1000 Spring Lane Corvallis
Bert E. Christensen	837 N.W. 23rd "
E. Julius Warden	146 So 20th Philomath
Robert K. Lafty	374 SW. 8th. Corvallis
Liam Russell	1650 NW Tyler St. Corvallis
Judith A. Russell	1650 NW Tyler, Corvallis
Kathryn E. Smecema	218 NW 35 th Corvallis
Robert Matlock	1515 N.W. 13th St. Corvallis
Carlisle Holden	1750 SW Whiteside Corvallis
Louise G. Ferrell	2750 SW Fairmont, Corvallis
June W. Worthington	3205 Norwood, Corvallis
D. Stuart Nachtergale	3205 N.W. Norwood, Corvallis
James R. Brown	2675 N.W. Roosevelt Pl., Corvallis
Inez Campbell	916 N.W. 36 th St. Corvallis, Or.
A. T. Stegman	285 th NW 35th
Linda S. Paschke	3730 NW Hayes Corvallis, Or.
Doris F. Lambert	1213 NW TYLER, Corvallis
John Vito	RT2 Box 56 Monmouth, Or 97361
Wendy Anderson	218 NW 35 th St., Corvallis, Or 97330
Bill Ferrell	2790 SW Fairmont Pl. " " , 97330

STAMM F. JOHNSON
ATTORNEY AT LAW

OREGON STATE ARCHIVES

POST OFFICE BOX 86
WILSONVILLE, OREGON 97070

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S. ENV. & LAND USE COM.

February 20, 1973

Hon. Ted Hallock
Oregon State Senator
State Capitol
Salem, Oregon 97310

RE: Senate Bill 100

Dear Senator Hallock:

The Wilsonville Chamber of Commerce, at the regular monthly meeting on Tuesday, February 13, 1973, unanimously passed the resolution as stated below, and I am submitting it herewith for your consideration.

Very truly yours,

WILSONVILLE CHAMBER OF COMMERCE



Stamm F. Johnson
President

SFJ/jc

cc: Senator Hector MacPherson
Co-Chairman

R E S O L U T I O N

RESOLVED, that the Wilsonville Chamber of Commerce feels that it must object to the passage of Senate Bill 100 in its present form, and respectfully requests that some provision be inserted in the Bill to provide that any agency must consider the adverse economic effects of any changes in zoning before zoning changes are made.



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OREGON STATE ARCHIVES

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S. ENV. & LAND USE COM.

February 26, 1973

Senator Ted Mallock
Chairman, Environmental Land-Use Committee
State Capitol
Salem, Oregon

Dear Senator Mallock: Re: Senate Bill 100

I have previously expressed my support for S.B.100. I attended the Hearing which went on for almost four hours on the evening of February 12 and was prepared to testify but time expired before my name came up. My views correspond with those given by the man who represented John Gray which, briefly stated, give support to the Bill with the establishment of a plan for sound land-use in Oregon without further delay.

It was of interest to note that spokesmen for responsible agencies such as the League of Oregon Cities and the Portland Chamber of Commerce supported the basic objectives of the Bill with the establishment of a Department of Land Conservation and Development but felt that policies, goals and guidelines should be spelled out before determining the responsibilities of state, district and county governments in carrying out the policies. That may be the way to go about it. The main thing is to get the Commission established and the Department functioning.

I am concerned about the need to conserve prime farm lands. Recognition of this need is noted in Section 50 of the Bill as a zoning responsibility, but it is rather vague. I would give more emphasis to this need by designating Class I and II lands as areas of critical state concern.

It is surprising to note how little attention is being given to prime farm lands as being of great importance to the economy of Oregon and, of course, to its livability.

Special reports recently submitted to the Governor on planning for the future of the Willamette Valley give scant attention to the agricultural lands. I refer to the Patterson-Langford-Stewart, "The Willamette Valley Environmental Protection and Development Plan" and "The Willamette Valley Choices for the Future" by Halprin and Associates. They really do not give much of a choice, - just continued urbanization but done more carefully. Cluster development with open space here and there is given much emphasis by Halprin but the unique agricultural characteristics of the valley and the importance of the products produced to the Oregon economy is simply disregarded.

Scenario two of the Halprin report describes the future we should look forward to. Under Land-Use, page 57, the criteria for development gives guidelines for urban growth but no mention of agriculture. In the Employment and Income section mention is made of Valley economy shifting from its resource oriented base to service industries; disposable income will be less; concern for open space will



serving the needs of the Northwest since 1934

(incidentally) keep land in agricultural production, people will get secondary income from hobby farms, people will be subject to land-use controls, but "they will get satisfaction and sustenance from a clean environment". This is all very dreamy. One can ask why urban planners have been employed to advise on the future of the Willamette Valley?

This same lack of recognition of the agricultural economy was evident in the impressive Governor's Fifth Conservation Congress on land-use planning, November 19, 1972. The major speeches were by out of state experts, the Halprin slide presentation described urbanization development and there was no informational material in the large program folder that dealt with agricultural production in Oregon.

To form judgments on the future of land-use in Oregon and especially in the Willamette Valley, where the haphazard urban sprawl is destroying great acreages of prime farm land, one must have factual data concerning present land-use. How much prime farm land is there in the Valley? At what rate is it disappearing for highways, wrecking yards, outdoor theatres and various urban uses? How is farm land classified? What is the value of agricultural crops in terms of dollars and jobs as produced on the several land classes? It would be of interest to point out that the agricultural production in Marion County, for example, is about \$50,000,000. per year; that the annual value of just horticultural production is about \$25,000,000. with a good part of it in Multnomah County!

Information on the type of questions noted above is being printed this week in the form of a research report by David AAmoet, a 1972 graduate from OSU who was brought up on a farm and majored in Animal Science. He is now a student at Lewis & Clark School of Law.

Assuming that we do care about agriculture in the Valley, not only in terms of dollars, but in the unique diversity of crops produced and leading all states in some of them (came berries and filberts), which makes the beautiful valley a great place in which to live, -- what can be done about it?

The very much needed Land Conservation and Development Commission will deal with this question. First we must have a goal. There can be growth and development, but at the proper places and not at the expense of prime land destruction. Taxation concession and compensable zoning may be necessary. It will cost money. What will future generations think of us if we allow the beautiful and productive Willamette Valley to become Los Angelized?

Yours very truly,

David B. Charlton, Ph.D.

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S. ENV. & LAND USE COM.

14225 S E Upper Aldercrest Dr
Milwaukie, Oregon 97222
February 26, 1973

The Honorable Ted Hallock
Oregon State Senate
State Capitol
Salem, Oregon 97310

Dear Senator Hallock:

This letter is for the purpose of registering my opposition to Senate Bill #100.

Dealings with the Clackamas County Planning Board, the Clackamas County Board of Health and the Clackamas County Commissioners have brought the painful knowledge that very few freedoms on which this country was founded still remain. Indeed, it is a frustrating experience to try and sell a piece of land.

Because of these experiences, I have reached the following conclusions regarding land use programs:

1. The zoning regulations for future land development are more than adequate. It is irrelevant whether control is by a state agency or a local one.
2. What is needed are officials who will comply with the regulations that have been established.
3. Variances should be eliminated. Land use and zone ordinances are established after exhaustive and expensive studies, paid for by the tax payers, and recommendations for the best use have been determined. By strictly adhering to the designated land use, controversy can be avoided.
4. Ordinances specifically state in black and white what is allowable and what is not allowable in designated zones. And conditional use under each zone is well-defined. Yet, the regulating agencies interpret any and all use for land as "conditional use." Conditional use applications require special procedures and presentation before appropriate boards.

This opens the door for the opportunist and the bureaucrat to dictate who will be approved and what will be approved for land use. It's a perfect setup for corruption and payoffs.

(continued)

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S. ENV. & LAND USE COM.

Page 2
The Hon. Ted Hallock
February 26, 1973

5. Qualifications for members who serve on planning committees should be established. Members with a conflict of interest must be excluded and all segments of our society should be properly represented. This is a large order since usually members serve without pay and it is a thankless job. Presently, the motives for members serving in this capacity are suspect -- compensation questionable.

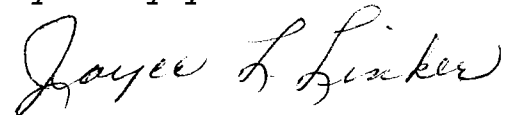
6. A reasonable attitude toward septic tanks and other waste disposal methods is essential. Only by providing new homes and developing rural areas can we diffuse the population in core areas. Money isn't available for sewer installations so the solution lies in approving efficient alternatives.

It occurs to me this is also a solution to another problem: Dubious profits in farming and high taxes on their land are creating monumental problems for farmers. In this county landowners can sell three parcels of land off of the original tract. Then application for a permit to subdivide must be filed, followed by a presentation before the proper authorities for their approval.

As simple as this may sound; land selling for \$1500 per acre must now command a price of \$3500 per acre. Most farmers cannot pay the fees for the surveys and drawings required to obtain approval (especially when it's almost always denied) And, what developer wants land where one unit to 40 acres is allowed?

These observations are respectfully submitted and your consideration will be sincerely appreciated.

Very truly yours



Joyce L. Linker

JLL/

REVISED SB 100

OREGON STATE ARCHIVES

PROPOSED AMENDMENT

327

S. ENV. & LAND USE COM.

Conflict of Interest Section

No member of the commission shall participate in any capacity whatsoever in any commission proceeding or action in which any of the following has a financial interest: The member himself, his spouse, his brother or sister, his child, his partner, any organization in which he is then serving or has served within the previous two years, or any organization within which he is negotiating for or has any arrangement or understanding concerning prospective partnership or employment.

0280

gls accepted

Section 3.

Add

"Area of critical state concern" means a geographic area of the state recommended pursuant to section 26 of this Act.

Section 11.

Add

Recommend the designation of areas of critical state concern.

Section 26.

(1) No change.

Revisy criteria for des

(2) The commission shall recommend to the committee the designation of areas of critical state concern. Such recommendation shall specify the reasons for the proposed designation, the dangers that would result from uncontrolled development within the area, the reasons for the implementation of state regulations for the proposed areas and the suggested state regulations to be applied within the proposed areas.

(3) No change.

(4) No change.

accepted

Proposed Amendment

329

S. ENV. & LAND USE COM.

Section 51. (1) In the manner provided in sections 52 to 54 of this Act the commission shall review upon:

(a) Petition by a county governing body, a comprehensive plan provision or any zoning, subdivision or other ordinance or regulation adopted by a state agency, city or county or special district that the governing body considers to be in conflict with state-wide planning goals approved under section 37 of this Act or interim goals adopted under section 41 of this Act.

(b) Petition by a city or county governing body, a land conservation and development action taken by a state agency, city, county or special district that the governing body considers to be in conflict with state-wide planning goals approved under section 37 of this Act or interim goals adopted under section 41 of this Act.

(c) Petition by a state agency, city, county or special district, any county governing body action that the state agency, city, county or special district considers to be improperly taken or outside the scope of the governing body's authority under this Act.

(d) Petition by any ^{*is - still in*} (affected) person or group of persons, a comprehensive plan provision or any zoning, subdivision or other ordinance or regulation adopted by a governing body alleged to be in violation of statewide planning goals approved under section 37 of this Act or interim goals adopted under section 41 of this Act.

(2) No change

accepted

Go into Section 10 or 11

REVISED SB-100

PROPOSED AMENDMENT

Section 34

- (1) No change.
- (2) No change.
- (3) Prepare model ordinances and regulations to guide state agencies, cities, counties and special districts in preparing ordinances and regulations for the areas listed in (2) (b) to (k) of this section.

Section 44

- (1) Copies of comprehensive plans and ordinances and regulations for areas within the county listed in section 34 (2) (b) to (k) reviewed by the county governing body.
- (2) No change.

REVISED SB 100

PROPOSED AMENDMENT

Section 3.

Add

"Area of critical state concern" means a geographic area of the state recommended pursuant to section 26 of this Act.

Section 11.

Add

Recommend the designation of areas of critical state concern.

Section 26.

(1) No change.

(2) The commission shall recommend to the committee the designation of areas of critical state concern. Such recommendation shall specify the reasons for the proposed designation, the dangers that would result from uncontrolled development within the area, the reasons for the implementation of state regulations for the proposed areas and the suggested state regulations to be applied within the proposed area.

(3) No change.

(4) No change.

HOME ADDRESS
HECTOR MACPHERSON
RT. 3, Box 845
ALBANY, OREGON 97321
ANN, BENTON COUNTIES



OREGON STATE SENATE
SALEM, OREGON
97310

COMMITTEES
MEMBER:
ENVIRONMENT AND LAND USE
CONSUMER AND BUSINESS AFFAIRS
RULES AND RESOLUTIONS

OREGON STATE ARCHIVES

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S. ENV. & LAND USE COM.

SIGNIFICANT CHANGES IN S.B. 100

ADOPTED BY THE AD-HOC COMMITTEE ON

FEBRUARY 27, 1973

1. Counties are mandated to coordinate the land use and related plans of cities, counties, special districts and state agencies.
2. The LCDC Commission is enlarged to 7 members removable only for cause.
3. Public participation is mandated before the State goals and guide-lines are formulated.
4. No "areas of critical State concern" are provided in the bill. The modified bill does provide that "priority consideration" be given to certain types of areas in their comprehensive planning process. The bill does ask that LCDC study the need for "areas of critical State concern".
5. The power to take over the planning of a city or county 1 year after the adoption of State goals and guide-lines, if it finds that the planning does not comply with State-wide planning goals, is given to the commission rather than the Governor.
6. Adequate funding, while not a part of S.B. 100 is recommended as a companion measure.

SUMMARY ----- REVISED S.B. 100 February 27, 1973

The principal objective of SB 100 (revised), as recited in its preamble, is to curb uses of lands which "threaten the orderly development (and) the environment of this state". To achieve this objective, a program of guidelines to assist local planning bodies is created and a process for the review of state agency, city, county and special district plans is established.

The review process will be carried out in light of "state-wide planning goals" prepared and adopted by the state Land Conservation and Development Commission. In preparing the goals, and in order to preserve the local aspects of land conservation and development and to assure widespread citizen input the Department is instructed to conduct various inventories, to review existing local comprehensive plans and, eventually, to hold at least ten public hearings throughout the state.

Although all areas of the state will be planned and regulated by the appropriate units of local governments with reference to the goals, the Department is directed to give certain geographic regions, e.g., lakes, lakeshores and estuarine areas, "priority consideration" in its preparation of the planning goals. Similarly, the local planning bodies shall give such priority areas special consideration when formulating plans and zoning, subdivision and other land use ordinances and regulations consistent with the goals.

In addition to the listed priority areas, the planning and siting of certain types of development, or "activities of state-wide significance," will be subject to state-wide goals and will be given priority consideration by the Department. And, since the impact on land use of these activities is regional or state-wide, an agency or person proposing such a project, e.g. an energy generating facility, must apply to the Department for a "development permit". Before issuing the permit, however, the Department is charged with consulting with potentially affected governmental units, including the county, for their comments and recommendations on the planning and siting of the development project.

State-wide planning goals, as they relate to areas and activities, must be adopted by the Department's seven-member commission by January 1, 1975. State agencies, cities, counties and special districts are given a year, from the date of adoption to review existing plans, ordinances and regulations for consistency with the goals and to modify them as necessary. If, after the one year period, a plan, ordinance or regulation is not consistent and the governmental unit is not making satisfactory progress toward necessary modification, the commission may prescribe and administer the plan, ordinance or regulation until such time that the plan, ordinance or regulation is modified to be consistent.

The job of reviewing plans for consistency with the goals is delegated to the governing bodies of the various counties. Accordingly, following the adoption of the goals, each county governing body is directed to receive and review the plans of the county and of the state agencies, cities and special districts in the county and to check the provisions of the plans against the state-wide goals. Upon the expiration of one year, the governing body shall submit to the commission its report and recommendations concerning commission action on the plans.

If, during the review by the county, the parties can not resolve whatever conflict may arise, either may petition the commission to review the plan provision (or an action taken in reliance thereto). The commission shall review the contested provision or action and issue an order within sixty days after the receipt of the petition.

THE AMERICAN INSTITUTE OF ARCHITECTS

OREGON STATE ARCHIVES

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S. ENV. & LAND USE COM.

February 28, 1973

The Honorable Senator Hallock
Environment & Land Use Committee
State of Oregon Legislature
Salem, Oregon

Dear Senator Hallock:

The Portland Chapter, Inc. of the American Institute of Architects would like to lend its support to you and your fellow legislators for the passage of Senate Bill 100.

During the last few years, the Portland Chapter has become increasingly aware of the problems being faced by cities and counties in the wake of leaping population growth within the state.

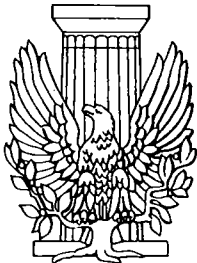
The inability to cope with the massive transportation demands, the pressures on the states natural resources and the need to provide a more livable environment for all its citizens has created the need for the type of legislation you now propose.

The Portland Chapter is in general agreement with the provisions of SB 100, and understands these to include:

1. The creation of a Department of Land Conservation and Development, composed of a Land Conservation and Development Commission, a director and employees.
2. The establishment of a Joint Legislative Committee on Land Use, to advise and assist the Department.
3. The designation of areas and activities of critical state concern, and the provision for additional designations, subject to approval of the legislative assembly.
4. The requirement for development permits to be issued by the Commission for development projects constituting activities of critical state concern.
5. The establishment of 14 planning districts in the state to advise, assist and review actions and comprehensive plans of state agencies, cities, counties and special districts.

THE Portland Chapter, Inc.

200 Dekum Building
519 S.W. Third Avenue
PORTLAND, OREGON 97204
(503) 223-8757



1973 OFFICERS

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Andrew Wheeler
Vice-President

Albert Biggerstaff
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B.J. Gannett
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Kenneth Kaji

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Tedd Chilless

Jon Schleuning

PAST PRESIDENT

Gary Michael

Mrs. Jo Ann Proppe
Executive Secretary

Page 2

6. The requirement that within one year after approval of state-wide planning guidelines, all comprehensive plans and zoning, sub-division or other ordinances or regulations to comply with such guidelines.
7. The provision for review by the commission of specified land conservation and development actions and plans.
8. The establishment of a Land Conservation and Development account in the general fund.
9. The declaration of emergency conditions and that the act should take effect - July 1, 1973.

Further, the Portland Chapter recognizes the spirit of the proposed act as the provision of a vehicle for the coordination of the use of lands within the state to insure orderly development for the protection of the environment and the health, safety, order, convenience, prosperity and welfare of the people of this state.

Therefore, the Portland Chapter, Inc. of the American Institute of Architects hereby endorses Senate Bill 100 and urges its support and passage.

Respectfully submitted,



Neil Farnham, AIA
President
The Portland Chapter, Inc.

NF:mr

cc: John Burns
Victor Atiyeh
Hector MacPherson
Jack Ripper
Michael Thorne
George Wingard

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Hector MacPherson
Oregon State Senate
Salem, Oregon 97310

S. ENV. & LAND USE COM.
S.E. Thompson
Box 7, Sisters
Oregon 97759

Dear Senator MacPherson,

We, the undersigned residents of Central Oregon, support your move to introduce statewide land use planning in the legislature. Among our number are doctors, lawyers, businessmen, ranchers, laborers, housewives, teachers, office workers, administrators, and even a realtor.

We are aware of the opposition that SB-100 is encountering. We want you to know that while support has not been as vociferous, it has nevertheless been as widespread. At the last public hearing on SB-100 a member of the Bend chamber of commerce professed himself as representing Central Oregon. On the contrary, people in this area are particularly sensitive to the failures and limitations of local planning or lack of it. We would welcome a measure of this nature.

Whether SB-100 is sent to the floor in its present form, or whether it is altered or another bill takes its place, we heartily support the idea of statewide planning with particular attention to critical areas. We have signed this letter after extensive discussion of both sides of the issue during a special meeting concerning your proposal. We all had copies of the bill and went to considerable depth in weighing the various advantages and disadvantages.

Therefore, we hope that this will make you more aware of the strong grass roots support you have in this worthy endeavor.

Yours very truly,

Simon Stander, Indian Ford Rd, Sisters, Ore 97759
 Cynthia H. Stander Indian Ford Rd Sisters Ore 97759
 Michael & Karen Shuman 130 Greenwood Ave Bend 97701
 Deane Poney Rt 3, Box 865 Bend 97701
 Mike Poney Rt 3 Box 700 " "
 424 E Maina Bend Ore 97701
 Helen McKinley Thompson Century Drive Bend, Oregon
 Chris Tachell 154 Adams Place, Bend
 Lane Burkholder Rt 2 Box 1218 Bend
 Volney S. Johnson 1154 Columbia St Bend
 Lynn W. Johnson 1154 Columbia Bend
 John D. Williams Rt 2 Box 265 Bend
 Warren T. Bloch Rt 2 Box 1219 Bend
 Jennie Green Box 74 Bend
 Lane Poney Rt 3 Box 85 Bend
 Marty Williams Rt. 2 Box 265 Bend
 Linda Lynn Rt. 3 Box 1497 Bend
 Louise Marley Star Rt. ~~3~~ Fredman
 Lee Lynn Rt 3, Box 1497 Bend
 Kaye Thomas Sisters, Oregon
 Louise Syatt 424 Columbia - Bend
 Harold Searinger Rt 2 Box 700 Bend

Don K. Hill - Tumalo

Stephen Thompson - Sisters

Nancy Lewis O Bend

Ruth McNeil 1555 Jacksonville Bend Oregon

Paula Cassady Sisters Oregon

Iris Ward Paulina Lane Bend

Irene Mathwin 2305 Aubrey Rd. Bend, Ore.

Mary Jane Newton 11 Kansas Bend, Ore

Jane Ross 415 Newport Bend

Lesley Eastwood Bend

Lois Friedman 2110 Shepard Rd. Bend

Elythe Kirk 1472 Lexington Bend

Mel Jordan 1733 Rosewood Bend

Barbara Jordan 1733 Rosewood Bend

Libby McGeeary 759 Roanoke Bend

Maureen Rt 2 Box 121A Bend

Joyce Johnson 2256 Eastes Bend

Frank Wheeler Rt 2 Box 90 Bend

Jilly Spafford 114 Paulina Ln Bend

George Swannigan Rt 2, Box 700 Bend

Karen Wilson 120 - Ocean Bend

Betty J. Ellis 718 E. 8th Bend

William J. Egan 718 E 8th Bend

Natalie Smiley 1512 W 3rd Bend

(over)

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S. ENV. & LAND USE COM.

3/3/73

JOHN F. HIESTAND JR.
ROUTE 4, BOX 204 (LAUREL)
HILLSBORO, OREGON 97123



Chairman

Environment & Land Use Committee
State Capital, Salem

Dear Sir:

Having written to voice my objections to the original Land Use bill (SB100), I now wish to state my continued opposition to the "revised" SB100. Little attention has been paid to the basic reasons for the objections of we farmers—that is that by state edict, we shall undoubtedly loose at least half of our land value when so called valuable farm land is perpetually zoned non-residential-form. That's fine if you'd like to buy it from us at today's market value as in other acquisitions by "emminent domain". So far I see no mention of purchasing our land in any of your proposed legislation. "We've been farming at a real loss for years here in the Hillsboro area in hopes that ultimate subdivision would enable us to get our money back. Farm land is beautiful and we'd be pleased to keep it as open space for all to look at - If you'd like to buy it from us -

Sincerely John Hiestand

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S. ENV. & LAND USE COM.

March 5, 1973

Senator George Wingard
Room 309B
State Capitol Building
Salem, Oregon

Dear Senator:

We have attended all the public hearings and two subcommittee hearings (areas and activities of critical State concern) to which we presented testimony, views and questions on SB100. That subcommittee, of which you were a member, requested that we put into writing our concepts and amendments to the bill. The day following that request, Senator Hallock appointed an Ad Hoc committee to rework the entire bill and present a different approach to make a more acceptable Land Use Planning Law.

Rather than proceeding with our task, we felt compelled to see what the Ad Hoc group would arrive at. Since that group made its formal presentation last Thursday, March 1, 1973, we feel that it is appropriate to present our own philosophical concept and generalized organization/division of responsibility in view of all the facts and testimony.

PHILISOPHICAL CONCEPT:

The State of Oregon is endowed with an abundance of natural beauty; the Pacific Ocean and its rugged coastline; the Coastal and Cascade Mountain Ranges accented by Mt. Hood, Three Sisters, Crater Lake and others. Its numerous valleys to include the Willamette, the Columbia River and Gorge, just to name a few.

Just over ten decades ago Oregon became a State; unlike its neighboring California, it has been sparsely populated. However, the last ten years in contrast to the previous ninety has shown an exploding growth and tourist invasion causing degeneration of precious natural resources. Growth cannot be stopped, only controlled, therefore, in order to preserve the liability of our State, we must enact legislation that will result in an orderly growth of our human settlements.

However, in developing such a law, one must be aware that our ^{S. ENV. & LAND USE COM.} Anthropocosmos is made up of five parts; Man-Nature-Society-Shells-Networks. Between each of these elements exists an interrelationship which one must fully comprehend if the optimum solution is to evolve when examining a given problem. (Such an approach, we feel, could be used in developing the Land Use Law). Thus, the entire State (physical) and all the activities within it are of critical State concern.

In view of this philosophy, we envision the creation of a State level commission assisted by a staff (which we have designated as the Department of Land Preservation and Utilization) and augmented by public hearings (on a scale commensurate to the population) whose basic function would encompass:

- 1) Establishment and dissemination of Statewide planning guidelines and regulations within two years; thereafter, review every four years the revised guidelines and regulations to be approved by the legislature.
- 2) Coordinate the planning activities of all other State Departments and Agencies.
- 3) Review all local (City and County) comprehensive plans for compliance with State guidelines and regulations.

The commission itself should consist of seven members; four elected by the populace one from each congressional district, and the remaining three appointed by the Governor. It should also have an ad hoc membership consisting of one representative from each State Department and Agency. (ie. D.E.Q., and State Highway Department).

We also see a similar commission and membership thereof, established at both the County (representing the unincorporated areas) and the City level (for each incorporated area). Their task is seen as the following, with the exception that the ad hoc member would be from approved special service districts.

- 1) Development of comprehensive plans in accordance with Statewide guidelines and regulations.
- 2) Coordinate review and approve with concurrence of the State Commission all local planning activities and projects for compliance with State guidelines and regulations..
- 3) Any existing comprehensive plan would remain in effect subject to revisions only as required by law or change by the populus in compliance with the State guidelines.

Our suppositions have been brief because of the minimal time available, but we feel that the general concept outlined would be

more responsive and responsible to the citizenry as individuals and collectively and would truly serve as a framework out of which the preservation and organized utilization of our land could be realized. At your request, we would be more than pleased to delineate our thoughts in more detail or assist you in any capacity in reference to SB100.

We sincerely hope that our philosophy and ideas might assist you and the committee in developing a sound Land Use Law.

Sincerely,

Richard Emigh, B. Soc.
Grad. Student, U of O
Dept. of Urban Planning

Edward A. Rhodes, B. Arch. CHSE
Grad. Student, U of O
Dept. of Urban Planning

RLE:pdg

JUNIOR LEAGUE OF PORTLAND, OREGON

222 S. W. HARRISON • Garden Suite 9 • Portland, Oregon 97201 • 227-7083

S. ENV. & LAND USE COM.

March 5, 1973

Senator Ted Hallock
Room 401
Capitol Building
Salem, Oregon 97310

Dear Senator Hallock:

The Junior League of Portland as an organization has voted to support the original SB 100 in concept as a means to better handle the population and development pressures which are threatening Oregon's quality environment.

It is our feeling that there is a definite need to establish state-wide planning goals and guidelines, to identify as soon as possible areas and activities of critical concern, to provide co-ordination of state and local planning agencies, to give to the Commission the enforcement powers which would allow it to be effective, and to provide greater opportunity for citizen input in the planning process.

It is our concern that SB 100 not be revised to the point of ineffectiveness for we feel there is a crucial and immediate need for state land use planning to preserve the livability of our state.

Yours very truly,



Mrs. George M. Crandall
Public Affairs Chairman



State of Oregon
OFFICE OF THE GOVERNOR

Tuesday, March 6, 1973
Room 315, Capitol, Salem

OREGON STATE ARCHIVES

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S. ENV. & LAND USE COM.

TESTIMONY BY GOVERNOR TOM McCALL

TO OREGON SENATE COMMITTEE ON ENVIRONMENT AND LAND USE

SENATE BILL 100-

Chairman Hallock and members of the committee:

Your invitation to me to appear today is very much appreciated.

Proper land use planning and zoning is a goal that must share equal billing on this legislature's priority list with taxation and educational finance reform.

Both are massive in concept. Both reflect major public concerns. Neither can wait while we fiddle and quibble over crossing the T's and dotting the I's.

Both, then, are matters of paramount urgency.

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Regarding the protection of our land, in particular, the lateness of the hour for remedial and preventive moves is almost cause for despair.

I say "almost" because we still have a thin crack of time left before our inaction dooms our land to "the shameless threat" I mentioned in my message to the opening-day session of the Oregon Legislature.

Both then and in my messages last month to the Hawaiian Senate and House, I identified this threat to our environment and whole quality of life as "the unfettered despoiling of the land."

In Salem, in Honolulu, and before the U.S. Senate Interior Committee last month, I pounded home the theme that we are in dire need of national and state land-use policies.

Admittedly, though, the whole subject area is subject to contradiction. Last fall in Portland, nearly all of the 650 participants at the Governor's Conservation Congress supported the need for land-use planning. No question of its urgency -- but how to do it? That was the trillion dollar question.

Last week at the annual Mid-winter Governor's Conference, Governor Stan Hathaway of Wyoming remarked on the "intense local resistance" that greets land use programs everywhere. It was for this very reason, he said, we as governors ought to resist proposed federal sanctions against states that fail to turn in a land use plan under pending federal legislation.

Quite to the contrary, I argued, it's the Federal sword of Damocles hanging over state heads that has triggered progress in fighting water, air and solid waste pollution across the nation. And if we states are given Federal resources to help us and the local governments to evolve sound land use management programs, then it is misfeasance if we misapply that money, and we ought to be penalized.

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My purpose in telling you of these travels and encounters is to give you evidence of my sincerity in submitting and standing behind those propositions best calculated to save our finite heritage of land.

Senate Bill 100 in this Legislature and S. 268 in the Congress are means to a desirable end.

In the absence of an adequate process of land-use planning, and in a void of criteria and guidelines for determining the best use of our land resources, decisions of wide impact upon communities and states are being made in the private sector with little or no regard to consequences. S. 268 starts the process of identifying goals and objectives, and in spelling out the relative areas of responsibility for federal, state, and local government, and SB 100 supplies the mechanics of orderly, helpful implementation by a state-local partnership in Oregon.

Land use planning does not stop Oregon dead in its economic tracks. It is instead a sure way to protect property values, because it promises compatibility of land uses, and avoids destructive conflicts.

A perfectly logical question to ask right now would be: "Which SB 100 -- the original or the revised version?"

The answer is that I am prepared to announce today my support of the substitute bill offered to this committee by a task force of five principal draftsmen. Lobbyist L.B. Day and Kessler Cannon and Bob Logan of my staff have led me through the new version step by step, and I now feel that in most respects it is more satisfactory than the original SB 100, which this committee rejected -- and that it also corrects the principal defects in the present legislation commonly known as Senate Bill 10.

It's useful to remember that SB 10 was recommended by one of the traditionally most conservative interim committees of this legislature, the Interim Committee on Agriculture.

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Even its conventional thinkers recognized four and five years ago that land resources -- particularly the verdant valleys and prairies of Oregon -- are finite.

The legislation vested in the governor enormous power to ensure that counties and cities contributed to a statewide land use planning and zoning. Perhaps the governor's reluctance to use that power has been one of the root causes of the failure of SB 10 to produce as much quality and quantity as was expected.

Sure, I prodded them to get the job done -- and moratoriums against unplanned growth were proclaimed for a dozen areas, most notably Lincoln County. After the insults and accusations died down, Lincoln ^{County}~~City~~ and the governor have executed an agreement to cooperate and help with sewer and water problems in this hard-pressed county.

It is a pleasure to report to you that I have just received a letter from William Hollen, the Lincoln County Commissioners' lawyer, which concludes, "It's been a pleasure to do business with you." Signed, "Bill."

So in that instance we apparently face a period of progressive togetherness.

The state is trying hard, too, to help Jefferson County which came to me to urge that I declare a moratorium on building and subdividing until it could get its planning ducks in line.

We want to help because we want to convert wildfire exploitation of resources into development and protection that has a measured, reasonable cadence.

I must confess to you, though, that it wasn't in the cards for SB 10 to do that -- and the reason is that while it had laudable motives and some teeth, it doesn't provide the wherewithal that most counties and cities lack to get good planning done.

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In short, it has a stick -- although not a very forbidding one -- but not the carrot.

The point I particularly like about new SB 100 is that it is based on the premise that the carrot -- the money -- will be furnished to local governments, as necessary, by the state.

Be sure, honorable senators, not to forget the piece of companion legislation which would finance these outlays, because it was just this lack of financing of the local effort that has helped to render SB 10 not wholly effective.

A separate but equally grave problem was that guidelines and standards were not established to allow local officials ^{to know} what really was expected of them.

But SB 10 has given us a foundation, providing the framework for land use planning in Oregon. The Legislature took the heat off local officials, several of whom suffered recall over planning and zoning decisions.

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Since adoption of SB 10 almost all Oregon cities and all Oregon counties have planning commissions and are attempting to resolve land use issues. I did receive one outright refusal, from the City of Lone Rock, population 16. The City Council wrote to me: "No way, Governor."

Except for this one rejection slip, the cities and counties have been trying to comply with SB 10 despite its deficiencies. And at last, SB 10 made planning and zoning clean words.

Now comes SB 100 to fill the voids. Guidelines will be established, and \$3.5 million in state funds will be put into the land use planning process.

The counties are given new duties and responsibilities -- and they get a \$2-million carrot as well. The new Land Development and Conservation Commission will assume the stewardship duty under SB 100 that I have had under SB 10 -- and I don't mind at all losing that responsibility.

Questions have been raised about whether the state should have its nose under the tent along with the counties. To me this is not at all questionable. I'm presenting to the committee today copies of reports by my Local Government Relations Division on two major proposals for development in the Willamette Valley -- Charbonneau at Wilsonville, and the Willamette Valley Mall near Albany. Clearly these are examples of developments where the decision-making goes beyond local boundaries.

The new SB 100 removes mandatory participation in the planning process by the Councils of Government. That is a deep disappointment to me, because the duty of the Councils of Government is to strengthen, not to weaken, the local governments.

But if having the Councils of Government in the legislation means that the bill will not move from this committee, then leave them out. The land use legislation before you is too important to fall at the hands of a non-essential issue.

I intend to continue vigorously supporting the COGs as a vital and needed part of the federal-state-local planning system. Intergovernmental organizations have a long and distinguished history in Oregon -- soil and water conservation district commissions and river basin organizations are models of the concept. So this governmental togetherness will continue in many forms, even if not in land use planning.

No one is laboring under the impression that no questions will be left after implementation of SB 100.

Land use planning is more than just putting a combination of colors on a map. It involves personal decisions, and it requires understanding. A process with give and take -- searching out balances between environment and economy -- needs to be established, and SB 100 is our next important step.

No one is laboring under the impression that all questions will be answered with implementation of SB 100. Along with your approval of this legislation, you may wish to recommend creation of an interim committee to study remaining issues such as compensatory zoning, and "downward" zoning. An interim committee gave us SB 10, and an interim committee could well help improve upon this new process where improvement is found to be warranted.

But don't let the suggestion for the committee become a substitute for positive action on SB 100. The people are interested in this subject now more than they ever have been. They want rational land use planning. I urge that the Legislature provide the land use policy, and the money that must go with it, in this session.

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"WILLAMETTE VALLEY MALL"
A CHALLENGE TO COMMUNITY PLANNING

January 17, 1973

Local Government Relations Division
Executive Department

"Willamette Valley Mall"

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A CHALLENGE TO COMMUNITY PLANNING

S. ENV. & LAND USE COM.

About a year ago, announcements were made through Oregon's news media of a new multi-million dollar regional shopping center to rise in the heart of the Willamette Valley's farmlands, just south of Albany.

The developers, a group called Mall Centers Inc. of Seattle, Washington, painted an exciting picture of futuristic center with 650,000 square feet of floor space - a mammoth complex covering over 100 acres and costing an initial \$20 million. But somewhat to the developers' surprise, serious questions were raised about the proposed location at the intersection of Interstate 5 and Highway 34. The quick approval they expected did not materialize. City and county officials, planners, editorial writers and individual citizens expressed several doubts about the whole idea.

These doubts were not diminished when the proposed site was shifted to the intersection of Highways 99E and 34.

The central issue was the conflict with the recently completed and adopted county comprehensive land use plan. Linn County, and in essence all of Oregon, were faced with a critical question: once the citizens and planners of a county have spent the time and effort to create a land use plan, should the pressure of commercial development, however formidable, be permitted to reduce that plan to shambles?

Many people, of course, feel Linn County's plan should be changed - that a regional shopping center is an overriding need, regardless of where it is placed. Others feel, however, that once the citizens "draw the line," it should be held - that the entire land use plan of Linn County would be a mockery if the developers were allowed to proceed.

This report examines, therefore, some of the impact of the proposed regional shopping center on the urban and rural development in Linn and Benton Counties.

Background

Early in 1972, the Linn County Planning Commission was approached by the real estate firm of Ransom and Smith, representatives of Mall Centers Incorporated. The developers were seeking Commission approval of a zone change of 100 acres they planned to purchase at the intersection of I-5 and Highway 34. This land was designated "Exclusive Farm Use" at the time.

Mall Centers Inc. also approached the Albany City Council

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and City Planning Commission with a request for sewer services to the new site. Since the site was five miles south of Albany, the Council and Commission treated it as a "special request."

In subsequent hearings, several concerns were voiced. We quote from staff comments at Commission meetings:

"...that uncontrolled 'urban sprawl' will be generated in the areas between the present City limits and the location of a regional shopping center"

"...that the City will not be able to provide necessary services to all the unorderly growth areas generated by the undesirable location of a regional shopping center"

"...that there will be further deterioration of the Central Business District and retail Commercial base."

At the same time, several voices were raised in favor of the shopping center. They commented that unless the Commission allowed Albany to grow, the city would "stagnate." The developers pointed out that between \$15 million and \$20 million were spent annually by Linn and Benton County residents outside of the two-county area in retail shopping. A regional shopping center serving Lebanon, Corvallis, Albany, North Albany, Sweet Home, Philomath, Jefferson, Scio, Brownsville, Harrisburg, and Monroe would allow people to spend their dollars "at home." They said they anticipated 1,200 new jobs when the center came into full operation.

In June, after two months of deliberations, the Albany City Council moved unanimously to "approve in concept" Mall Centers' special request for sewer services. They refused, however, to take further action until possible conflicts with the Linn County Comprehensive Plan were reconciled.

Meanwhile, by late March 1972, the Linn County Comprehensive Plan was adopted and published.

This slim 28-page document is remarkable for its clarity and brevity. It stresses that "Linn County is not yet faced with the severe problems of congestion, air pollution, water pollution and civil strife plaguing many of the more highly urbanized areas of the nation." It declares as its purpose "to foresee and forestall future problems and to envision, promote and encourage development of communities in harmony with the natural environment." The plan, although rurally oriented, allows for significant industrial and commercial development within and around present urban areas.

In the summer months of 1972, the developers (Mall Centers) retained the planning and engineering consulting firm of Cornell, Howland, Hayes and Merryfield (CH2M). The consultants advised Mall Centers of several specific conflicts with the new Linn County Comprehensive Plan. They recommended that

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Mall Centers approach Linn County, the Oregon Department of Environmental Quality, the Oregon Executive Department and other governmental bodies for a joint "study" of the need for a regional shopping center. Premising their plans on fast intergovernmental approval, CH2M advised the developers to seek a specific "amendment" to the Linn County Comprehensive Plan.

The "favorable atmosphere" never materialized. After a series of conferences, Mall Centers decided NOT to present their original site (at I-5 and Highway 34) to the Linn County Planning Commission. They began directing their efforts to finding an alternate site.

Present Site Proposal (Highways 99E and 34)

In November 1972, a new site was selected by Mall Centers - a 140-acre parcel in the southwest quadrant of the intersection of Highways 99E and 34, about 2.5 miles west of the I-5 site. This parcel is planned and zoned by Linn County as "Exclusive Farm Use" just as the previous site was. A more complete physical description follows:

Soils

The land proposed for the new shopping center is essentially flat. Although the soils are designated Class III, they are highly productive for grass seeds.

Geology

The most recent geologic map of the area dates back to 1953. At the present time, sand and gravel deposits in the area, if any, are unknown.

Flood Plain

The site is on the flood plain of the Calapooya River. The State Geologist says that little or no threat is posed from the Calapooya, even at full flood. The site is thirty feet above the Willamette River flood plain.

Nature of the Surrounding Area

The area surrounding the site is devoted almost exclusively to farming. Some light industry and commercial development is located to the immediate north and northeast near the highway intersection, though agricultural land predominates beyond the highway frontage. The largest concentration of development consists of the Linn Benton Community College about two miles north - and residential subdivisions just north of the college.

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Immediate Area Population

According to 1970 U.S. Census data, 1,012 people live in Enumeration District 37, a 12½ square mile area bounded by I-5 to the east, Oakville Road to the west, Highway 34 to the south and the city limits of Albany to the north.

Proximity to Other Urban Areas

The community of Tangent is about one mile south of the site. The Albany business district is 5 miles away and the Albany city limits are 3½ miles away. The new center would be 7½ miles from Corvallis and 10 miles from Lebanon.

Water Services

Water services will have to be supplied to the center by contract with a private water company, Pacific Power and Light. The water main would require a 12,000 foot extension from Linn-Benton Community College. The line would have to be 12 inches in diameter to supply adequate water supplies to the center for fire protection. If the line is not installed, fire officials estimate that a 1 million gallon reservoir would have to be supplied for emergency needs of the center.

Fire Protection

The proposed site is in the rural fire district of Tangent which has, at present, three 1,000-gallon fire trucks. The Oregon Fire Rating Bureau has given Tangent a grade of "9" on a scale of 10 ("1" being the highest and "10" being the lowest). The new center would require either: (1) two to three additional 1,000-gallon trucks as well as additional hose and a full modernized fire station for the fire district; or (2) the installment of a 2,000 gallon per minute sprinkler system in the center itself.

The Challenge

Linn County today is a pleasant rural area, blessed with some of the richest farmland and recreation land in the Pacific Northwest. "Residents and visitors," according to its Comprehensive Plan, "are still able to enjoy the natural beauty and tranquility of mountain and valley and at the same time be only hours from the major cities of the Pacific Northwest."

The citizen planners of Linn County envision the future

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growth of urban areas, but have stated "...there is no justification to further reduce the productive land set aside for general agricultural use." ^{S. ENV. & LAND USE COM.}

All this has been challenged by the proposed "Willamette Valley Mall." Mall Centers Inc. is considered a responsible and established development firm. Leasing and management of the center will be handled by the Albany firm of Ransom and Smith. National account leasing will be handled by Coldwell, Banker and Company of Los Angeles.

The developers have been extremely forthright in their proposals. While they recognize the desire of Mid-Willamette Valley residents to maintain the relaxed pastoral character of their open space, they also emphasize the need for a regional shopping center in the area. In the Developer's Preamble and Market Study, they point to: "a true and present need for modern mall facilities to serve a population substantially over 100,000 persons not now enjoying the convenience of such a facility."

They are categorically opposed to placing such a center within a city:

"The heart of the matter is that the whole rationale of developing modern mall facilities in older core areas is obsolescent...Regional centers universally across the nation are developed at or near freeway interchanges for ready access to all segments of a given region without entanglement in core area traffic congestion."

Moreover, Mall Centers maintains, the proposed center "will not be acceptable to the major national concerns desiring occupancy herein if located in a city or township core area."

Nevertheless, the developers' proposal, according to Linn County officials, is "totally inconsistent with the philosophy of the Comprehensive Plan." The following quotations from that plan serve to point out the basic conflict. The plan seeks to:

1. "Discourage the establishment of commercial development in the unincorporated areas other than small convenience facilities such as grocery stores and gas stations. To further encourage that such facilities be located in compact centers and prevent them stringing out endlessly along major and secondary traffic arteries."

The planners recognize that intensive development of any kind requires a full range of urban services such as water, sewer, storm drainage systems, and police and fire protection. They feel these services can best be provided by a city.

To counter this objection, the developers have offered to make an "equivalent tax" payment of \$132,600 per annum to the City of Albany hoping that they will one day be annexed by the city. However, in the meantime, all services, except for sewer, will have to be provided by Linn County or special service districts.

Linn County will receive an estimated tax revenue of \$31,800 from the shopping center. This does not begin to pay the bill for services the county will have to provide for the "Willamette Valley Mall." The additional burden will presumably be borne by county taxpayers.

Special service districts will also be under a strain to provide services. In the case of fire protection, the local Tangent fire district is the obvious candidate. At present, only minimal protection can be offered despite an anticipated tax revenue of \$22,400 per annum from the shopping center.

2. "Preserve and improve the traditional community shopping centers of the existing county towns, recognizing that they are a vital part of the community's continuing economic health and livability."

This goal is a positive statement as to where Linn County seeks future development. The existing cities of Lebanon and Albany and Corvallis in Benton County have a huge public investment in terms of streets, sewers, schools, water lines - an investment that has already been made.

3. "Recognize prime and general agricultural lands of the valley floor as an irreplaceable natural resource and protect them as a basic element of the economy."
4. "Protect agricultural areas from the intrusion of noncompatible land use."
5. "Encourage retention of agricultural land in farm and open space uses until clearly needed for other purposes."

Of course it is hard to prophesy what the long-range effect the Willamette Valley Mall will have on surrounding agricultural areas. Traffic congestion can be expected to increase around the 34-99E intersection and between Albany and Tangent until highway improvements are made - at general public expense. There will be further pressure for apartment, industrial and commercial development especially along any new sewer-water service corridor. It can be expected that there will be pressure for further extension of sewer facilities to Tangent with a subsequent increase in residential subdivision south and southwest of the shopping center on what is basically farmland. As a major growth generator, the "Willamette Valley Mall" will inevitably force up surrounding land

values, creating new pressures to take farmlands out of agricultural use.

6. "Develop a circulation system to provide for the safe, rapid and convenient movement of people and goods within and through the region."
7. "Provide for the separation of through and local traffic to facilitate movement within the region and its urbanized area."

The Planning Commission has consistently attempted to keep Highway 34 free from commercial and industrial strip development which would impair the high-speed traffic capability between Corvallis and I-5; and also Highway 99E which still serves as a major service link to the small settlements lying between Albany and Harrisburg. The State Highway Division while diplomatically noncommittal about the project proposal, has noted "...that shopping centers in the immediate vicinity of highways affect the utility of the highway."

8. "Coordinate development in urban areas with existing or planned sewer and water lines."
9. "Encourage that trunk lines be installed in advance, or at the time of development, in urbanizing areas in accordance with a general plan and established priorities for the municipality in question."

City and county comprehensive plans both show Albany city sewer lines ending at a southerly boundary approximately halfway to Highway 34. From an engineering standpoint, according to city officials, the sewer trunk lines are probably large enough and deep enough to go to Halsey or perhaps Harrisburg. However, Linn County citizen planners are resolutely opposed to the growth of "linear urban sprawl" along a water-sewer corridor. To quote them again:

10. "Encourage orderly residential development outward from existing urban areas, recognizing the need for extension of public utilities such as water, sewer, gas, electricity, public streets and other services and facilities and avoid 'leapfrog development'."
11. "Maintain low densities in rural areas where the necessary services are not available, keeping in mind the particular vulnerability of rural school districts to sudden enrollment increases."

The initial "Willamette Valley Mall" development would require the extension of some of the basic sewer and water services

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two miles into an undeveloped rural area. Sporadic offshoots could be expected one mile either side of major trunk facilities, theoretically opening up to development an area of approximately eight square miles. This potential growth area is larger than the present incorporated area of Albany!

In the past, this type of rampant growth on the fringe of a city has caused a premature decline in the use of existing city services - a hidden but very expensive cost to the taxpayers.

12. "Provide for a hierarchy of commercial centers, ranging from regional center to neighborhood service centers."

Mall Centers have contended that there is no provision for regional shopping centers in the county comprehensive plan. As can be seen from (12) above, there is such a provision. The City of Albany has actually offered the City Airport situated close in to Albany as a site for the shopping center. However, this has been refused.

The Hidden Costs

There is no way adequately to measure the total cost of a Willamette Valley Mall to the taxpayers of Linn and Benton Counties.

The center has promised to pay the major costs of the urban services it will require. However, when completed, the "Willamette Valley Mall" will be three times larger than the total area devoted to similar activities in downtown Albany (650,000 sq. ft. as opposed to 180,000 sq. ft.). The scale of the center could not help but change the character of people's shopping habits - drawing them away from the established business districts of the Mid-Willamette Valley.

According to the Linn County Planning Commission, this would have an adverse impact "not only on the efforts to redevelop the downtown core but the remaining commercial areas of Albany and other commercial areas in Corvallis, Lebanon, Sweet Home, Philomath and Brownsville. How great an impact is unknown at this time..."

Coos Bay, Oregon has spent about \$5,450,000 of federal and local funds in mall construction and urban renewal in order to recover business lost to Pony Village, a nearby shopping center with 200,000 square feet of retail area.

The City of Eugene has experienced a similar deterioration of the central business district because of the construction of the Valley River Center on the outskirts of the city. The city has recently spent \$31 million federal and local dollars in downtown renewal. Who knows what the new shopping center will cost

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Albany, Lebanon and Corvallis.

Summary

This report gives a cursory look at the proposed construction of the "Willamette Valley Mall" at the intersection of Highways 34 and 99E. It is not intended to be an exhaustive or conclusive review; yet, it covers many of the important issues raised so far.

In general, there seems to be few objections to the basic concept of a new multi-million dollar regional shopping center for the Mid-Willamette Valley. Even the citizen planners of Linn County have provided for such a development.

There are strong objections, however, to the two locations that Mall Centers, Inc. has proposed for building their \$20 million 100-acre "Willamette Valley Mall." Planners say the proposed construction at the 34-99E highway intersection would be "totally inconsistent with the philosophy of the Comprehensive Plan."

Mall Centers explicitly wants to build away from cities and "core area traffic congestion." They have said that their major tenants will not accept any location other than: (a) a site close to major freeways and access roads and; (b) removed from older core areas.

The Linn County Comprehensive Plan, however, states very explicitly "that any intensive development requiring a full complement of urban services should be located in or adjacent to cities." Core areas are in themselves not sacred, but in most cases facilities for large-scale development are available. Decentralized growth most often duplicates citizen costs.

On this issue, and on twelve other points, the proposed shopping center is in the clearest violation of the just-adopted Comprehensive Plan.

Again and again the Plan stresses the principle of keeping cities and surrounding countryside cleanly separated, to prevent developments from "stringing out endlessly along major and secondary traffic arteries." Yet as a major growth generator, the center will inevitably create pressures for new urban growth in the surrounding area.

Finally, the "Willamette Valley Mall" poses a definite threat to downtown commercial districts as retail establishments migrate to the new "hub" of activity. Highway planners are concerned about traffic congestion on Highway 34, while Albany city planners predict much urban "infill" between the center and city limits.

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In general, the proposed shopping center appears to be located in the wrong place at the wrong time.

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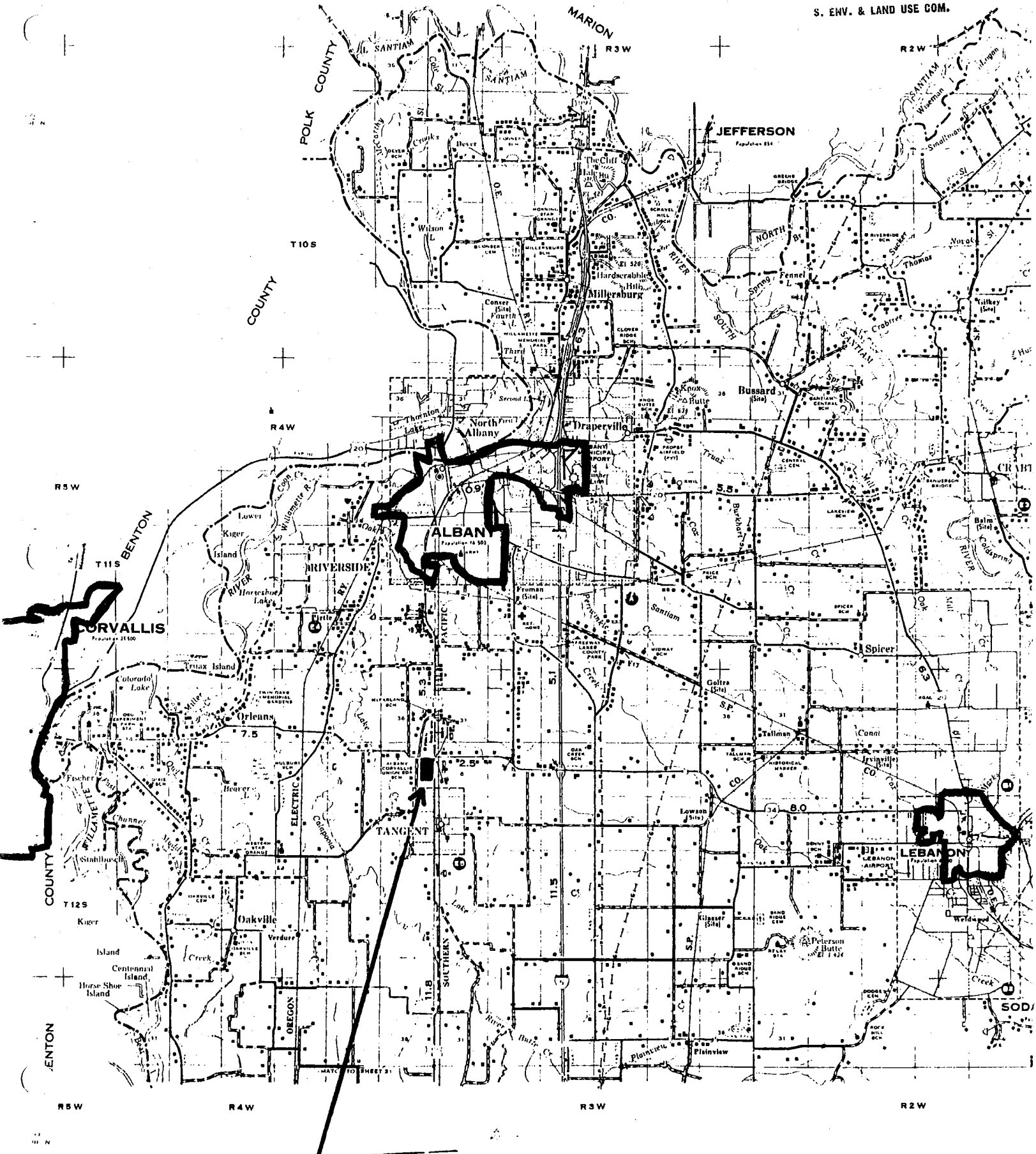
Recommendation

Obviously the issue is not merely a topical decision of where to place a shopping center. The development of the entire Willamette Valley floor could well depend on this decision and others like it in the years ahead.

Therefore, it is recommended that an unbiased study be commissioned to determine the proper location for the "Willamette Valley Mall," and to weigh environmental as well as economic factors. It is strongly recommended that all parties concerned - the counties of Linn and Benton, the cities of Albany, Corvallis, Lebanon and Sweet Home, the Oregon District 4 Council of Governments, and State of Oregon, together with the developers - be a party to this study and research effort and reach a joint conclusion on siting before any construction is initiated or any zoning change is contemplated.

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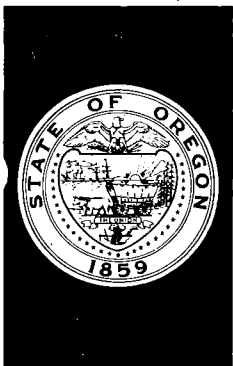
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PROPOSED "WILLAMETTE VALLEY MALL"

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**EXECUTIVE DEPARTMENT****LOCAL GOVERNMENT RELATIONS DIVISION**

240 COTTAGE STREET S.E.

SALEM, OREGON 97310

TOM McCALL
GOVERNORCLEIGHTON PENWELL
Director

October 12, 1971

Attached you will find a copy of a summary report of the impact of the Charbonneau development located south of Wilsonville on the Willamette River. This report was prepared by the Intergovernmental Task Force developing the Willamette Valley Environmental and Protection Plan. In the interest of developing this report quickly, the facts gathered came primarily from affected state agencies. Neither the developer nor local governments were contacted.

As the report indicates, there are several concerns generated by this development. However, it is emphasized that the developers have "followed all the rules" and propose a high quality development.

This report is being sent to you as an example of why we need to develop an intergovernmental environmental planning process and a Willamette Valley Plan.

If you should have questions, please do not hesitate calling on us.

Sincerely,

Robert K. Logan
Administrator

RKL:nm

Enclosure

"CHARBONNEAU"

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AN INTERGOVERNMENTAL ENVIRONMENTAL PLANNING SCENARIO

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The following has been developed to crystallize the elements of Intergovernmental Environmental Planning. From information gathered, the proposed development will probably have a massive impact on the surrounding area and should accelerate residential and commercial development in this portion of the Willamette Valley. It should be noted that the developers of Charbonneau have followed "all of the rules", and propose a high quality development.

The Charbonneau project demonstrates conclusively the existence of a vacuum in developmental decisions. Most of the state and local government agencies, listed in the appendix, had the opportunity to review, comment, and sometimes regulate, but each had only a single focus. The lack of a systematic process for integrating governmental rules and regulations and resolving potential conflicts among local, state and federal agencies is apparent. An in-depth study of the impact of this project is non-existent. At present, no agency has the obligation to focus upon the "Big Picture" issues, let alone the responsibility for putting the various facts together to represent an intergovernmental point of view. The system hasn't failed; there is no system.

I. BACKGROUND OF PROJECT

Development

The proposed Charbonneau Subdivision comprises 477 acres located south of the Willamette River, east of I-5, and was recently annexed to the City of Wilsonville. Before annexation, Wilsonville was located wholly north of the Willamette River. This project is the only territory within Wilsonville south of the river. The two parts of Wilsonville are linked together by the I-5 freeway through the use of secondary roads.

The proposed subdivision is envisioned as a self-contained facility including a village center, churches, stores, professional offices, elementary school, restaurant, golf course, swimming pool, tennis court, and 2000 residences in the \$30,000 to \$45,000 price range. The theme of the project is centered around the recreational advantages offered by the 3/4 of a mile frontage along the Willamette River, golf, boating and other leisure activities. The project would be constructed in nine phases with the initial phase consisting of 100 units to be completed by mid-1972.

Total investment would be in excess of \$100,000,000 with an eventual population of approximately 5,000. Using a traditional multiplier ratio, the \$100,000,000 investment in this project could result in a \$500,000,000 total economic impact.

This impact does not include the economic effects of the probable development of the surrounding area into light industrial and service components, nor the probable increase of land values in the area.

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II. PHYSICAL SITE CHARACTERISTICS

Soils

The Class II soils on the project site border on Class I types. These prime soils are highly suitable for cropland and have few limitations with the exception of some susceptibility to erosion. They are very deep loamy soils of type 1a (Chehalis-Newberg) and some type 2a (Woodburn-Amity). Climatically, the area experiences 35-45 inches of annual rainfall and 200-215 freeze-free days.

The Willamette Valley has 1,395,000 acres of Class I and II soils. Urban and developmental activities have already withdrawn an estimated 341,000 acres or 24% from agricultural uses.

Geology

There are no sand and gravel deposits on the project site.

Flood Plain

The project site sits high and dry except for a small portion on the northeast property line.

Nature of Surrounding Area

The area surrounding the site is mostly active farmland. A state airport (Aurora) is two miles south, a rebuilt freeway interchange borders the west property line and the OSU Agriculture Experiment Station is immediately to the south. The general pattern of farm use in the surrounding area reflects the availability of the rich soils.

Proximity to Other Urban Areas

17 miles from Portland
30 miles from Salem
6 miles from Canby
12 miles from Oregon City

III. GOVERNMENTAL SERVICES

Schools

The project site is now located in the Canby elementary and Union High Districts. North of the river, the balance of the City of Wilsonville is in the West Linn School District. The developers have indicated a desire to annex their property to the West Linn School District. A site within the project has been provided for a proposed elementary school. Elementary schools are now located in Canby and across the river in Wilsonville. High schools are located at Canby, North Marion and at West Linn. A new high school is proposed in the northwest part of Wilsonville.

If the 750 students anticipated from this development were to attend school in the Canby Elementary and High School Districts \$590,000 more in operating costs could be expected based on the anticipated 1971-72 rate of \$660 per elementary student and \$1040 per high school student.

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If the developers successfully annex the project to West Linn, a unified Elementary/High School District, the estimated operating cost to the district for educating the same number of students would rise to an estimated \$825,000 based on 1971-72 average costs of \$1100 per student.

Additional classrooms would have to be built regardless of which district the site is in at a 1971 state average of \$2,400 per elementary and \$3,500 per high school student.

Due to unusually high values in the development, revenues expected from the completed project, based on current levy rates of either school district, are estimated to cover present-day operating costs. Classroom construction, likely needed before project completion, may require a district-wide bond election and a corresponding levy increase.

Telephone Service

The project site is a part of the Aurora Telephone Company service area while Wilsonville is served by General Telephone. A jurisdictional problem may develop.

Fire Protection Company

The property is presently without fire protection but is proposed to be annexed to the Tualatin Rural Fire Protection District. A fire sub-station is at Wilsonville with main fire station at Tualatin.

Water

Domestic water is proposed to be provided by the City of Wilsonville. From information received, it appears that the City's current supply is not sufficient but adequate ground water appears to be available in the area to fulfill future demands. There will probably be a need to incur bonded indebtedness to expand the water system.

Sewers

Sewer service to the project site will be provided by the City of Wilsonville. At present, the City is constructing a sewer treatment plant proposed to be phased out upon construction of a larger regional sewer plant. The plant under construction is designed to serve a population of 5,000 for a 10-year period. The state is providing a grant of \$231,900 and a loan for \$541,100 to the City of Wilsonville for the construction of this interim facility. Indications are that the Charbonneau Development will significantly shorten the design life of the new treatment plant.

Highways

I-5 has recently been expanded and the interchange rebuilt. Sufficient capacity is available for increased traffic from this project. Access to the property is from Eilers Road, a relatively narrow county road.

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Mass Transit

The area is in the Tri-met district but is not in the Tri-met service area.

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Airports

A state airport (Aurora) is located two miles due south of the project site, with a 4000' runway oriented north-south. The facility now handles general aviation traffic which has been increasing.

Eventually, the airport could serve an ever-greater role by serving as a "reliever" airport for Portland International Airport. To do so, long-range plans would call for the addition of a longer, parallel runway.

Aircraft approach and departure altitudes above the project site will undoubtedly be a source of concern and aircraft noise a potential source of irritation to Charbonneau residents, particularly if a longer, parallel runway is constructed.

IV. CONCERNS

The preceding material has been factually presented to show the obvious impact on natural resources, economic and transportation systems. The following are concerns expressed by agencies contacted and interpretations made of supplied information.

Soils

There is no way to evaluate the loss of these 477 prime agricultural acres in terms of the long-range needs of the valley's agricultural industry. Nor has the role of agriculture as open space been evaluated in terms of the valley residents' need for such under-developed space. It is obvious, though, that this is a loss of nonrenewable, irreplaceable natural resources.

Sewer Facilities

The construction of this project creates a potential lien on state funds for the construction of regional sewer facilities and further places the state in the position of subsidizing the development.

Geology

A potential slide area exists adjacent to the bluff along the river. No structures should be built within 200 feet of the bank edge. However, the project renderings show structures to the water's edge, apparently in conflict with the slide hazard and an agreement noted below.

OSU Agricultural Experiment Station

Experiments at the adjacent OSU Agricultural Experiment Station may be jeopardized by greater numbers of people living nearby. In addition, Charbonneau will likely encourage other nearby housing developments further intensifying the built-in conflicts between farming and high density living.

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Parks and Recreation

The entire riverfront will remain in a natural state per agreement between the City of Wilsonville and developers. However, public use or access is unlikely. The proposed development could destroy the potential for public foot or bicycle trails on river frontage between the proposed state park at the mouth of the Molalla River and Champoeg Park.

Navigation

At present, river frontage adjacent to property is being used as a log raft moorage. This could be in conflict with increased boating activity.

Schools

Experience shows that generally, most subdivisions generate about 100 students per 100 families. In this instance, because of the family characteristics of the upper middle income residents in the subdivision, fewer students per residential units are anticipated. Assuming a low of 25-35 students per 100 families, 25-30 new classrooms will have to be provided in the next 10 years.

It appears that considerable time and effort will have to be spent by at least 3 school districts, Clackamas County IED, the county assessor, and the developer in sorting out the political and jurisdictional issues involved in a city with 3 school districts and an announced preference by the developer for one of them.

Effect on Property Values

Experience shows that new subdivision development increases the market value of property in the surrounding area. Higher value developments such as Charbonneau have a proportionately greater influence on nearby farm property land values. The resulting increase in taxes from the increased land values accelerates the already burdensome economic pressures put on farming. Clearly, if Charbonneau is a success, adjacent farm lands will be sold to other developers hoping to capitalize on the high quality image this development projects. Yet the adjacent Class I & II soils are the soils most capable of being self-supporting open space. The typical pattern, however, will be accelerated urbanization once the pattern has been started. In fact, the ripple effect "washing" outward from this development can almost be predicted.

Highways

Interstate Highway Five has been designed as a high-speed intercity facility. The Charbonneau development will create a demand for I-5 to be also used as a local road connecting the two parts of Wilsonville and will necessitate the mingling of slower moving vehicles with high speed traffic.

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Airport

Increased development activity may create pressures for higher levels of airport capability including the addition of a parallel runway which can be instrumented. The present runway cannot be instrumented. An additional instrumented runway would require additional land and would need an approach zone whose minimum height would be 195' above this development as contrasted to the 246' minimum approach altitude to the present runway.

Past experience indicates that increases in aircraft movements with the resulting increase in noise levels, generates considerable opposition to the existence of the airport, not to mention the expansion of the airport into a higher capacity, all weather facility.

Real Estate Commission

Early in the investigation, a contact was made to the Real Estate Commission to review the Charbonneau plot plan. No records on the proposed project were available since the statutes do not require filing until initiation of sales.

V. CONCLUSION

The Charbonneau development was not singled out because it is unusual, or that the developers have failed in some way to "follow the rules." Quite the contrary, this development was picked because of its size. It's big and it has an impact; and the impact ripples far and wide.

For every Charbonneau, there is probably two dozen other developments underway now, only differing in size and investment, between Wilsonville and Portland or in and around Portland, Eugene, Salem, Albany and Corvallis.

With the possible exception of failing to contact the State Board of Aeronautics, the developers have worked with the numerous governments and agencies directly affected; and, as stated before, its a high quality development.

Charbonneau was briefly examined because it represents one more step towards complete urbanization of the Willamette Valley. The issues loom larger than the individual concerns of state agencies and local governments. Yet, these individual concerns, the loss of agricultural land, the impact the project has on schools, highways, the state airport are the only programs measurable in this and similar projects. Local city or county plans, or the plans of individual state agencies simply offer no help to either the subdivider, or to the public concerned about the future of the valley.

At stake is the economic vitality of Portland, of Salem and Eugene, and the vitality of farms and ranches intervening. At stake is the consumption of our natural resources, our land, air and water. At stake is intelligent use of all our resources be they fiscal, natural or human.

Clearly, no snap of the fingers will produce the answer, if even one best answer exists. Even options regarding the use of the valley are slowly being closed. Picking the options and choosing the answers will take time. It's complex but its coming.

In summary, the Charbonneau investigation has reinforced the need for an intergovernmental process to pull together individual governments and agencies of the state to begin identifying and evaluating options in the valley.

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State and Local Agencies Impacted by the
Charbonneau Development

LOCAL

City of Wilsonville
Tualatin Rural Fire Protection District
Canby Rural Fire Protection District
West Linn School District
Canby Elementary School District
Canby Union High School District
Columbia Region Association of Governments
Clackamas County IED
Clackamas Community College District
Portland Metropolitan Local Government Boundary Commission
Port of Portland - Airports Section
Tri-Met
Mid Willamette Valley Council of Governments
Marion County
Clackamas County

STATE

Department of Environmental Quality
Division of State Lands
Department of Geology and Mineral Industries
Department of Agriculture
Highway Division, Department of Transportation
Aeronautics Division, Department of Transportation
State Parks Section, Highway Division, Dept. of Transportation
State Soil and Water Conservation Commission
State Water Resources Board
State Engineer
Higher Education (Agriculture Experiment Station)

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FOREWORD

No discussion of sub-state regionalism in Oregon can begin without first dispelling a number of myths that surround the subject of state administrative districts, councils of government, the role of the state government, and the relationship of these to federal policy. During the 1972 interviews and research related to this project, ten of these myths were recited as truth time and time again by otherwise knowledgeable people.

Before beginning an introduction to this report, these myths are addressed and the facts stated in order that reality rather than misinformation may serve as a backdrop for the analysis and recommendations.

Throughout this report, several terms are used interchangeably. District planning organizations, councils of governments, COGs, regional agencies -- all refer to the operating institutional arrangements within the Administrative Districts.

1. MYTH Councils of Government were created by the Governor by executive order and are state agencies.

FACT The Governor's executive order encouraged the creation of federations of local governments along the same geographic lines as the state Administrative Districts. It did not, nor could it, require and mandate their establishment. Prior to the Governor's executive order, six multi-county planning organizations existed in Oregon. Both those and the additional eight created since 1968 have charters and by-laws adopted by local governments and local officials as members.

Only one council in the state has a state official on its governing board ... the

Mid-Willamette Council, on which the Governor serves because of the membership of the capitol city, Salem.

2. MYTH District councils and COGs are new organizations in Oregon.

FACT Intergovernmental organizations have a long and distinguished history in Oregon. They have their roots in the soil and water conservation district commissions and river basin organizations. District councils in somewhat their present form began in the Salem area in 1947.

3. MYTH District councils are run by a group of people appointed to the governing board and are not responsible to the local electorate.

FACT Approximately 69% of the members of the 14 district councils are local elected officials. COG representatives are usually a mayor or a member elected by and from a city council and a chairman or member of a county commission. Other board members usually represent school districts, port authorities, water boards, etc.

4. MYTH Councils of governments are agencies of the federal government.

FACT COGs are local agencies as described above, with governing bodies of local people and locally adopted charters, by-laws, etc. This myth probably exists because of the substantial dependence of these organizations on federal funds. This dependence is also a local decision. Local boards could provide needed funds from assessments on local governments rather than applying for federal funds.

5. MYTH COGs have large staffs which cost the taxpayers a lot of money.

FACT The total number of district council staff members in the whole state of Oregon is only 148 people. Nine councils have five persons or less on their staffs, including office personnel. Only the three large metropolitan COGS have more than twenty people.

6. MYTH COGs receive large sums of local tax funds.

FACT The local share of financing for COGs accounts for less than 40% of the total budget for district councils in Oregon. Total local appropriations for council operations in 1972 amounted to \$692,937, an average of \$0.32 per person of local tax support throughout the state.

7. MYTH COGS approve and veto local governmental applications for state and federal funds.

FACT Federal Office of Management and Budget regulations require regional agency review of proposals for federal aid projects. The COG forwards comments on each application to the appropriate federal agency. These comments are but one of the factors which are used by the federal government to help avoid duplication and waste by allowing knowledgeable local review of local projects.

A district council has neither the power of approval or veto, but only the responsibility of review and comment.

8. MYTH COGS run programs and operate programs that should be run by local government or have been taken away from local government.

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FACT Not a single COG in Oregon operates a local government program or renders a local government service. In certain instances -- at the request of local government and ratified by contract -- COGs provide professional staff services. No regional agency is granted power to take away local government prerogatives.

9. MYTH COGs receive large sums of federal and state funds and then allocate these funds to local governments based on formulas the COG devises, thereby controlling funds of local government.

FACT State financial support for regional agencies is limited to \$5,000 per COG. In several instances, contractual arrangements have been made to utilize regional agency staff to conduct planning studies for state departments. Each year, each COG individually decides upon the mix of local, state, and federal funds to be blended in its budget. Any federal funds which are channeled to local governments are governed by state and federal formulas --- not by regional decisions.

10. MYTH COGS provide an opportunity for the large cities and populous counties to dominate smaller towns and rural counties. Or, COG provide an opportunity for small towns and less populated counties to gang up on the large city.

FACT No state law and no federal law prescribes the voting arrangements of Oregon district planning organizations. Whatever voting arrangements that have been adopted have been acceptable to the member governments and have been expressly tailored to their desires.

March 6, 1973

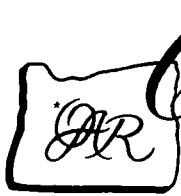
SENATE BILL 100

PROPOSED AMENDMENT:

- A. The following geographic areas in this State are designated as areas of critical state concern.
 - 1. All estuaries and associated tide marsh wetlands including the land extending 200 feet on a horizontal plane from the mean high tide mark as located by reference to the tidal bench mark date prepared by the U. S. Coast and Geodetic Survey.
 - 2. All sand spits and sand dune areas within the coastal zone.
 - 3. All lakes located in the coastal zone over 20 acres in surface area including the land extending 200 feet on a horizontal plane from the mean high water level.
 - 4. All land situated within 1000 feet from the right of way boundaries of highway U. S. 26 extending from Alder Creek to Government Camp.

- B. Not later than six months following the effective date of this Act the commission shall prepare regulations to be applied by state agencies, cities, counties and special districts in planning for, regulating, reviewing and passing upon development proposals to be carried out within the areas of critical state concern.

MPD:jai



Oregon Association of Realtors

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S. ENV. & LAND USE COM.

943 Liberty Street, S.E., Salem, Oregon 97302 -- Phone 503 362-3645

March 7, 1973

Senator Ted Hallock
Senate Chambers
Capitol Building
Salem, Oregon 97310

Dear Senator Hallock:

At a meeting held in Salem on March 7, 1973, the Legislative Committee of the Oregon Association of Realtors endorsed the revised version of Senate Bill 100, dealing with the subject of Land Use Planning.

We have some concern over language of the bill relating to the standing of "persons" or "groups of persons" given power to intervene in certain actions or administrative decisions. These concerns will be communicated to you in written form.

Thank you for your interest and cooperation in working out satisfactory solutions to the concerns expressed by so many citizens of the State of Oregon.

Sincerely,

OREGON ASSOCIATION OF REALTORS

Ralph Coan, Chairman
Legislative Committee

RC/sm



Realtor -- a professional in real estate who subscribes to a strict Code of Ethics as a member of local and state boards and of the National Association of Real Estate Boards

(Allison ORLA statement to Senate Environment and Land Use Committee
re: Revised SB 100--page 1---March 8, 1973

Mr. Chairman, I'm Jim Allison, president of the Oregon Rural Land-owners Association. Since last appearing before your committee, our membership has increased and numbers approximately 1750.

I have reviewed the 2-27-73 edition of Revised SB 100. We commend the committee for its work and we approve of the removal of the COGS.

We are still gravely concerned about what type and the scope of the state-wide planning guidelines that are to be established by the commission.

The Committee will recall that at the first public hearing, I asked a series of questions including whether or not the following state-wide planning guideline could be adopted:

"In areas where no approved public sewer system exists, the density of single family dwellings shall not be increased to exceed an average of one to each 40 acres.

The answer by Legislative Counsel was: "Under the bill it would be possible for the Commission to do that."

At a recent public meeting of the ad-hoc committee, I posed the same question but substituted the words "state-wide planning goal" for state-wide planning guideline. This time, Mr. L. B. Day answered, "yes, such a goal could be adopted by the Commission.

Mr. Chairman and members of the committee, I suggest that we are still being asked to buy a pig is a poke. I concur with the attorney from Portland representing the Portland Chamber of Commerce at your special Monday night session about a month ago. You will recall that he testified that the guidelines should be spelled out in the bill or be developed by the commission and presented to the next Legislature for approval or rejection.

In this version of SB 100, we not only have the state-wide planning guidelines still in the bill and still undefined, but now we have a new duty for the commission--to establish state-wide planning goals and this term is undefined.

I have five amendments for the committee to consider:

(cont'd)

ORLA amendments to SB 100 REVISED.

Allison statement page 2 384

AMENDMENT #1

S. ENV. & LAND USE COM.

IF the committee votes to approve the establishment of COGS by a vote of the people (as requested by someone and read to the committee last Tuesday) we request that the bill require approval of a majority of the voters in each county.

AMENDMENT # 2

On page 4 of the 2-27-73 edition of the mimeographed Revised SB 100, after the conclusion of subsection (7) of the DEFINITIONS, insert a new subsection (8) as follows:

"(8) "State-wide planning guideline" means a procedure or method of establishing comprehensive plans and shall be applied uniformly throughout the entire state."

AMENDMENT #3

On page 4, insert a ninth definition as follows:

"(9) "Prime agricultural land" means a tract of land consisting of at least 160 acres of which the soil in a major portion of said tract has been designated as either Class I or Class II by the USDA Soil Conservation Service."

AMENDMENT # 4

In every instance in revised SB 100, whenever the term "state-wide planning goals" appears, delete it or change the wording; to read "state-wide planning guidelines."

AMENDMENT # 5

If the committee believes that the broad goals currently spelled out in ORS 215.515 as amended in this bill are not sufficient to accomplish the objectives outlined in Sections 1 and 2 of Revised SB 100, then I urge that you further amend ORS 215.515 to add the missing goals. For example, if this committee believes that the DENSITY of single family dwellings in the Willamette Valley should not be increased because of the current smog problem, then I suggest that the Legislature should address itself to the problem and further amend ORS 215.515--rather than creating a new

3-8-73

S. ENV. & LAND USE COM.

appointive body and giving them such broad virtually unrestricted authority. I suggest that if both goals and guidelines are left in this bill and if they remain undefined, then this committee has no way of knowing for sure just what is going to happen. The goals and guidelines will be determined by the philosophy of the majority of the seven members to be appointed by the Governor. True, the Joint Committee on Land Use may be able to wield some influence, but who is to say now what the philosophy and goals of these legislators will be?

In conclusion, I'd like to pose this question for each of you to consider:

"If words or terms such as 'prime'; 'guideline' or 'goal' as used in the context of this bill cannot be precisely defined to your satisfaction so that legislative intent may be clearly understood by all, then should the terms be used in the bill?"

END

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S. ENV. & LAND USE COM.

STATEMENT ON REVISED SB 100
(Draft of 2-27-73)

Prepared for Senate Committee on Environment and Land Use
March 8, 1973
by James R. Moore, Beaverton
Legislative Committee Chairman, League of Oregon Cities

Thank you for the opportunity to comment on behalf of city officials once again on SB 100. We have reviewed and tried to analyze as carefully as possible the revised bill prepared by your special drafting committee, and are submitting a detailed analysis of the revision with the hope that it may be useful in your further work on the legislation.

You will recall from my earlier testimony that city officials, through the League, take the position that a Land Conservation and Development Commission should be established and adequately funded. We believe that the commission should inventory land uses, establish statewide planning goals, develop criteria for selecting areas and activities of statewide concern, and develop a procedure for coordinating land use planning and regulations of state, regional and local agencies. Final adoption of the comprehensive state plan and implementing procedures should be the responsibility of the 1975 legislature.

We wish to reaffirm our strong support for this position. We still believe that goals must be developed and approved by the legislature before a suitable procedure for implementation can be created, and we believe that there are many complex procedural questions that cannot be adequately explored and resolved with full participation by citizens and local governments, during the brief time available to this legislature. We are still concerned that elaborate and cumbersome procedures may be set in motion that will fail to deal effectively with the total problem that is of concern to state and local officials. As I indicated to you in my earlier testimony, our experience in comprehensive planning at the local level tells us that goals must be developed before implementing procedures can be established.

With regard to the revised bill, we have identified a number of policy considerations that we feel must be addressed. For the convenience of the committee, we have tried to identify the technical and policy considerations in each of several subject areas, and to suggest how amendments might be drafted to deal with them.

From the standpoint of cities, there are two major policy issues in the revised bill:

- (1) It fails to distinguish between statewide planning goals, which we believe are basic statewide planning policy decisions that should be made only by the legislature, and statewide planning guidelines, which we believe could be developed through an administrative process to carry out state goals; and
- (2) It assigns responsibility for coordinating local and state plans to the county government, which we believe is a step backward. Such a procedure overlooks the experience of cities and the time, funds and effort spent by cities in comprehensive planning and may also destroy a number of on-going regional planning efforts in which cities have been active leaders. We urge that you provide a means for cities to participate in the planning review and coordination process, either on the county level or a regional basis.



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There are several other areas of the revised bill where, based on city planning experience, we believe further consideration is needed. These include clarification of the distinction between comprehensive plans developed by general purpose governments and plans prepared by single purpose state and local agencies, the provisions for model ordinances, the possibility of a special option for small cities, and the relationship of state agency plans to local comprehensive plans. Also, several technical amendments are offered for consideration.

We would like to think that the legislature needs and desires the cooperation of cities in carrying out a new state land use planning effort. Revised SB 100 appears to us to limit city participation to that of turning city plans over to the county and subsequently the state, with only the possibility of making appeals to the state at a later time. We think cities have much more to offer, and that the procedure you are proposing in Revised SB 100 will result in the loss of accumulated city experience and investment that could be helpful.

We wish to state clearly our support for the substitute bill that we presented earlier to you, but also our strong concern that the policy issues we have identified in the enclosed materials be given serious consideration if you do proceed with Revised SB 100.

Respectfully submitted,

James R. Moore
Legislative Committee Chairman

League of Oregon Cities
Local Government Center
1201 Court Street N.E.
Salem, Oregon 97301

GOALS AND GUIDELINES

Technical Considerations: The bill refers to goals separately 19 times and to goals and guidelines together 34 times. The distinction between the two, in the absence of any definition for either of them, is unclear and is magnified when used in different contexts within the Bill.

Suggested Action:

- A. Define both goals and guidelines.
- B. In addition, consideration should be given to systematically listing goals and guidelines together except where the context clearly requires listing of only one of the terms.

Policy Considerations: Goals are expressions of public policy which should be adopted only by the Legislature. Guidelines, on the other hand, appear to be in the nature of standards or direction statements and are within the traditional purview of a state agency regarding interpretation and implementation of legislative intent.

Suggested Action:

- A. Require goals to be established only by the legislature as expressions of state-wide public policy.
- B. Give the commission the power to adopt guidelines to implement the legislative goals. Make such guideline adoption subject to the Administrative Procedures Act in addition to the other requirements set forth in the bill.

----- SUGGESTED AMENDMENTS -----

---Amend Section 11 to replace existing sections with:

"(1) Prepare modifications or additions to state-wide planning goals contained in this Act for recommendation to the next legislature."

"(4) Adopt rules establishing state-wide planning guidelines, consistent with state, city and county concerns and designed to carry out the state-wide planning goals adopted by the legislature. Procedures set forth in ORS chapter 183, in addition to other provisions of this Act, shall be followed in adopting guidelines.

---Add New Part II

Statewide Planning Goals

Goals shall be considered general statements of public policy and shall be used to provide general direction in the creation and adoption of a comprehensive or other land use plan. The legislative Assembly alone shall have the power to establish planning goals for matters of statewide concern or application.

---Amend each section where "goals" appears alone to "goals and guidelines" except where the terms "goals" or "guidelines" are clearly meant to stand alone.

LOCAL REVIEW AND COORDINATION

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S. ENV. & LAND USE COM.

Policy Consideration: Section 19 appears to prohibit associations or councils of local governments from carrying out land use planning functions under this Act by providing only for counties or combinations of counties to take responsibility for coordinating local and state plans. While it is not necessary for the state to mandate councils of governments to carry out the functions set forth, the bill should not exclude them from performing these functions either. The philosophy of SB 100 appears to be to make the county the basic regional planning unit in order to overcome objections raised about various councils of governments. Yet, some councils of governments have strong support from their members and, in those areas of the state where local governments fully support the COG, it should be allowed to perform the planning functions that Revised SB 100 proposes to assign to counties.

Cities cannot accept a procedure where they would have no participation in either the process of developing statewide planning goals and guidelines or in the coordination of land use plans within the county. With few exceptions, the bulk of the activities set forth in SB 100 have occurred within city boundaries and the cities, not the state or the counties, have traditionally been the leaders in developing solutions to land use problems. Coordination of land use plans within a county on a unilateral basis by the county is an unacceptable procedure for cities.

Suggested Action:

- A. Provide for permissive authority for existing councils of governments to fulfill area-wide review and coordination where such member governments want the COG to fill this role.
- B. In areas where COGs do not exist or where the COG fails to get approval from its members to perform this role, provide for a county-level planning

body composed of both county, city and, perhaps, special districts to fulfill the functions now given counties in this bill.

----- SUGGESTED AMENDMENTS -----

--Amend Section 19

(1) A local planning coordination agency shall review and coordinate all planning activities affecting land uses within each county, including those of the county, cities, special districts and state agencies to assure compliance with statewide guidelines, local comprehensive plans and assure development of an integrated comprehensive plan for the county.

(2) If an association of local governments exists that has included within its intergovernmental agreement the authority to carry out the responsibilities of a local planning coordination agency under the provisions of this Act, it shall be the local planning coordination agency within its geographic area.

--Amendments would have to be made throughout the bill to insert "local planning coordination agency" for "county" where appropriate.

REVIEW OF PROPOSED GUIDELINES

Policy Consideration: In order for public hearings on the topics of additional goals and proposed guidelines to be productive it would be useful to start with actual proposals. SB 100 does not require this. The department could be within the meaning of the Act by holding ten hearings at the beginning of its work and devise guidelines based on information received at those hearings. A more meaningful process would be for the department to prepare proposed guidelines, circulate them to interested and affected parties prior to the hearing for review and comment, incorporate results from such comments and then hold public hearings on a polished version of the proposed guideline.

Suggested Action:

A. Insert an A-95 type review process for interested and affected parties similar to that outlined above to apply to guidelines and proposed goals the department has developed prior to public hearings on the guidelines.

----- SUGGESTED AMENDMENT -----

---Amend section 36 to add a new subsection before current subsection (1)

"Upon completion of proposed goals and guidelines, the department shall forward them to all affected state agencies, cities, counties and other affected units of government for their review and comment within sixty days from date of mailing."

"Upon return of comments from reviewing agencies, the department shall revise proposed goals and guidelines as necessary based on the comments before holding public hearings on the goals and guidelines."

SMALL CITY OPTION

Policy Consideration: There are a few small cities in the state that may have little interest or capability to deal with the complexities of the comprehensive planning that Section 18 requires every city to perform. These small cities are not much different than certain unincorporated settlements that will be included in the county's plan.

Suggested Action:

- A. The small cities could be given the option of transferring their comprehensive planning responsibility to the county so that the county rather than the state commission would then take care of the planning for that area.
- B. Provision should be made for the city to resume its own planning when it desires to do so.

----- SUGGESTED AMENDMENTS -----

---Add to section 18

(3) A city, by action of the city council filed with the county governing body, may elect to delegate its responsibilities under this section to the county. The county shall then have such responsibility and authority within the city as it has outside the city to comply with the requirements of this Act. However, nothing in this section shall prohibit such city from resuming its planning authority upon action of the city council filed with the county governing body.

GUIDELINE ADOPTION PROCEDURES

Policy Consideration: The provisions of section 9 (2) requiring compliance with the administrative rules procedures of ORS chapter 183 are not clearly tied to the authority of the commission to adopt guidelines as set forth in other sections of the bill.

----- SUGGESTED AMENDMENTS -----

--- Amend section 9 (2)

"(2) In accordance with the provisions of ORS chapter 183 and other requirements of this Act, promulgate guidelines necessary to assist all affected units of government in following the statewide planning goals established by the Legislature."

--- Amend Section 11 (4) as proposed in the discussion of Goals and Guidelines.

TRANSITION FROM INTERIM TO PERMANENT GOALS

Policy Considerations: The bill provides interim goals in ORS 215.515.

However, there is no mechanism for changing from interim to permanent goals.

The result of this section might be to require cities and counties to immediately begin revision of plans based on the interim goals only to have to revise their comprehensive plans again when "permanent goals" are set forth.

Suggested Action:

- A. Previously suggested language that would have the Legislature adopt goals and the commission adopt only guidelines for implementation of the goals would solve this problem.

"COMPREHENSIVE PLANS"

395

S. ENV. & LAND USE COM.

Technical Consideration: The manner in which the bill uses the term "comprehensive plan" fails to make the distinction between the planning responsibilities of general purpose governments (cities and counties) and those of special purpose districts and state agencies. To illustrate, the definition of "comprehensive plan" in section 3 indicates state agencies, cities, counties and special districts all are expected to have comprehensive plans, yet sections 20 and 21 more appropriately avoid referring to the planning duties of special districts and state agencies as comprehensive plans.

Suggested Action: The confusion in the bill can be reduced by referring to the planning which cities and counties perform as comprehensive planning and to the planning of special districts and state agencies in another manner.

----- SUGGESTED AMENDMENTS -----

--Amend Section 3 (4) to delete "state agency" and "special district" from the definition of comprehensive plan.

--Amend Section 32

"(1) Comprehensive plans and zoning, subdivision and other ordinances and regulations adopted by a city or county to carry out such plans shall be in conformity with the statewide guidelines within one year from the date such guidelines are adopted by the commission."

"(2) Plans with respect to programs affecting land use adopted by a state agency or special district and regulations adopted by such agency or special district to carry out such plans shall be in conformity with the statewide guidelines and city and county comprehensive plans within one year from the date such guidelines are adopted by the commission or such plans are adopted by a city or county governing body."

--Amend miscellaneous sections in the bill that refer to comprehensive plans by state agencies and special districts.

STATUTORY PLANNING AUTHORITY OF CITIES AND COUNTIES

Technical Consideration: Section 17 fails to include some of the basis of authority cities and counties rely on to plan and zone and refers to zoning but not other regulatory responsibilities of cities and counties that relate to the purposes of this Act. Other sections of the Act adequately establish the obligation of cities and counties to plan under the Act. This section should probably be deleted. If necessary to keep it, however, the following language would be better than current language in the bill.

- - - - - SUGGESTED AMENDMENTS - - - - -

--Amend Section 17

"Cities and counties, in exercising their planning and regulatory responsibilities, shall comply with this Act and the statewide planning guidelines adopted under this Act."

SPECIAL DISTRICTS AND STATE AGENCIES

Technical Consideration: In order to make the comprehensive plans of cities and counties meaningful and to comply with the intent of the Act, the plans of special districts and state agencies should be compatible with city and county comprehensive plans as well as being in accordance with state-wide guidelines.

----- SUGGESTED AMENDMENTS -----

---Amend sections 20, 21 to add at the end of existing language

"and compatible with comprehensive plans adopted by cities and counties."

MODEL ORDINANCES

Technical considerations: The language requiring the commission to prepare model ordinances might be confused with the duty to adopt guidelines (it might also be confused with guidelines themselves since the term is not defined in the bill) because of the use of the word "guide" in section 11 (8). In addition, it is unlikely that entire model ordinances will be required to implement statewide planning goals since most of the provisions of city and county regulations will continue to deal with matters that are not of statewide concern.

Policy Considerations: While smaller cities may indeed need the assistance anticipated by this section, larger cities have the expertise to develop their own provisions. Since cities and counties have the practical zoning experience, which the state lacks the commission should not prepare model ordinances without consulting qualified, experienced planners on the local level.

- - - - - SUGGESTED AMENDMENTS - - - - -

--- Amend Section 11

"(8) Prepare model provisions for zoning, subdivision and other ordinances or regulations, in conjunction with affected units of government, to illustrate methods state agencies, cities, counties and special districts can use in implementing statewide planning guidelines, particularly the guidelines for the areas listed in subsection (2) of section 34 of this Act;"

MISCELLANEOUS AMENDMENTS

The following amendments are some of the technical changes that need to be made in the bill. Some of the changes result from suggested League amendments while others result purely from technical problems within the bill. The League would be happy to work with the bill drafters to suggest other technical amendments that need to be made.

<u>Section/Line</u>	<u>Change</u>
27(2)/7	(for) <u>of the city and county</u> within which the project is proposed
25(1)(b)/4	The planning and siting of (public) sewerage systems, water supply systems and solid waste disposal sites and facilities(.) <u>for public purposes.</u>
30(1)/3	Act (.) <u>and no project shall be carried out contrary to the plan under which a permit was issued.</u>
1(4)/3	prescribe planning goals and (objectives) <u>guidelines</u>
2(4)/1	Delete this section. It confuses the purpose of a comprehensive plan with the purposes of this Act.
3(4)/2	of the governing body of a (state agency,) city (,) <u>or county</u> (or special district)
9(2)/1	In accordance with the provisions of ORS chapter 183, <u>and other requirements of this Act</u> , promulgate rules (and regulations) that it considers necessary <u>and that are authorized for</u> (in) carrying out this Act.
27(1)/1	On and after the date the commission has (approved) <u>adopted</u> statewide planning (goals and) guidelines
27(3)/1	(affected county) <u>the appropriate local planning coordination agency</u> and <u>affected state agencies</u>
27(4)/1	The (county governing body) <u>local planning coordination agency</u>
27(5)/2	the comments submitted by the (county governing body) <u>local planning coordination agency</u> and <u>affected state agencies</u>
27(5)/8	recommendation (of the county and state agencies) <u>required by subsection (4) of this section.</u>
29(1)/6	of the (county governing body) <u>local planning coordination agency</u>
31/1	If the (county governing body) <u>local planning coordination agency</u>
35(2)/1	Each (county governing body) <u>local planning coordination agency</u>
44(3) New	<u>Copies of provisions of state agency and special district plans reviewed that relate to areas within the county listed in subsection (2) of section 34 of this Act.</u>
45(1)/8	the boundaries of a city <u>if the commission finds that the plan or implementation measures of the city or county do not comply</u>

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Miscellaneous Amendments

<u>Section</u>	<u>Change</u>
45(4) New	<u>Nothing in this Act shall be construed to prevent a city or county from resuming its own planning functions under this Act upon passage of a resolution to that effect by the city or county governing body.</u>
55/3	commission, counties, <u>cities</u> and other agencies

REVIEW AND POLICY IMPLICATIONS FOR CITIES IN REVISED SB 100

S. ENV. & LAND USE COM.

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Provisions of Bill

Section 1. A preamble which stresses the need for coordination, a major role for cities and counties, a need for a statewide planning agency and a need for state issued permits for activities of statewide concern.

Section 2. Requires the adoption of comprehensive plans, describes some purposes and functions of such plans, and requires regular review and revision.

Section 3. Sets forth definitions, including definitions of comprehensive plan and development. The definition of comprehensive plan encompasses a very inclusive consideration of "systems and activities" and of government and private involvement.

Section 4. Establishes a Department of Land Conservation and Development.

Comments

-102

Paragraph 5 indicates that a ^{SYSTEM AND USE COM.} permits issued by a statewide agency is necessary to carry out statewide planning goals and guidelines prescribed for application for activities of statewide significance throughout this state. Goals and guidelines specific to activities of statewide significance are not mentioned again in the bill. Does the bill envision two sets of goals and guidelines; one for activities of statewide significance and the other for general planning activities?

Considering the definition of comprehensive plan in Section 3, adoption of the plan will be a major task. Calls for adoption of plans at the state and regional level as well as by cities, counties and the state, but the rest of the bill does not call for regional or state comprehensive plans.

The definition of comprehensive plan misuses "governing body". For example, a state agency does not have a governing body. The definition misuses the concept of comprehensive planning by suggesting that agencies and special districts could have comprehensive plans. Agency and district plans are not ordinarily comprehensive in the sense the word is used since agencies and districts prepare functional plans dealing with a single type of development such as highways, schools or irrigation systems. As applied to a city or county plan, the very inclusive nature of the definition would cause no problem if the purpose of the definition were only to permit planning entities to deal with such inclusive considerations. It does cause a serious problem when cities and counties are required to adopt plans meeting the definition. The following terms used in the bill are not defined in the definition section: (1) development, (2) goals, (3) guidelines. In addition, the definition of "activity of statewide significance" is inadequate.

None.

Provisions of Bill

Comments

S. ENV. & LAND USE COM.

Section 5. Establishes a seven-member Land Conservation and Development Commission, appointed by the Governor, for four-year terms, but may be removed by the Governor for cause. Four of the commission members are appointed by congressional district, while the remaining are appointed at large.

None.

Section 6. Staggers the terms of commission members.

None.

Section 7. Provides for chairman, vice-chairman and quorum.

None.

Section 8. Authorizes compensation for commission members.

None.

Section 9. The commission must direct the department staff, promulgate rules and regulations, cooperate with other *bodies* and appoint advisory committees.

The obligation to promulgate regulations of this section may or may not be in addition to the obligation under section 37 for the commission to approve goals and guidelines. The intent is not clear.

Section 10. Authorizes commission to apply for and receive money, hire consultants and contract for services from a public agency.

Section 11. Lists duties of the commission as:

- (1) Establish statewide planning goals.
- (2) Issues permits for activities of state wide significance.
- (3) Prepare inventories of land uses.
- (4) Prepare state-wide planning guidelines.
- (5) Review comprehensive plans for conformance with state wide planning goals.
- (6) Coordinate planning efforts of state agencies to assure conformance with state wide planning goals and compatibility with city and county comprehensive plans.
- (7) Insure wide spread citizen involvement and input in all phases of the planning process.
- (8) Prepare model ordinances and regulations to guide state agencies, cities, counties, etc.
- (9) Review and recommend to the Legislature the designation of areas of critical state concern.
- (10) Report periodically to the Legislature and the committee.
- (11) Perform other duties required by law.

Provisions of BillComments

Section 12. Provides for interstate compacts

None.

S. ENV. & LAND USE COM.

Section 13. Provides for a director of the department to be appointed by the commission.

None.

Section 14. Broadly lists the duties of the director

None.

Section 15. Establishes an account.

None.

Section 16. Provides that LCDC may delegate any of its functions to OCCDC except that LCDC shall review and grant prior approval for any action taken by the OCCDC with respect to a delegated function.

None.

Section 17. Cities and counties exercise their planning and zoning powers consistent with ORS Chapters 92, 215 and 227 and the provisions of this Act.

The wording in this section is subject to several interpretations, one of which is that the only planning and zoning power cities and counties will have are those contained in ORS Chapters 92, 215 and 227, and that this power is to be exercised consistent with the Act. Chapter 92 is a subdivision, not a zoning statute. This places a very comprehensive obligation on each city and county. Apparently any ordinance a city may adopt that has something to do with land use or construction could require some evidence that it was consistent with the adopted plan. If it was not, the plan would need to be changed first with whatever procedures that would require. Cities use ordinances to carry out many things having to do with land use and construction that are far removed from zoning type issues, but the language of the bill seems to be very inclusive.

Section 18. Cities and counties shall adopt comprehensive plans consistent with state-wide planning goals and guidelines and shall enact ordinances to implement the plans.

Section 19. Makes each county, through its governing body, responsible for coordinating all planning activities affecting land uses within the county, including those of the county, cities, special districts, and state agencies. Also provides that counties may voluntarily join together with adjacent counties under ORS 190 in order to further carry out provisions of the act.

By specifically naming the county governing body as the group to coordinate planning activities, cities and other units of local government would not have a statutory role in developing comprehensive plans for the county. Will this really lead to either a county comprehensive plan or a coordinated approach? Further, the voluntary association envisioned by subsection 2 does not include cities or other units of local government

Provisions of Bill

Comments

Section 20. Requires special districts to plan in compliance with the state regulations.

Does not require special district plans and construction to comply with city and county comprehensive plans.

Section 21. Requires state agencies to plan in compliance with the state regulations.

Same comment as above.

Section 22. Establishes a Joint Legislative Committee on Land Use.

None.

Section 23. Provides for membership of committee including chairman of the House and Senate Environment and Land Use committees and provides for continuing existence of committee.

Section 24. Duties of the committee are:

Mandatory legislative approval of actions of the commission is not included in this bill and the intent appears to be that this committee would act as a quasi-legislative body in approving actions of the commission.

(1) Advise the department on all matters under the jurisdiction of the department.

(2) Review and make recommendations to the Legislative assembly on proposals for additions to or modifications of designations of activities of state-wide significance and for areas of critical state concern.

(3) Review and make recommendations to the Legislative assembly on state-wide planning goals and guidelines approved by the commission.

(4) Make recommendations to the legislative assembly on any other matters relating to land use planning in Oregon.

Section 25. Activities of state-wide significance:

The all-inclusive nature of these activities raises some very strong questions about the level of activity that would be subject to state regulation. The lack of definitions for "planning and siting" creates confusion as to whether the commission would review only the general plan or actual design and construction details.

(a) The planning and siting of public transportation facilities.

(b) The planning and siting of public sewerage systems, water supply systems and solid waste disposal sites and facilities.

(c) The planning and siting of energy generation and transmission facilities for public purposes.

(d) The planning and siting of public schools.

Paragraph (b) refers to "public" systems but what about private systems or facilities that provide the same services?

Further provides that this statute does not supercede any duty or power of any other state agency except that no state agency may implement any of the above activities or adopt any plan relating to such activities without the prior approval of the commission.

There are no criteria on which the specific areas and activities in the bill are based.

Actions by state agencies based on plans adopted by the Commission should be sufficient--especially since the commission has the power to stop actions not consistent with state guidelines.

Provisions of Bill

Comments

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Section 26. Provides that the commission may recommend to the committee the designation of additional activities of statewide significance, and the designation of areas of critical state concern.

The procedure established appears to insulate the public and local government from direct contact with the legislative committee.

The language of the bill requires the commission to submit proposed ne designated activities to the committee in subsection (1), while subsection (4) indicates that the commission would submit such proposed new activities to the legislature itself, in addition to the committee.

This section requires the commission to provide reasons for such designations of new activities, yet Senate Bill 100 fails to provide such reasons for activities specified within the current act.

Section 27. Planning and siting permits would be required for any of the activities of statewide significance following adoption by the commission of goals and guidelines for such activities. Counties and state agencies would be allowed to review applications but the commission would be the permit granting authority. The commission may prescribe such conditions and restrictions that it considers necessary to assure that the proposed project complies with the goals and guidelines and comprehensive plans within the county.

How would the state permit relate to local building permits? Should have additional language to the effect that "nothing in this section should be construed to exempt developers from obtaining a local building permit."

Cities should have a role in the permit process. No permit should be issued without city approval. Local governments should be able to enact requirements more stringent than state standards.

**for an activity within a city*

Section 28. Provides for optional joint permits to be granted by the commission and other state agencies.

None.

Section 29. Provides for determination in case of a question of classification of some project as an activity of state significance.

None

Section 30. Prohibits an activity of statewide significance without a planning and siting permit. Provides that civil abatement proceedings may be used by the county or state to stop any such development without a permit.

Why give county authority to enjoin activity? Conversely, why not give it to cities also?

Section 31. Describes investigatory and hearing process commission or county may use regarding developments constituting activities of state significance that do not have permits or have violated conditions of a permit. Allows commission to issue order concerning a development which violates statewide goals or guidelines or conditions of a permit.

See section 30.

Section 32. Requires all comprehensive plans, and zoning, subdivision or other ordinances or regulations adopted by state agency, city, county or special district to carry out such plans to be in conformity with statewide planning goals within one year of the date such goals are approved by the commission.

This section does not refer to guidelines although the rest of the bill seems to imply that the two would be adopted simultaneously. However, Section 17 requires compliance with guidelines. From a practical standpoint, it is questionable whether or not cities could revise both plans and all implementing ordinances within the time span of a single year.

Section 33. Requires the department to prepare and the commission to adopt statewide planning goals and guidelines not later than January 1, 1975 for use by state agencies, cities, counties and special districts in preparing, adopting, revising and implementing existing and future comprehensive plans.

Again the bill refers to state agencies and special districts as preparing comprehensive plans. This section does not indicate whether goals and guidelines would be specific to activities of state significance or whether they would apply to planning in general.

This section requires goals and guidelines to be adopted by the commission not later than January 1, 1975. Yet section 36 requires at least 11 hearings prior to adoption by the commission and section 64 requires submission of the final report prior to the convening of the 1975 legislature. It is doubtful that the commission can meet this time schedule.

Section 34. Sets forth the criteria to be used by the department and commission in preparing and adopting statewide planning goals and guidelines as follows:

(1) to consider existing comprehensive plans of state agencies, cities, counties and special districts in order to preserve functional and local aspects of land conservation and development.

(2) Give priority consideration to the following areas and activities; (a) those activities listed in section 25 of this act, (b) lands adjacent to freeway interchanges, (c) estuarine areas (d) tide, marsh and wet land areas, (e) lakes and lakeshore areas, (f) wilderness, recreational and outstanding scenic areas, (g) beaches, dunes, costal headlands and related areas, (h) wild and scenic rivers and related lands, (i) flood plains and areas of geologic hazard, (j) unique wild life habitats, and (k) prime agricultural land.

Does this section, in discussing statewide planning goals and guidelines confuse them with a state-wide comprehensive land use plan? What criteria were used for selection for these priority conseration areas? If these areas are to be given priority consideration for goals and guidelines adoption, does this mean that adoption of goals and guidelines will be a constant process and if so, will a separate revision of each comprehensive plan be required as each goal or guideline is adopted?

Section 35. Provides for wide-spread citizen input in all phases of the planning process by:

(1) Establishing a State Citizen Involvement Advisory Committee to "develop a program for the commission that promotes and enhances public participation in the development of state-wide planning goals and guidelines."

(2) Requiring each county governing body within 90 days after the effective date of the act, to submit to the commission a program for citizen involvement in preparing, revising and adopting comprehensive plans within the county.

(3) Giving the state advisory committee the power to review proposed county programs and recommend to the commission whether or not the proposed program adequately provides for public involvement in the planning process.

Section 36. Requires the department, in the development of state-wide planning goals and guidelines to:

(1) Hold at least 10 public hearings throughout the state.

(2) Implement any other provisions for public involvement developed by the Citizen Advisory Committee and approved by the commission.

Upon completion of the preparation of proposed state-wide planning goals and guidelines the department shall submit them to the commission for approval.

Section 37. Requires the commission to hold at least one public hearing on proposed state-wide planning goals and guidelines. The department would supply a copy of its proposed state-wide planning goals and guidelines to affected state agencies, special districts and each city and county without charge. The commission would be required to consider the recommendations and comments received from the public hearings conducted by the commission and to revise or approve the guidelines and goals as necessary.

Section 38. Allows the commission to periodically revise, update and expand the initial state-wide planning goals and guidelines adopted under this act.

It would appear that this section gives county authority to designate citizen involvement programs for cities and special districts in addition to the county itself.

This section provides for four fewer hearings than the first version of SB 100. It also provides only for newspaper advertising of the hearing. The department would not be required to give formal notice to governmental agencies of proposed hearings.

Notification of this hearing would, again, be in a newspaper of general circulation in the state. No formal notification to affected units of government is required.

In terms of allowing reasonable compliance, should either put burden of proof on commission why new regulations are necessary or make all regulations effective periodically, i.e., once a year. Otherwise cities and counties will never complete a plan.

Provisions of Bill

Comments

Section 39. Requires the county governing body to review all comprehensive plans within the county for compliance with state-wide planning goals and guidelines and advise the state agency, city, county, or special district preparing such comprehensive plans whether or not such plan is in conformity with the state-wide planning goals.

Again, the act assumes that state agencies and special districts prepare comprehensive plans. The last sentence mentions only goals and does not mention guidelines.

Section 40. Existing comprehensive plans and ordinances are to remain in effect until revised.

None.

Section 41. The goals listed in ORS 215,515 are to be used in preparing and implementing comprehensive plans until guidelines have been adopted by the commission.

None.

Section 42. Each city and county shall adopt comprehensive plans in accordance with this act and other statutes until guidelines have been approved for one year. Then each city and county shall use goals and guidelines.

None .

Section 43. Amends ORS 215.055 to include comprehensive plans, zoning, subdivision or other ordinances or regulations of a county within the meaning of this statute and to require that plans, zoning, subdivision or other ordinances adopted after the expiration of one year of the date of approval of state-wide planning goals and guidelines be in compliance with those goals and guidelines.

None.

Section 44. Requires annual report by county governing body to commission on the status of comprehensive plans within each county once state-wide goals and guidelines are adopted. Each report shall include; (1) copies of comprehensive plans, zoning, subdivision or other ordinances reviewed by the county governing body and (2) a statement of progress made toward compliance with statewide planning goals for those areas within the county without comprehensive plans.

None.

Section 45. The commission is to prescribe comprehensive plans and ordinances where zoning does not exist or where a plan or ordinance does not comply with the state requirements.

The section expands the concept of SB 10 of the 1969 session so that the commission would plan and prescribe ordinances in cities and counties not making progress toward meeting state requirements. The total number of ordinances that might be affected by the state regulations is not clear. No similar authority is given the commission to act against state agencies or special districts that may be in conflict with the state requirements.

Authorizes commission to grant planning extension to city or county in the process of developing its own plan.

Section 46. Transfers power of governor to authorize and administer comprehensive land use plans and zoning regulations under ORS 215.505 to commission.

Relates to Section 45 comments.

Section 47. Broadens language of ORS 215.510 to include comprehensive plans and zoning, subdivision or other ordinances. Also transfers authority in statute from governor to commission.

Relates to Section 45 comments.

Section 48. Amends ORS 215.515 to include provisions for plans adopted by the commission in lieu of the governor both before and after adoption of goals and guidelines.

Relates to Section 45 comments.

Section 49. Amends ORS 215.535 to give authority to commission to institute civil action it considers appropriate to remedy violations of any comprehensive plan, zoning or subdivision or other ordinance or regulation prescribed by the commission.

Relates to Section 45 comments.

Section 50. Requires the commission to charge a city or county for costs incurred in prescribing and developing a plan or ordinance.

If the requirements of the bill are fulfilled entirely, the cost will be considerable. State agencies and special districts should be included.

Section 51. Establishes appeals procedures whereby county governing bodies, cities, state agencies or special districts and persons may appeal a plan or zoning provision or land conservation or development action by any agency or unit of government that the appealing body feels is not in compliance with state-wide planning goals.

This section refers only to goals, although goals and guidelines appear to be used together in other parts of the bill. Does this mean that compliance with guidelines cannot be appealed? Also, the language is rather repetitive and confusing by allowing only the county governing body to appeal in certain instances, cities and county governing bodies to appeal in other instances, and all units of local governments and private individuals to appeal in yet other instances. A possible consideration here would be the rather extensive cost of defending city actions through continued appeals procedures. Perhaps some thought should be given to requiring reimbursement for costs to cities that win a judgement through appeals process. It appears that if the county governing body cannot approve a plan, it is to petition the commission within 60 days of when the plan was adopted. Some intermediate step whereby the county governing body reports back to the city, or other agency to work out correction in cases where no disagreement exists would seem desirable.

Provisions of BillComments.

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Section 52. Commission adopts review procedures under Administrative Practice Act.

Cities should not need commission approval to intervene in hearings. ENV. & LAND USE COM.

Section 53. Review proceedings are conducted for the commission by a hearings officer. Commission issues and may enforce order through judicial proceedings brought therefor.

None

Section 54. Commission can refer proceedings back to hearings officer for further information.

None.

Section 55. Requires department to report monthly to committee on progress made by the department, commission, counties and other agencies in carrying out the provisions of this act.

None.

Section 56. Requires report prepared for each legislative session describing activities and accomplishments of the department, commission, state agencies, cities, counties and special districts in carrying out the provisions of this act. Also requires draft of such report to be submitted to the committee for its review and comment at least 60 days prior to submission of report to legislative assembly. Comments of committee to be incorporated in final report.

This bill no longer requires legislative approval of commission activities or adopted goals, guidelines and other rules and regulations.

League of Oregon Cities
Local Government Center
1201 Court Street N.E.
Salem, Oregon 97301

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STATEMENT ON THE REVISED SB 100
PREPARED FOR THE SENATE COMMITTEE
ON ENVIRONMENT AND LAND USE

MARCH 8, 1973

BY

LLOYD E. ANDERSON

PORTLAND CITY COUNCIL
EXECUTIVE BOARD, COLUMBIA REGION ASSOCIATION
OF GOVERNMENTS
CHAIRMAN, METROPOLITAN SERVICE DISTRICT
EXECUTIVE COMMITTEE, LEAGUE OF OREGON CITIES

TO BEGIN WITH, I BELIEVE THE STATE CAN PLAY A SIGNIFICANT AND USEFUL ROLE IN THE FORMULATION OF EFFECTIVE LAND USE POLICIES IN OREGON. THE STATE SHOULD PREPARE STATEWIDE GOALS AND OBJECTIVES, DESIGNATE AREAS AND ACTIVITIES THAT ARE OF CRITICAL CONCERN, AND PROVIDE THE MEANS FOR STATE AGENCIES AND LOCAL GOVERNMENTS TO REACH THESE GOALS. THE STATE SHOULD ALSO STIMULATE INTERGOVERNMENTAL COOPERATION AND PROVIDE NEEDED TECHNICAL ASSISTANCE TO LOCAL GOVERNMENTS. THE REVISED DRAFT OF SENATE BILL 100 PROVIDES FOR MOST OF THE ITEMS I HAVE MENTIONED.

UNFORTUNATELY, THE BILL ALSO HAS ONE PROVISION IN IT WHICH WILL DO SERIOUS DISSERVICE TO EFFORTS TO DEVELOP EFFECTIVE PLANNING IN THIS STATE. I REFER TO SECTION 19, SUBSECTION (1) WHICH GIVES COUNTIES THE AUTHORITY TO COORDINATE ALL PLANNING ACTIVITIES AND ASSURE INTEGRATED COMPREHENSIVE PLANNING WITHIN A COUNTY.

DESIGNATION OF THE INDIVIDUAL COUNTIES AS REVIEW AND COORDINATING AGENCIES FOR LAND USE PLANNING SERVES NO USEFUL PURPOSE IN THE PORTLAND AREA. A MAP OF THE METROPOLITAN AREA DEMONSTRATES THAT ANY ONE COUNTY OR THE CITY OF PORTLAND-- WHICH LIES IN THREE COUNTIES -- IS TOO SMALL AS A FRAME OF REFERENCE FOR LAND USE PLANNING OR FOR RELATED SERVICES SUCH AS TRANSPORTATION AND UTILITIES. IN THIS SITUATION, THE REVIEW, COORDINATION, AND SUPERVISING AGENCY SHOULD BE REGIONAL IN SCOPE. THIS VIEWPOINT IS SUPPORTED BY A MAJORITY OF THE GENERAL ASSEMBLY OF THE COLUMBIA REGION ASSOCIATION OF GOVERNMENTS, AND IT HAS REQUESTED THIS LEGISLATIVE ASSEMBLY TO GIVE CRAG THAT AUTHORITY. A BILL IS NOW IN THE HOPPER TO ACCOMPLISH THIS GOAL.

I CANNOT EMPHASIZE TOO STRONGLY THAT PORTLAND'S PLANNING MUST TAKE MORE THAN MULTNOMAH COUNTY INTO ACCOUNT. IT IS AS IMPORTANT THAT OUR PLANS BE COMPATIBLE WITH BEAVERTON, TIGARD, LAKE OSWEGO, AND MILWAUKIE AS THAT THEY FIT WITH THOSE FOR GRESHAM. AND THIS IS AS TRUE FOR ISSUES RELATED TO LAND USE PLANNING SUCH AS WATER QUALITY CONTROL, WATER SUPPLY, TRANSPORTATION, AIR QUALITY CONTROL, AND NOISE POLLUTION ABATEMENT AS IT IS TO DIRECT LAND USE PLANNING ITSELF. TO REMOVE OUR MEANS OF ACHIEVING COMPATIBILITY -- CRAG -- AT THIS TIME IS TO THROW AWAY SIX YEARS OF HARD WORK AND SOME REAL PROGRESS. I DO NOT SEE HOW THE LEGISLATURE CAN ASK

FOR EFFECTIVE LAND USE PLANNING IN THE PORTLAND AREA AND, IN THE SAME BREATH, DESTROY CRAG. THE COUNTIES CANNOT BEGIN TO REPLACE IT. THEY HAVE NOWHERE NEAR ITS POTENTIAL FOR EFFECTIVENESS.

I RECOGNIZE THAT OUR PROBLEMS IN THE METROPOLITAN AREA ARE NOT THE SAME AS THOSE IN OTHER AREAS OF THE STATE. ELSEWHERE IT MAY MAKE NO SENSE AT ALL TO FOLLOW THE PATTERN I HAVE SUGGESTED HERE. BUT IT DOES MAKE SENSE FOR US, AND IT CAN WORK TO THE BENEFIT OF THE STATE AS A WHOLE. THE OPTION SHOULD BE OURS.

LET ME EMPHASIZE THAT IN SAYING ALL THIS, I SEEK STRONG LAND USE PLANNING IN THE PORTLAND METROPOLITAN AREA. I SEEK A MEANS FOR INTERGOVERNMENTAL COOPERATION IN THAT AREA WHICH CAN PRODUCE THAT PLANNING. AND I SUGGEST THAT THE WAY TO GET COOPERATION AND PLANNING IS TO AMEND THIS BILL TO ALLOW A REGIONAL AGENCY IN THE PORTLAND AREA TO SERVE IN LIEU OF THE COUNTIES AS THE AGENCY RESPONSIBLE FOR COORDINATING, REVIEWING, AND SUPERVISING PLANNING. LOCAL GOVERNMENTS IN OTHER AREAS OF THE STATE SHOULD ALSO HAVE THE OPTION OF PLANNING THROUGH A REGIONAL AGENCY IN WHICH CITIES AS WELL AS COUNTIES HAVE A VOICE.

THERE ARE TWO WAYS TO DO THIS, AND I BELIEVE BOTH SHOULD BE ADDRESSED IN THIS BILL. I WOULD OFFER THE FOLLOWING TWO AMENDMENTS TO SECTION 19 OF THE BILL, TO APPEAR AS SUBSECTION (3) AND (4).

- (3) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (1) AND (2) ABOVE, THE LEGISLATURE, UPON THE REQUEST OF LOCAL GOVERNMENTS REPRESENTING A MAJORITY OF THE POPULATION IN ONE OR MORE COUNTIES, MAY AUTHORIZE A REGIONAL AGENCY TO CARRY OUT THE PROVISIONS OF THIS ACT. THAT REGIONAL AGENCY SHALL BE RESPONSIBLE FOR COORDINATING ALL PLANNING ACTIVITIES AFFECTING LAND USES WITH THE REGION, INCLUDING THOSE OF COUNTIES, CITIES, SPECIAL DISTRICTS, AND STATE AGENCIES, TO ASSURE AN INTEGRATED COMPREHENSIVE PLAN FOR THE ENTIRE REGION.
- (4) NOTWITHSTANDING SUBSECTIONS (1), (2) AND (3) ABOVE, WHERE THE PEOPLE OF ONE OR MORE COUNTIES HAVE AUTHORIZED BY VOTE OF THE PEOPLE A REGIONAL AGENCY TO ACT AS THEIR PLANNING AUTHORITY, THAT REGIONAL AGENCY SHALL BE RESPONSIBLE FOR COORDINATING ALL PLANNING ACTIVITIES AFFECTING LAND USES WITHIN THE REGION, INCLUDING THOSE OF THE COUNTIES, CITIES, SPECIAL DISTRICTS, AND STATE AGENCIES, TO ASSURE AN INTEGRATED COMPREHENSIVE PLAN FOR THE ENTIRE AREA OF THE REGION.

THE CITY FEELS THAT IT MUST ALSO ASK THE LEGISLATURE TO ALLOW IT AN ADDITIONAL OPTION IN THE EVENT THAT A REGIONAL AGENCY IS NOT AUTHORIZED BY THE LEGISLATURE OR THE PEOPLE OF THE PORTLAND METROPOLITAN AREA . UNDER THE PRESENT LANGUAGE OF THE BILL, IF A REGIONAL PLANNING AGENCY IS NOT PROVIDED FOR, THE CITY OF PORTLAND WOULD THEN BE REQUIRED TO SUBMIT ITS PLANS TO MULTNOMAH COUNTY FOR REVIEW.

I MUST SPEAK PLAINLY HERE. TO HAVE THE BOARD OF COMMISSIONERS OF MULTNOMAH COUNTY SIT IN JUDGEMENT OF THE ACTIONS OF THE CITY OF PORTLAND IS TO SOW THE SEEDS OF CONFLICT TO NO USEFUL PURPOSE. THE COUNTY STAFF IS NEITHER EQUIPPED NOR ABLE TO MAKE JUDGEMENTS ON A GREAT MANY ISSUES OF CONCERN TO THE CITY. AND FOR THOSE WHO DOUBT THAT STATEMENT, I SUGGEST YOU EXAMINE THE 1972 - 73 CITY AND COUNTY BUDGETS RELATED TO LAND USE TO GET AN IDEA OF THE RELATIVE LEVEL OF EFFORT AND SOPHISTICATION IN THE TWO JURISDICTIONS. BY THE CRUDEST ESTIMATE, THE CITY SPENDS OVER TWICE (\$1.3 MILLION) WHAT THE COUNTY SPENDS ON LAND USE PLANNING (\$.56 MILLION). IN CRITICAL RELATED AREAS SUCH AS PUBLIC WORKS, NOT INCLUDING STREET REPAIR, THE CITY'S BUDGET OF OVER \$45 MILLION IS MORE THAN TWENTY TIMES THAT OF THE COUNTY. IN TRANSPORTATION, A GUESS IS THAT THE CITY SPENDS FIVE OR SIX TIMES WHAT THE COUNTY SPENDS ON PLANNING.

IF THERE IS THE EXPERTISE ANYWHERE IN MULTNOMAH COUNTY TO REVIEW, COORDINATE, AND SUPERVISE COMPREHENSIVE PLANNING IN ACCORDANCE WITH THE PROVISIONS OF THE REVISED SB 100, IT IS IN CITY HALL AND NOT THE COUNTY COURTHOUSE.

TO RESOLVE THIS ISSUE, I WOULD OFFER A THIRD AMENDMENT TO SECTION (19) TO APPEAR AS SUBSECTION (5) AS FOLLOWS:

IN COUNTIES WHERE THE POPULATION EXCEEDS 300,000, THE MOST POPULOUS CITY IN THAT COUNTY MAY DESIGNATE ITSELF AS THE PLANNING AUTHORITY FOR THE AREA WITHIN THE CITY'S JURISDICTION.

IN CONCLUSION, THE CITY OF PORTLAND SUPPORTS THE AMENDMENTS AS A SOLUTION TO THE PROBLEMS OF THE BILL. IT OPPOSES THE BILL AS IT NOW STANDS AND DOES SO FOR TWO REASONS:

- (1) THE PLANNING NEEDS OF THE METROPOLITAN AREA REQUIRE A REVIEW AND COORDINATION AGENCY THAT IS REGIONAL IN SCOPE, AND
- (2) MULTNOMAH COUNTY IS NOT CAPABLE OF REVIEWING, COORDINATING, AND SUPERVISING PORTLAND'S PLANNING EFFORTS,

Mr. Chairman and members of the Committee, my name is Bill Young, Mayor of Beaverton and Chairman of the Executive Board of the Columbia Region Association of Governments. We are an association of 5 counties and 31 cities, encompassing the Governor's Administrative District #2, plus Clark County in the State of Washington.

First, may I add my comment of appreciation and support to the effort being made by this committee to bring continuity and direction to the planning efforts within the State. The task is difficult, the problems are varied and complex, and the rewards to the citizens upon completion of your work can be far-reaching and profound.

Of those citizens mentioned, by far the greatest concentration is found in the Portland Metropolitan Area. It is this concentration of people that creates a situation not found in much of the State.

The Legislature has recognized this distinction through creation of entities such as TRI-MET and the Metropolitan Service District. We have a Boundary Review Commission as do 2 other areas of the State, and the current session is considering a broadening of Port of Portland authority into a Tri-County area.

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The local elected officials of the 5 counties and 31 cities have also indicated their commitment to a broad base resolution of many of our planning problems. The Metro Planning Commission and the formation of CRAG itself 6 years ago are indications of that commitment. More recently, on March 1 of this year, the General Assembly of CRAG, by an 18-7 vote, directed the Executive Board and staff to submit to the Legislature S. B. 769, which would authorize CRAG as the planning agency, with authority to review regional aspects of local plans to insure compatibility with the regional plan.

A review of the factual situation seems to support the judgment of the General Assembly, and persuades me that a planning base broader than the county level is needed to deal with our problems.

1. Our charts indicate the existence of TRI-MET and the Metropolitan Service District, both exceeding the boundaries of any county, and the Port may or may not be added to these two.
2. Of the 400,000 people who travel to work and back each day in our area, 1/4, 100,000 people, cross county lines going to and coming from work.

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S. ENV. & LAND USE COM.

3. Service districts in the area cross county lines with regularity.
4. There is a need to solve the interstate complexities presented by Clark County being a part of the Metropolitan Area.
5. There is much overlapping of county lines by city boundaries. Tualatin, Wilsonville, Lake Oswego and Milwaukie all have jurisdiction in 2 counties, and the City of Portland extends into 3 counties.

All of the above facts point to the underlying theme of the Portland Area. The urbanized and urbanizing area is not within a city, is not within a county and is not, as a practical matter, seperable into component parts.

Because of these considerations, we would suggest the following amendments to Section 19 of Revised S.B. 100.

1. In Subsection 1, 2nd line after the word county insert, "except in any Administrative District with a population of 350,000 people or more."

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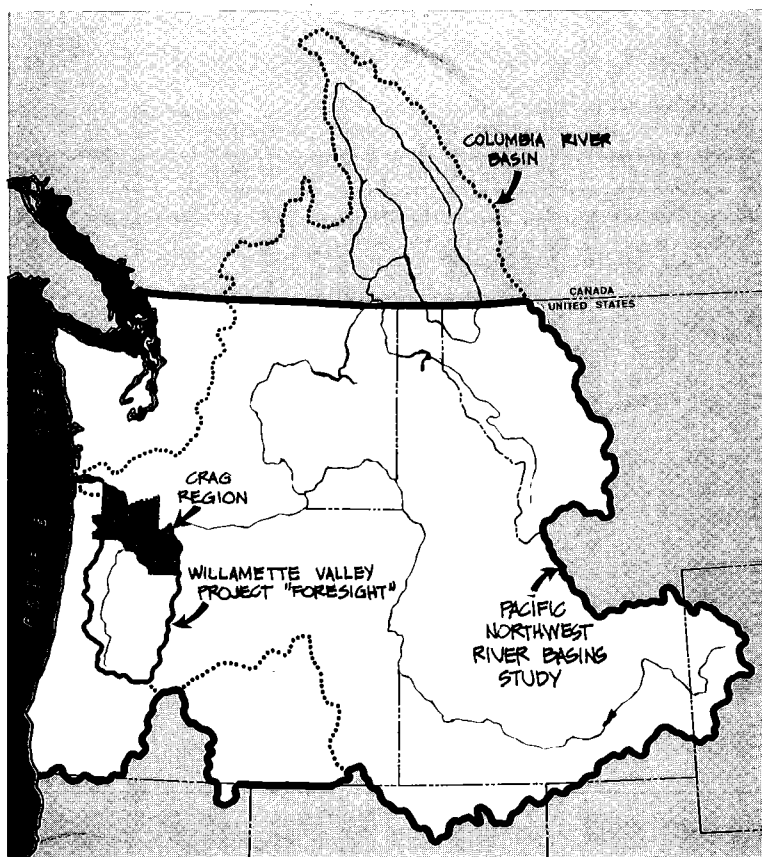
2. New Subsection 2 as follows: In any Administrative District whose population exceeds 350,000 people, the existing Council of Governments will be designated as the agency to carry out the principles of this section.

3. Old Subsection 2 becomes new Subsection 3 with the following change: In the second line before County, insert "those" and after County insert "not located in an Administrative District whose population exceeds 350,000 people."

4. In addition language throughout the draft should be altered to reflect the spirit of these changes.

Once again, let me indicate support of the need to coordinate the planning efforts throughout the State, let me reiterate my belief that CRAG is already a locally accepted and capable organ for helping to provide this coordination, and finally let me express my thanks and the thanks of the CRAG organization for the opportunity of making this statement today.

PLANNING STUDIES IN THE COLUMBIA BASIN & THE WILLAMETTE VALLEY



Two large-scale planning studies in progress in the Columbia Basin will have significant implications for future land and water use within the CRAG region. Each could vitally affect and be affected by comprehensive planning within CRAG.

One study, by the Pacific Northwest River Basins Commission, encompasses the U.S. portion of the entire Columbia River Basin; the second study, "Project Foresight," covers the Willamette Valley. These studies are described further on the following page.

CRAG also has immediate neighbors involved in planning and action programs with possible affects on the CRAG area and population: these are Cowlitz and Skamania counties in Washington; Hood River, Marion, Polk, Yamhill, Tillamook and Clatsop counties in Oregon. Of most direct interest is the Mid-Willamette Valley Council of Governments, CRAG's sister agency to the south.

PROJECT "FORESIGHT"

Project Foresight is a study initiated jointly in 1969 by the Governor of the State of Oregon and the four councils of government covering the Willamette Valley. The study is under the direction of a Steering Committee consisting of the Governor and six state-agency heads, eight elected officials from local government (two from each of the four councils of government), two state legislators, and five citizen appointees. Its major objectives are (1) "the development of the first phase of a Willamette Valley Environmental Protection Plan," and (2) refinement of an on-going "process for resolving intergovernmental, interregional, and interagency conflicts". The four participating councils of government are CRAG, the Mid-Willamette Valley Council of Governments, the Linn-Benton Council, and the Lane Council.

THE PACIFIC NORTHWEST
RIVER BASINS STUDY

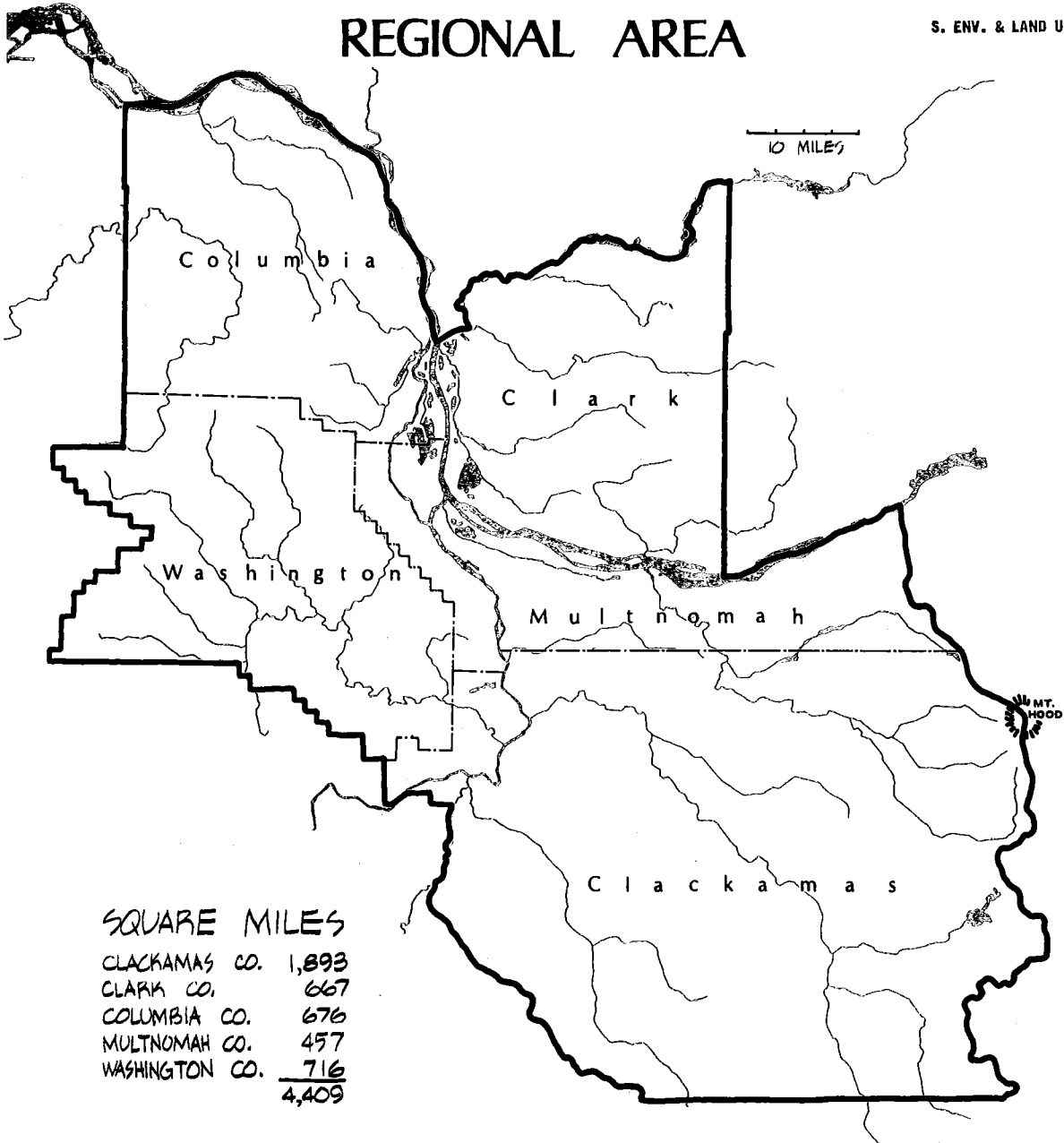
The Pacific Northwest River Basins Commission was established by presidential order in 1967. It consists of representatives from the state governments of Idaho, Montana, Oregon, Washington and Wyoming, together with nine federal agencies: Agriculture, Army, Commerce, Housing and Urban Development, Health, Education and Welfare, Interior, Transportation, Environmental Protection, and the Federal Power Commission. Two additional members represent the U.S. under the Columbia River Treaty. The Chairman and principal executive officer are appointed directly by the President of the United States.

A commission purpose is to "prepare and keep up to date...a comprehensive, coordinated, joint plan for federal, state, interstate, local and non-governmental development of water and related land resources." It is also responsible for coordination of more detailed studies of the Willamette Basin and of the Puget Sound and adjacent waters.

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REGIONAL AREA



SQUARE MILES

CLACKAMAS CO.	1,893
CLARK CO.	667
COLUMBIA CO.	676
MULTNOMAH CO.	457
WASHINGTON CO.	716
	<u>4,409</u>

SOURCE: USDC: BC

LANDFORMS

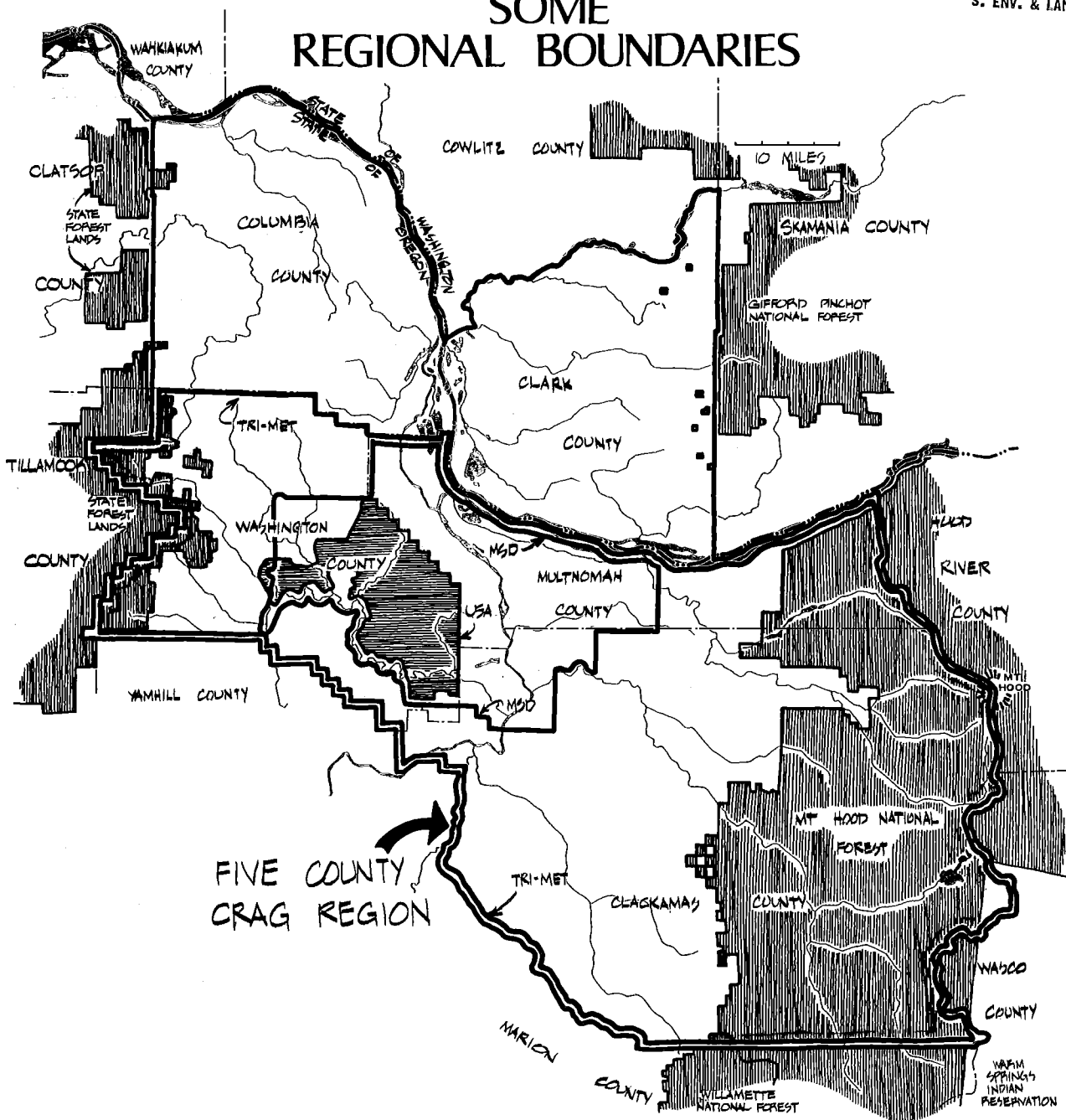
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Landforms are major regional settlement-shaping factors. They influence practically all human activities; they control local climatic patterns which in turn affect forest and agricultural resources; they are the physical base on which all else rests.

The rich diversity of terrain in the CRAG Region is perhaps its foremost asset. At risk of blurring that diversity, three distinct landforms can be identified.

- MOUNTAINS** - From 1,000 ft. upward to the 11,000 ft. crest of Mt. Hood, is a zone of rugged mountain terrain, cut by steep-sided canyons and crossed by narrow ridge lines. The Cascade Mountains occupy over half of Clackamas County and large eastern sections of Multnomah and Clark Counties. The Coast Range falls across the western fringe of Washington County, and most of interior Columbia County. The Chehalem and Tualatin Mountains (Portland West Hills) are small mountainous spurs extending eastward out of the Coast Range forming the Tualatin Basin.
- 46%
- FOOTHILLS** - Between 400 and 1,000 ft. there is a zone of less rugged, hilly lands that are transitional between mountain and valley terrain. The countryside is generally rolling, and while slopes may be steep locally, terrain extremes are less prevalent than in the mountains. In addition to foothills found along all the mountain fringes there is a band of scattered, isolated hills stretching along a northwest-southeast axis through the heart of the valley lowlands.
- 23%
- VALLEYS** - Set amidst the mountains and foothills are three large basins below 400 feet in elevation; the lowlands of the Columbia, Willamette and Tualatin Rivers. Valley terrain covers two distinct zones; alluvial bottom lands which are virtually flat, and the somewhat higher terraces arrayed in step-like fashion away from the river channels.
- 31%

SOME REGIONAL BOUNDARIES



MAJOR POLITICAL SUBDIVISIONS

- STATES
- COUNTIES

MAJOR PUBLIC SERVICE AGENCIES

- TRI-COUNTY METROPOLITAN TRANSPORTATION DISTRICT (TRI-MET) AND COLUMBIA-WILLAMETTE AIR POLLUTION AUTHORITY (CWAPA)
- METROPOLITAN SERVICE DISTRICT (MSD)
- ▨▨▨▨ WASHINGTON CO. UNIFIED SEWERAGE AGENCY (USA)

STATE OR NATIONAL FORESTS

- ▨▨▨▨ MT HOOD N.F., GIFFORD PINCHOT N.F., WILLAMETTE N.F., AND STATE FOREST LANDS

THE STATE & FEDERAL PRESENCE

Over and above cities, counties, special districts, regional and semi-regional public agencies, the presence of state and federal agencies is a factor of fundamental importance in the region's governmental setting.

The following are but a few of the numerous state and Federal agencies which have a role to play in comprehensive regional planning and/or plan implementation:

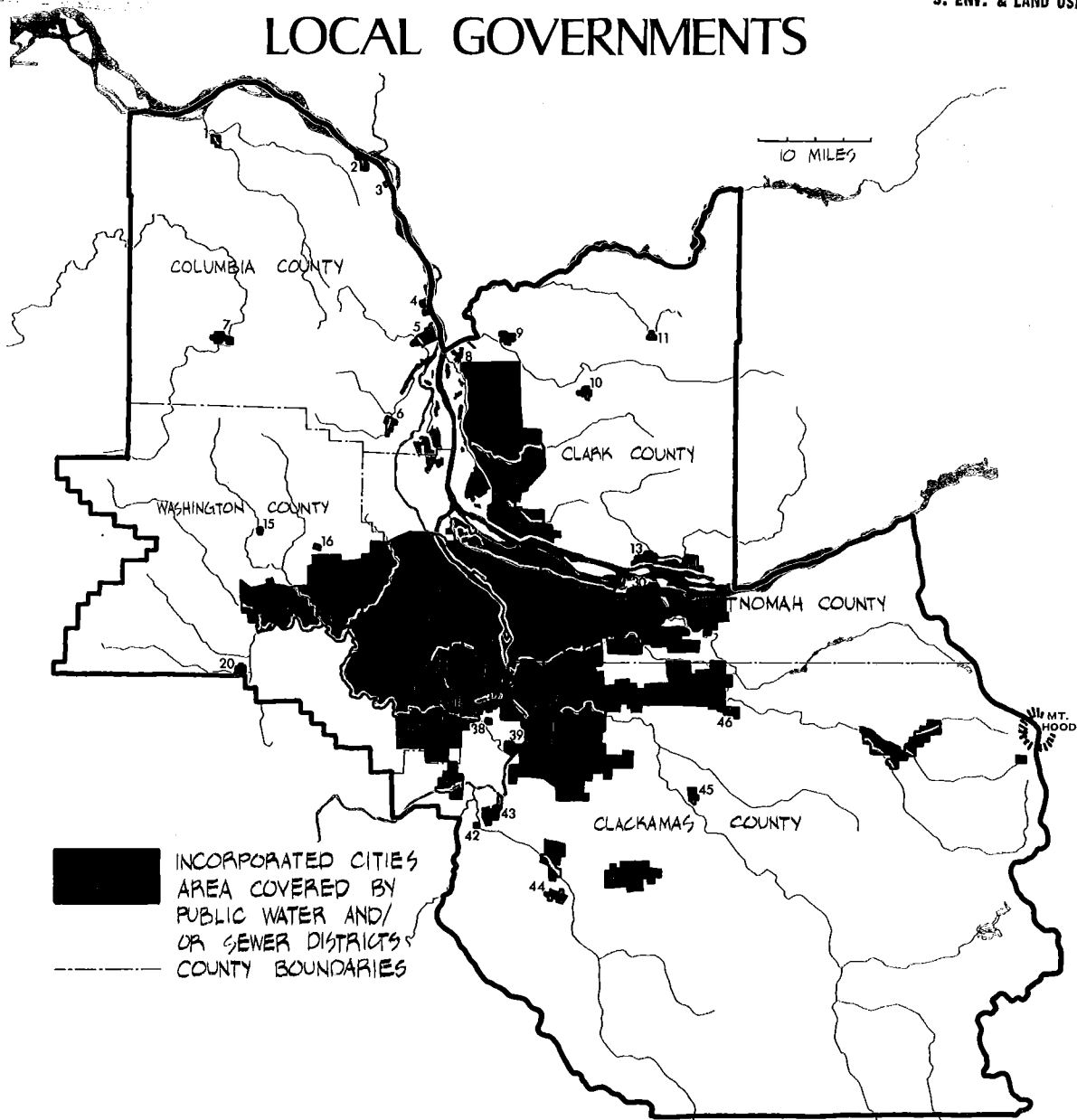
STATE AGENCIES

- Oregon State Highway Commission
 - State Highways
 - State Parks
 - Scenic Waterways
 - Willamette River Greenway Commission
- Washington Interagency Committee for Outdoor Recreation
- Department of Ecology, State of Washington
- Washington Department of Highways
- Oregon Environmental Quality Commission
- Oregon State Water Resources Board
- Oregon Department of Transportation
- Agriculture, forestry, fish & game -- Oregon and Washington
- Oregon and Washington State Legislatures
- Washington Planning & Community Affairs Agency

FEDERAL AGENCIES

- HUD - U.S. Department of Housing and Urban Development
- DOT - U.S. Department of Transportation
- EPA - U.S. Environmental Protection Agency
- BPA - Bonneville Power Administration
- U.S. Army Corps of Engineers
- BOR - Bureau of Outdoor Recreation
- BLM - Bureau of Land Management
- Pacific Northwest River Basins Commission
- U.S. Forest Service
- USDA - U.S. Department of Agriculture
- U.S. Department of Commerce
- HEW - U.S. Department of Health, Education & Welfare
- U.S. Congress

LOCAL GOVERNMENTS



INCORPORATED CITIES
 AREA COVERED BY PUBLIC WATER AND/OR SEWER DISTRICTS
 - - - - - COUNTY BOUNDARIES

COLUMBIA COUNTY

- 1 CLATSKANIE
- 2 RAINIER
- 3 PRESCOTT
- 4 COLUMBIA CITY
- 5 ST HELENS
- 6 SCAPPOOSE
- 7 VERNONIA

CLARK COUNTY

- 8 RIDGEFIELD
- 9 LA CENTER
- 10 BATTLEGROUND
- 11 YACOLT
- 12 VANCOUVER
- 13 CAMAS
- 14 WASHOUGAL

WASHINGTON COUNTY

- 15 BANKS
- 16 NORTH PLAINS
- 17 FOREST GROVE
- 18 CORNELIUS
- 19 HILLSBORO
- 20 GASTON
- 21 BEAVERTON
- 22 TIGARD
- 23 KING CITY
- 24 DURHAM
- 25 TUALATIN
- 26 SHERWOOD

MULTNOMAH COUNTY

- 27 PORTLAND
- 28 MAYWOOD PARK
- 29 FAIRVIEW
- 30 WOOD VILLAGE
- 31 TROUTDALE
- 32 GRESHAM

CLACKAMAS COUNTY

- 33 MILWAUKIE
- 34 HAPPY VALLEY
- 35 JOHNSON CITY
- 36 GLADSTONE
- 37 LAKE OSWEGO
- 38 RIVERGROVE
- 39 WEST LINN
- 40 OREGON CITY
- 41 WILSONVILLE
- 42 BARLOW
- 43 CANBY
- 44 MCALLA
- 45 ESTACADA
- 46 SANDY

SOURCES: CITIES, PMA/GBC, AND CLARK CO. P.U.D.

LOCAL HOME RULE

Authority, responsibility and financing of local government is established by state constitutions, statutes and charters. Multnomah and Washington Counties and all of the cities in the Oregon part of the CRAG area possess Home Rule powers. This means they can choose the powers and authority they wish to exercise, as long as they are not preempted by the state or federal government or contrary to general law.

We reject the remoteness and impersonality of big government, and cherish values associated with smaller units of government where it seems easier to "have our say". Yet it is increasingly obvious that we live in one metropolitan community, that what is done in one locality frequently affects other localities.

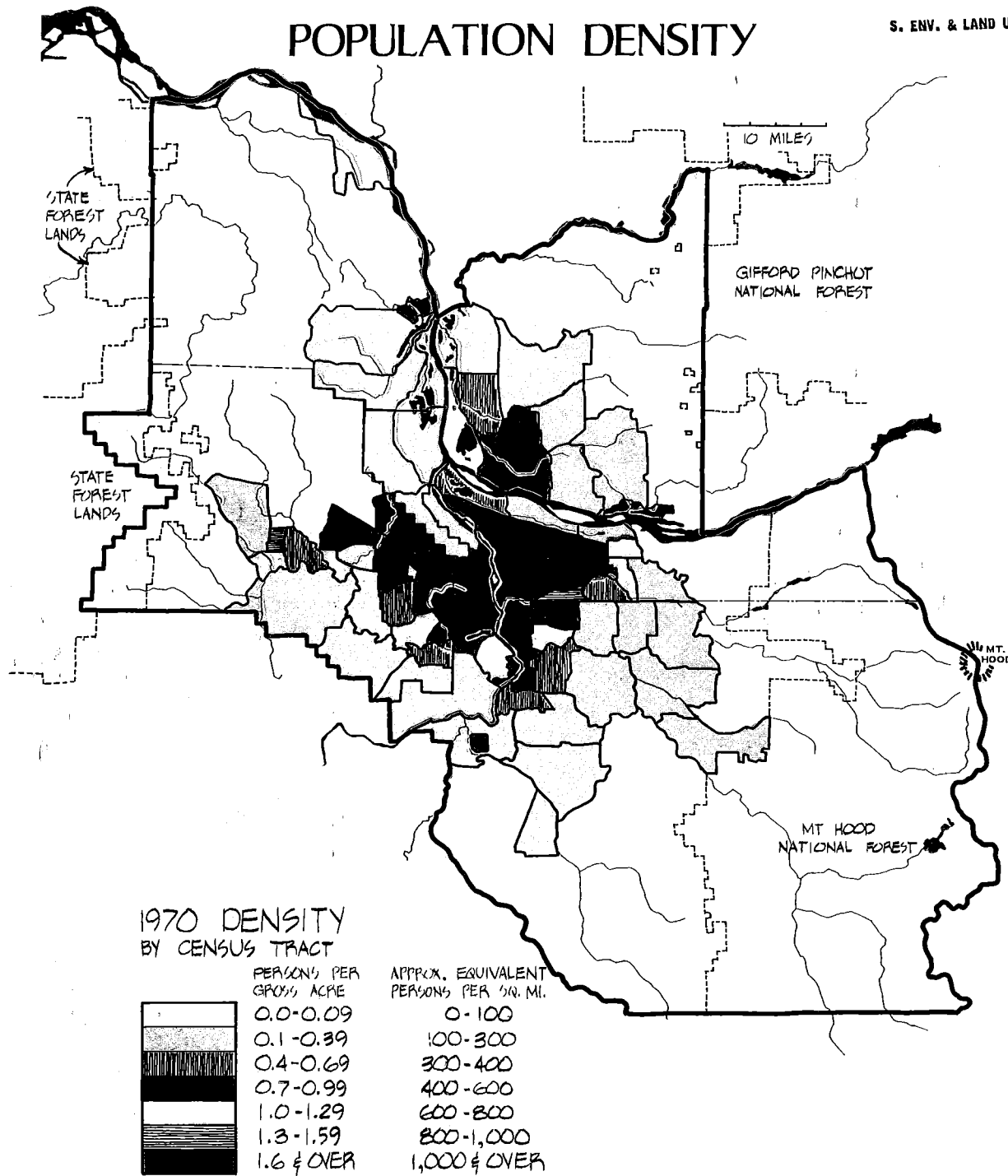
There is much overlapping of boundaries in our 375 units of local government, and boundaries are constantly changing. It is difficult to keep track of the number of appointed and elected officials given responsibility for them, let alone to assure communication and coordination.

Planning must try to meet both the needs of the people of each locality and overall regional needs. However, it is becoming increasingly clear that this will entail a more definitive concept of responsibilities at each level than has yet been worked out.

ANNEXATIONS

The boundaries of cities and special districts in the CRAG area are constantly changing in response to demands for more and more urban services in the "in-between" areas and around the urban fringe. To bring some logic and order to these changes the Oregon Legislature created the Portland Metropolitan Area Local Government Boundary Commission in 1969; in Washington a counterpart agency, the Clark County Boundary Review Board, was established in 1970 under Washington law by the Board of County Commissioners.

POPULATION DENSITY

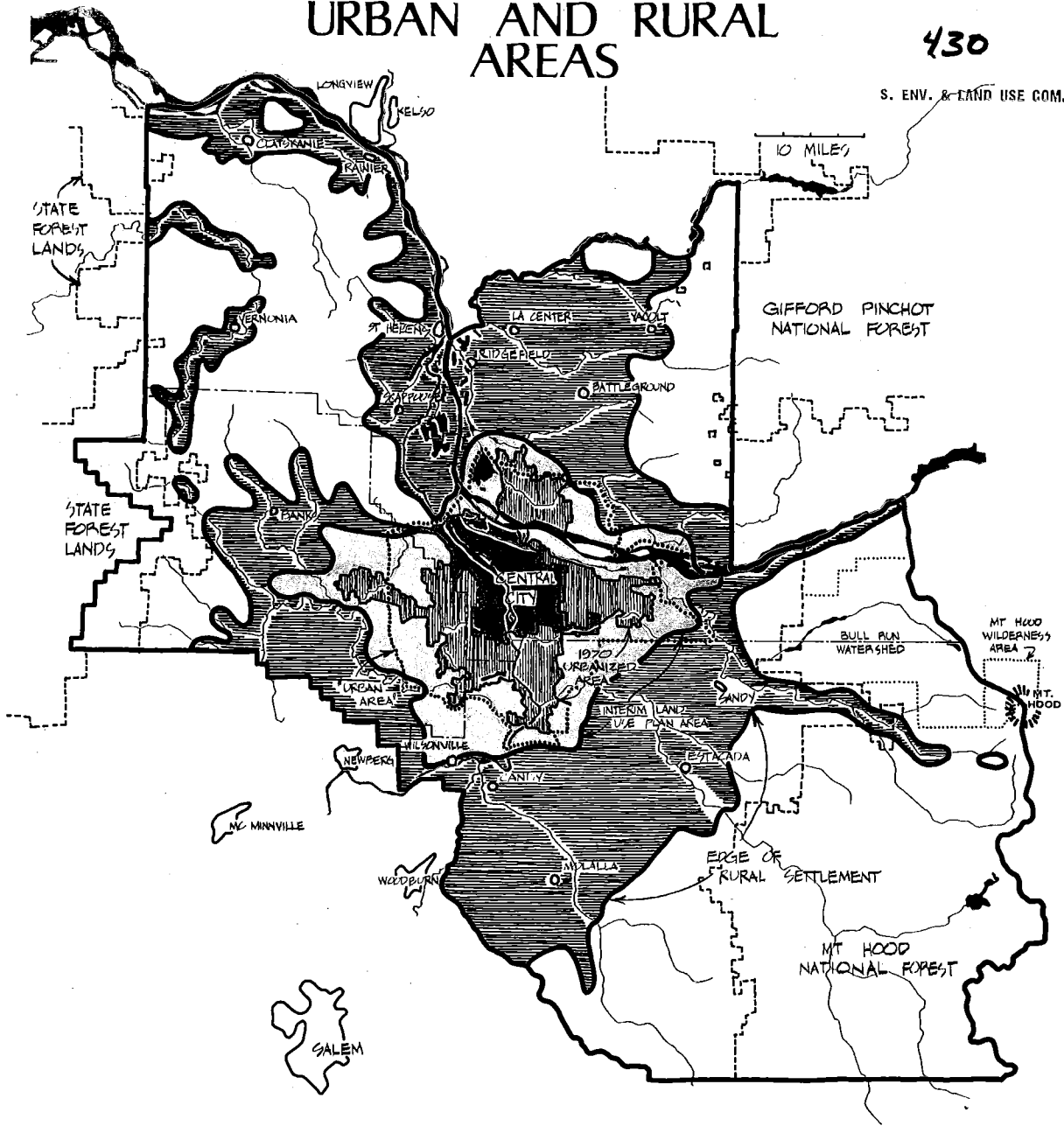






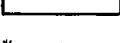
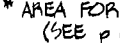
SOURCE: USDC:BC

URBAN AND RURAL AREAS

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S. ENV. & LAND USE COM.

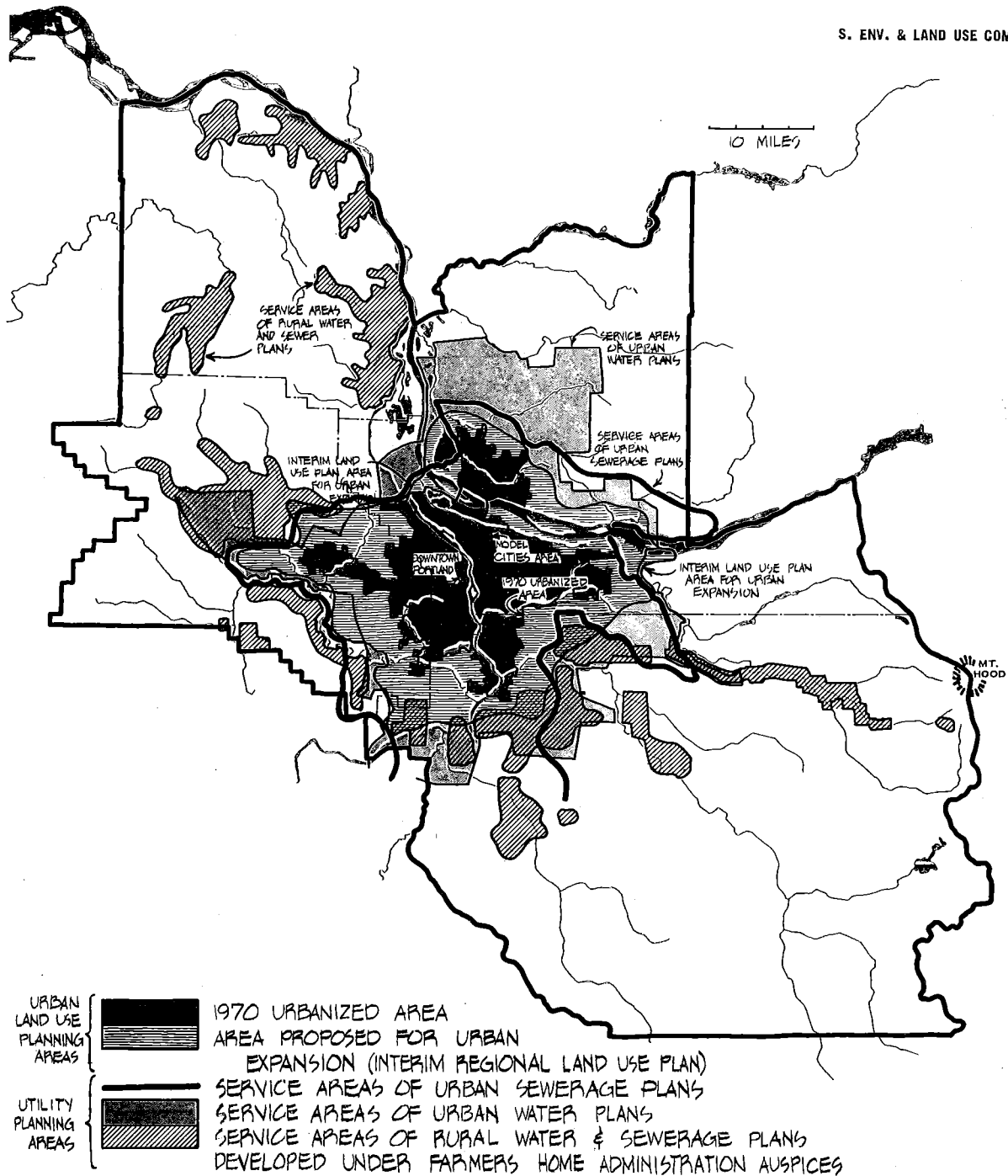


-  CENTRAL CITY (PORTLAND)
-  1970 URBANIZED AREA (U.S. CENSUS DEFINITION -- 1,000 PERSONS/SQ. MI. & OVER)
-  WHERE URBANIZATION PRESSES*
-  URBAN PLANNING AREA OF THE 1960's
-  RURAL SETTLEMENT
-  LARGELY UNINHABITED

* AREA FOR URBAN EXPANSION ON THE INTERIM REGIONAL LAND USE PLAN (SEE P 63 ff)

SOURCE: USDC:BC

WHERE PRESSURES FOR CHANGE ARE STRONG



I am Wanda Mays, 5451 S. W. 54th, Portland, Oregon, speaking in support of CRAG as the planning agency for administrative district number two. Last May the executive board of CRAG appointed an Action and Directions Committee of which I have served as Chairman. This committee was asked to give attention to the following issues:

What should CRAG'S role and function be?

How should it be financed?

What organizational pattern will be needed to allow CRAG to put into operation its functions and duties?

We were also asked to be ready to assist in preparing legislation if needed. The CRAG executive board accepted our report with a few minor revisions, and it was recently adopted by the General Assembly of CRAG. It is now in bill form (SB 169). This bill will do two things: 1. Make CRAG a decision making organization and 2. stabilize its financial structure.

CRAG'S central authority should be to review plans and implementation programs developed at any level of government - local, state and federal - that have been designated by the Executive Board as having significant regional impact on the region. Such designation would be made by a majority vote of the Executive Board on the basis of written justification and would be accompanied by specific criteria for review of plans and implementation programs. Review authority would include the right to approve, disapprove and modify plans and programs as they affect the region. In exercising this authority CRAG would carry out review of plans and programs, develop regional planning and aid constituent local governments in strengthening their planning.

The committee reached the decision that there is great need for planning done on a regional level because of the interdependence of the citizens in the region. There are no boundaries to most citizens.

Several areas of responsibilities were outline in our report:

Goal establishment - CRAG would establish broad regional goals and objectives for the entire CRAG region.

Fiscal policy - CRAG would prepare and advocate guidelines that will encourage fiscal policies that will compliment the regional comprehensive plan and aid its implementation.

Data gathering - CRAG will serve as the central depository and distribution center for data and would also be responsible for establishing guidelines for the collection and distribution of data significant to the region.

Plan preparation - upon adoption of regional goals and objectives, CRAG will prepare the regional comprehensive plan. CRAG will work closely with the local governments and state agencies who will be responsible for its implementation through detailed planning and action programs.

Priority setting - CRAG will develop criteria by which proposals will be evaluated to determine their compatibility.

Review of plan conformance - under the A-95 review process, CRAG has the responsibility of reviewing applications for federal money, to determine if the proposed project is compatible with regional plans. This review process will extend to any planning, improvement, or development project, without respect to funding source, that has been designated by the Executive Board as having significant regional impact on the region.

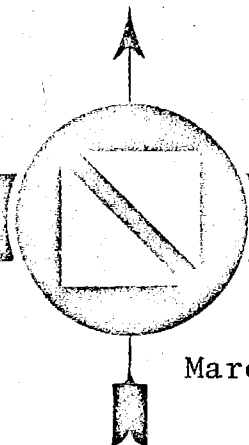
Citizen participation and procedure - Procedures which insure input in the process of plan formulation by local government and citizens will be established by CRAG.

The Action and Direction committee feels that local governments within the Portland metropolitan area have within their grasp the ability and leadership to give strong and decisive direction to the region's development in the coming years, direction based upon the desires of local citizens and their elected officials. It would be a step back to return to planning done by counties only in our area.

The proposed state land agency in SB100 and CRAG could work well together by allowing CRAG to be the planning agency for administrative district number two. We urge your support of this amendment.

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PORTLAND METROPOLITAN AREA LOCAL GOVERNMENT BOUNDARY COMMISSION

6400 S.W. CANYON COURT

PORTLAND, OREGON 97221

PHONE: 297-2237

March 8, 1973

STATEMENT OF THE PORTLAND METROPOLITAN AREA LOCAL GOVERNMENT
BOUNDARY COMMISSION ON REVISED S.B. 100

The Portland Metropolitan Area Local Government Boundary Commission supports the Revised S.B. 100 as it is now written with one exception. The Commission agrees wholeheartedly that the State of Oregon has a vital interest in providing the broad framework for guiding land use policy decisions in the entire state. The State has the responsibility to assure that local planning efforts conform to the policy guidelines established by the State. It is our feeling that the present bill is adequate to achieve these objectives.

The Boundary Commission's objection to the bill in its present form is that it does not fully provide a mechanism for guiding the growth and development of the state's largest urban area.

The provision in Section 19 of the Revised draft designating each county to be responsible "for coordinating all planning activities affecting land uses within the county, including those of the county, cities, special districts, and state agencies, to

STAFF:

DONALD E. CARLSON, Executive Officer
KENNETH S. MARTIN, Administrative Analyst
JEAN KRETZER, Secretary

COMMISSIONERS:

JERRY TIPPENS, Chairman
MRS. BROOKS GUNSUL, Vice Chairman
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RICHARD M. BROWN
DR. RONALD C. CEASE

ANTHONY N. FEDERICI
H. JOSEPH FERGUSON
MRS. CAROLYN GASSAWAY
LOUIS C. LAVACHEK
CAMPBELL RICHARDSON
DR. PAUL J. SLOMINSKI

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assure an integrated comprehensive plan for the entire area of the county", will not provide the tools necessary for the Portland metropolitan area to solve the tremendous growth and development problems that are common to the entire urban, urbanizing and rural areas. Also, the language in paragraph (2) of Section 19 allowing counties to voluntarily join together, falls way short of insuring the legal mechanism to undertake the necessary regional studies and adopt the needed regional land use policies to provide for the area's orderly and economical growth.

This opinion is formed after considering more than 500 boundary changes over a three and one-half year period. Many of the changes have involved development proposals which conflict with City and County Comprehensive Plans and zoning ordinances. In many instances the Boundary Commission has played mediator role in resolving these conflicts. It has become quite evident to the Boundary Commission that no one local agency has taken a look at the entire area and from this areawide point of view addressed itself to the question -- which lands do we want to preserve and which lands do we want to develop. Most of the cities and counties under the Commission's jurisdiction have undertaken planning and zoning programs at various points in time; but on the whole they are uncoordinated, overlapping and in some instances, conflicting.

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In order to solve these problems of land use control, the Boundary Commission requests that language be added to Section 19 to the effect that for the four-county Portland metropolitan area (Clackamas, Columbia, Multnomah and Washington counties), the agency responsible for carrying out the provisions of the Act be areawide in scope--possibly the Columbia Region Association of Governments; the regional agency referred to in a bill soon to be introduced (S.B. 769); or possibly the Metropolitan Service District.

The Boundary Commission feels that if S.B. 100 is passed in its present form, it will in one sense be a step backward. It will really be a denial of the existence of an interrelated urban community in the Portland area and it will be a reversal of the evolution of an areawide constituency in the Portland metropolitan area.

Since 1958 when the old Metropolitan Planning Commission was organized, there has been a recognition that there are needs which transcend local political boundaries. In 1967 the Metropolitan Planning Commission evolved into the Columbia Region Association of Governments. The principal effects of that change were (1) a broadening of the base of participation by the local entities--membership increased from 4 major local government units to its present number of 33 cities and five counties; and (2) grappling with regional planning issues through the review of Federal grant applications.

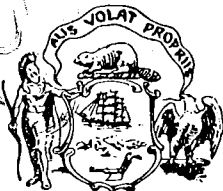
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Now it appears that another major evolutionary thrust is upon us in the Portland area since the CRAG organization on March 1 approved draft legislation which if enacted would change the nature of that organization from purely a voluntary agency to a statutorily created agency. The responsibilities of this evolved agency would be essentially what we are discussing here today--that is, it would be required to prepare a regional comprehensive plan and all local comprehensive plans would need to conform to the regional plan. It is our feeling that this particular process would fit very comfortably within the process of S.B. 100.

The Boundary Commission feels that S.B. 100 is truly a pioneering effort to establish a process to insure the livability of the State of Oregon. We support the effort but want you to know that in our judgment it is absolutely essential for the Portland metropolitan area to have a strong areawide planning effort if the objectives of S.B. 100 are to be realized.

##



COUNTY COMMISSIONERS
M. JAMES GLEASON, Chairman
DAN MOSEE
BEN PADROW
DONALD E. CLARK
MEL GORDON

Multnomah County Oregon

BOARD OF COUNTY COMMISSIONERS

(503) 248-3304 • ROOM 605, COUNTY COURT HOUSE • PORTLAND, OREGON • 97204

March 8, 1973

TESTIMONY RE AMENDMENTS TO SENATE BILL 100

Mr. Chairman, Members of the Committee, my name is Bud Kramer. I am here representing the Multnomah County Board of Commissioners.

The Board of County Commissioners favors the most recent Committee version of Senate Bill 100 wherein the 36 counties are designated as the agencies to carry out the statewide planning.

Two amendments have been proposed by representatives of the City of Portland. The first proposed amendment allows an elected Council of Governments to assume the planning review responsibilities, and Multnomah County agrees with that proposal.

The second proposed amendment exempts the City of Portland from county-wide review of comprehensive planning, and the Board of County Commissioners disagrees with that proposal.

A measure now before the Legislature for consideration is to reduce the number of county governments from 36 to 9. If there is any merit to

that concept, certainly increasing the number of regional planning units from 36 to 37 has none.

The City of Portland has in recent years by actions of the City Council and the voters of the City shown its confidence in Multnomah County and the Board of County Commissioners. The Council by contract gave to the County the duties and responsibility for the public health care of its citizens. The City Council by contract gave to the County the authority to supervise a joint Data Processing facility. The voters of the City of Portland, at the urging of the City Council, abolished the municipal courts and City authority over jails and gave those responsibilities and duties to the District Court and Multnomah County. We believe this same confidence should be displayed by the City of Portland in accepting countywide review of comprehensive land use planning for our area.

If the Committee is not aware it should be that Commissioner Lloyd Anderson, City of Portland, was Multnomah County's first planning director and under his guidance established a strong planning agency. That agency has continued to grow and has the full support of all members of the Board of County Commissioners.

The Board of County Commissioners has no intention of usurping the duties and responsibilities of the City Council or the City Planning Commission in so far as they feel these to be purely local functions but in matters of statewide concern, the Board of County Commissioners believes a single

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policy in Multnomah County is far superior to a division within the county of the overall planning function.

-End-

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STATEMENT OF GORDON FULTZ
EXECUTIVE ASSISTANT, ASSOCIATION OF OREGON COUNTIES,
before the
SENATE ENVIRONMENT AND LAND USE COMMITTEE
March 8, 1973

SENATE BILL 100

Mr. Chairman, members of the committee:

My name is Gordon Fultz and I represent the Association of Oregon Counties.

Our Legislative Committee has carefully reviewed the redraft of Senate Bill 100 and consider it to be a workable solution to coordinated land use planning, and therefore, offer our support in the passage of this important legislation. In supporting this rewritten proposal, we find merit in keeping with local government the land use decisions which are best and most logically made at the local level. We also feel that this proposal allows local governments to continue the planning efforts and activities already in process. We endorse the concept and the need for coordination of federal, state and local planning efforts so as to prevent disorderly and confused growth. We visualize the Land Conservation and Development Department and Commission to be the coordinating agent which can insure that local and state planning efforts consider the major goals set forth for land conservation and development and are not duplicative and uncoordinated.

We are impressed with the local and state public input program which is called for in the redraft. It should guarantee adequate involvement of the Oregon citizenry in this most important aspect

of land use. We feel that this new proposal establishes a framework and procedure for an effective state-local relationship to develop comprehensive plans and ultimately to become the state comprehensive plan with built in control over those activities, which by their very nature, have a significant impact upon land use.

We feel that counties are prepared to accept the responsibility of being the planning units of the state responsible for the coordination and preparation of comprehensive plans within each county. We recognize, however, that all problems do not contain themselves within arbitrary county boundaries and therefore we strongly support the provision in the redraft which allows counties to voluntarily join together through intergovernmental agreements.

We agree with the need to set forth in legislation those areas within the state that should be given first or priority consideration in the comprehensive planning process. That function, coupled with citizen input and state goals, should truly insure the resulting comprehensive plan represents citizen consensus.

We also support the function of the Land Conservation and Development Commission to settle differences which result in the preparation and implementation of comprehensive plans as they relate to state goals.

We are grateful to this committee and the people who have been involved in the redraft for their understanding of the need to

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insure that this legislation is accompanied by an adequate funding proposal. We accept the funding proposal which is to accompany this legislation and which will provide local government with the necessary financial and staff assistance, provided through the Land Conservation and Development Department, to prepare useful and meaningful comprehensive plans. Many local governments do not have adequate financing to employ the talent necessary for adequate study and consideration of the land within their jurisdiction. Adequate funding, as recommended by this committee, should assist greatly to achieve that goal.

The Association of Oregon Counties stands ready to assist this committee and others in the passage of this important piece of land use legislation and the accompanying legislation which will provide adequate financing in the development of local and state comprehensive land use planning.



REVISED S. B. 100

Page 6

Section 11

(1) Establish State-wide planning goals consistent with regional, (and) County and City concerns.

ADD

Page 14

Section 27

(5)

(last sentence)--"Action shall be taken by the Commission within 30 days of the receipt of the recommendation of the county and state agencies". Add: If no action is taken within 30 days, then the action of the governing body is approved.

Page 16

Section 34

(1) "Consider the existing comprehensive plans of state agencies, cities, counties and special districts in order to preserve functional and local aspects of land conservation and development," add: As well as the economic impact caused by any changes in existing comprehensive plans.

Page 19

Section 40 "Comprehensive plans and zoning subdivision, and other ordinances and regulations adopted prior to the effective date of this Act shall remain in effect until revised, if necessary, under this act."

Insert: No revision shall be made in such existing comprehensive plans and zoning, subdivision, and other ordinances and regulations, if such revision would adversely affect the economic stability of the affected county, city, or zoning district. "It is intended that existing planning efforts and activities shall continue and that such efforts be utilized in achieving the purposes of this act."

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Clackamas
County

STATEMENT PREPARED TO BE GIVEN TO THE
OREGON STATE SENATE ENVIRONMENT
AND LAND USE COMMITTEE ON MARCH 8, 1973

S. ENV. & LAND USE COM.

Citizens Association P.O. Box 701, Oregon City, Oregon 97045

Mr. Chairman, Committee Members and Ladies and Gentlemen:

I'm Walter F. Brown, 2104 S. W. Wembley Park Road, Lake Oswego. At present I'm on the faculty of the Northwestern School of Law, Lewis and Clark College. Professionally, I have served as an adviser to the Oregon State Bar's Real Property Committee and am presently vice-chairman of the American Bar Association's Environmental Law Committee.

My testimony is on behalf of the Clackamas County Citizen's Association, Box 701, Oregon City 97045, of which I'm President. The CCCA is a non-partisan organization founded in 1971. Our membership currently numbers about 100 members.

We have 5 points to briefly make.

First, we strongly support Revised Senate Bill 100 and urge that each of you favorably vote to recommend its passage by your fellow Senators. We believe that there is an increasingly pressing need for the people of Oregon, through their state legislature and such agencies as the legislature may create, to take an active role -- if not the leading role -- in intelligently planning and vigorously enforcing proper land use within the state. To paraphrase an apt adage from two hundred years ago:

"Gentlemen, either we will plan together or most assuredly we will be subdivided separately."

Second, we propose one technical amendment to Revised SB 100. Section 41 provides, in part, that

"Prior to approval by the commission of its state-wide planning goals and guidelines . . . , the goals listed in ORS 215.515 shall be used . . . in the preparation . . . of any comprehensive plan."

Section 51(1) provides, in part, that

" . . . the commission shall review upon: . . . (d) Petition by any affected person or group of persons, a comprehensive plan . . . alleged to be in violation of . . . interim goals specified in ORS 215.515."

We propose that Section 11(5) be amended to read:

" . . . review comprehensive plans for conformance with state-wide planning goals or interim goals specified in ORS 215.515."
(Underlined words added.)

Third, we urge that at least some "areas of critical state concern" should be specifically designated now -- in 1973 -- by the State Legislature, particularly those relating to significant rivers. Rather than waiting for the Commission's recommendation, we propose the following modest amendments:

(a) That Part III be amended to read:

"PART III ACTIVITIES OF STATE-WIDE SIGNIFICANT AND AREAS OF CRITICAL STATE CONCERN"

(b) That the following subsection be added to Section 25:

"(3) The following geographic areas in this state are designated as areas of critical state concern:

- (a) Any scenic waterway designated as such in accordance with ORS 390.805 to 390.925, including any related adjacent land.
- (b) Any waterway in this state designated as a wild and scenic river pursuant to the federal Wild and Scenic Rivers Act, Public Law 90-542, including any adjacent lands regulated thereunder.
- (c) The Willamette River and all lands which are eligible for public acquisition with Willamette Greenway funds.
- (d) That portion of the Clackamas River and the adjacent lands described in the Clackamas County Natural Rivers Measure of November 7, 1972."

I might note that this measure has the overwhelming support of the voters, having been passed 56,347 to 14,330.

(c) That Section 34(2) be amended to read:

"(a) Those activities and areas listed in section 25 of this Act;" (Underlined words added.)

(d) That Section 34(2) (h) be deleted and that (i), (j) and (k) be redesignated (h), (i) and (j).

Fourth, we are generally in accord with the phrase "affected person or group of persons" which is found in Section 51, the first section under "PART VI APPEALS." However, we do propose the following two technical amendments:

(a) The words "or group of persons" can be deleted as unnecessary. Certainly, if one "affected person" can petition, a "group of persons" can do so.

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(b) The phrase "affected person" should more properly be "person affected." The phrase "affected person" has no established meaning in the law whereas the phrase "person affected" has a clear meaning in the law. For example, in Continental Baking Co. v. City of Charlottesville, 202 Va. 798, 120 S.E.2d 476 (1961), an annexation case which interpreted a state statute giving standing to "persons affected," the Supreme Court of Appeals of Virginia held:

"The statute neither expressly nor impliedly limits the right to appear and to be made parties to persons who have special interests in the proceedings beyond the interests of others in the city or in the remainder of the county. Its language is that any persons affected by the proceedings have the right to appear and defend. To hold that persons affected are only such persons as are affected in a special and different way from others in their area is to add a material provision to the statute rather than to give effect to it as written. It would deny to all who live in the city and to all who live in the remainder of the county any opportunity to come into the proceeding and oppose the annexation unless they could show a special interest different from the interests of other residents in those areas. The result could be that unless there were persons in those areas who had special interests (whatever might constitute such a class) and who wanted to come in and defend, there could be no defense to annexation by any resident of the city or by any resident of the remainder of the county, and those residents would have to accept whatever positions the city and county officials might take in the proceeding. There seems little doubt that the legislature did not intend such result, and less doubt that the statute as written does not require such result." (200 Va. at _____, 120 S.E.2d at 479-80)

Fifth, our association strongly supports the several amendments proposed by Martin P. Davis on behalf of the Oregon Environmental Council.

In closing, on behalf of the Clackamas County Citizens Association I want to thank Senators Hallock and MacPherson for drafting and sponsoring the initial bill, to thank the Special Task Force members for drafting this compromise bill, and thank all of the members of this committee for your careful attention to the public witnesses at this and past sessions. Justice Lewis F. Powell, Jr., of the United States Supreme Court -- with whom I do not always agree -- recently said (and I share his sentiments):

"The overwhelming concern . . . of a large segment of our people often seems to be a highly individualized self-interest"

You have and will hear from the most vocal of this segment. These people unfortunately fail to realize -- using nautical terms -- that we're all shipmates on the good ship Earth. There are rough seas ahead and if we are to sail on safely and comfortably then plan we must. Senate Bill 100, we respectfully submit, is an excellent start. Thank you.

League of Women Voters of Oregon
495 State Street
Salem, Oregon 97301

March 8, 1973 449

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Statement in Support of Revised SB100
before Senate Environment & Land Use Committee

I am Dorothy Anderson, legislative chairman of the League of Women Voters of Oregon. The League should like to express its support of the February 27th Revised SB100. It is not the land use legislation the League would most like to have, but we do see it as a forward step. In weighing the good points of this revised bill, we believe that its enactment would be far preferable to no legislation at all and that it has some points to strongly recommend its adoption.

- (1) It does provide for the establishment of guidelines for comprehensive planning.
- (2) It does provide for the coordination of the activities of state agencies with each other and with local government.
- (3) It does have much stronger and more specific provision for citizen involvement at all stages of the planning process than either exists now or was included in the original SB100.

The League is disappointed that the district councils were omitted from the bill. The need for regional planning is obvious, but present county boundaries hardly result in counties as the logical jurisdictions to serve this function. And in too many instances Leagues have found their county governments to be the most reluctant to concern themselves with the myriad problems of planning, development and urban-type growth.

We also should prefer to see more immediate and specific state attention given to critical areas, especially the rivers, coast and estuaries. However, we are pleased that the Revised SB100 now does at least direct the Commission to prepare model ordinances and regulations for these areas and permits the Commission to recommend to the legislative committee designated areas and state regulations for them.

We also shall be interested in the definition of "affected person" on page 26. Actually, every resident of the area a comprehensive plan covers is "affected". We recognize the problem of unnecessary harassment, but hope that the definition will be broad enough to include citizens or citizen groups who may not have a direct financial interest but rather a continuing concern with the development and livability of their area.

The League of Women Voters does consider this to be important legislation and therefore would hope that your committee will take early and favorable action on Revised SB100.

March 8, 1973. Senate Environment and Land Use Committee

S. ENV. & LAND USE COM.

Testimony in favor of enactment of Senate Bill 100, revised
Presented by Joyce Cohen, 2680 S. W. Glen Eagles Rd., Lake Oswego
Representing Tri County New Politics: Land Use Task Force

Tri County New Politics believes that good land use planning is essential if Oregon is going to have both rapid growth and a liveable environment in the years to come. This planning should be on the local level, with broadly representative citizen input, and coordinated by an overall state plan. We feel that this bill must be passed so that the land use planning process can be well established before uncontrolled urban growth puts irreversable pressures on our land that would leave little or no room for parks and green space. We realize land use planning requirements add just one more economic pressure to an already inflation plagued building industry. However, uncontrolled and irresponsible development puts an even greater financial burden on the community that must face the consequences of it. We feel that good land use planning is in the interest of all Oregonians.

Senate Bill 100, as revised, can and should address itself to orderly growth and the preservation of Oregon's natural beauty and resources. This can be achieved by development of criteria with which to designate and recommend areas of critical state concern, as stated in Section 11, Subsection 9 and Section 26, Subsection 2.

TCNP would commend the committee for its inclusion of procedures providing for meaningful citizen involvement during the planning process in Sections 11 and 35. We believe that this will increase acceptance of SB 100 throughout the state, strengthen democratic participation in local government, and lead to increased public awareness and understanding of the land use planning process. It should assure the citizens of Oregon an active role in making the decisions of land use planning which must take place within their area.

We support the addition of the planning and siting of public schools to the activities of state-wide significance in Section 25. The evidence is ample that there is a need for the Commission to grant permits in this regard. In the Hubbard area, for example, an airport facility was built directly adjacent to an elementary school. Surely good land use planning guidelines would have avoided this. It is also generally felt that the siting of schools has a direct impact on surrounding land use development patterns--much the same as the planning and siting of public transportation facilities, sewerage systems, and energy generation and transmission facilities.

TCNP would encourage the committee, when considering the appeals section, Page 26, Subsection (d), to consider language which would allow person or persons within a county or jurisdiction to be considered as affected, rather than any further limiting as to injured person. A narrow interpretation is an effective way to limit the actions of average citizens who do not have funds with which to pay attorney's fees.

March 8, 1973

Page 2 451

Tri County New Politics Testimony on Land Use Planning

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In order to assure compliance during the interim period, we support the following additions to Section 11, Subsection (5).


- (5) Review comprehensive plans for conformance with statewide planning goals; or interim goals specified in ORS 215.515.

The above language in Section 11 would then apply to Part V COMPREHENSIVE PLANS, Section 41, Page 19.

"Section 41. Prior to approval by the commission of its statewide planning goals and guidelines under section 37 of this Act, the goals listed in ORS 215.515 shall be used by state agencies, cities, counties and special districts in the preparation, revision, adoption or implementation of any comprehensive plan."

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 *Carol M. Sullivan*
STATEMENT BY ~~Carol M. Sullivan~~ REPRESENTING *the Oregon Division of the*
IZAAK WALTON LEAGUE OF AMERICA
CONCERNING REVISED SB 100, BEFORE ENVIRONMENT AND LAND USE COMMITTEE
MARCH 8, 1973

THE IZAAK WALTON LEAGUE OF AMERICA STRONGLY SUPPORTS LAND USE PLANNING AND ZONING CONTROLS. IF THE HIGH QUALITY LIVABILITY IN OREGON IS TO BE SAFEGUARDED FOR OURSELVES, OUR CHILDREN AND GRANDCHILDREN, IMMEDIATE AND COMPREHENSIVE ACTION IS ESSENTIAL. WE MUST ENSURE THAT THE USE AND DEVELOPMENT OF ALL LAND AND NATURAL RESOURCES IS HARMONIOUS WITH THE CARRYING CAPACITY OF THE ENVIRONMENT--WITH FUNDAMENTAL NATURAL LAWS.

WE ARE CONVINCED THAT SUFFICIENTLY COMPREHENSIVE, COORDINATED, AND FARSIGHTED LAND USE PLANNING AND ZONING CONTROLS WILL NOT HAPPEN WITHOUT GOVERNMENTAL GUIDANCE. WE ARE EQUALLY CONVINCED THAT THEY WILL NOT HAPPEN IF GUIDANCE IS LEFT EXCLUSIVELY TO COUNTIES, CITIES, AND OTHER LOCAL JURISDICTIONS. STRONG STATE GOVERNMENT CONTROL AND COORDINATION OF MATTERS OF STATEWIDE AND INTERSTATE SIGNIFICANCE AND SUB-STATE REGIONAL GOVERNMENTAL COORDINATION AND CONTROL OF MATTERS OF REGIONAL AND INTER-REGIONAL SIGNIFICANCE ARE ESSENTIAL.

THE CHANCES FOR ENACTMENT OF A NATIONAL LAND USE POLICY BILL IN 1973 OR 1974 APPEAR VERY FAVORABLE. THE IZAAK WALTON LEAGUE NATIONALLY SUPPORTED S.632 WHICH PASSED THE U.S. SENATE LAST SEPTEMBER, BY A VOTE OF 60 TO 18. BOTH SENATOR JACKSON AND THE ADMINISTRATION HAVE INTRODUCED AND ARE SUPPORTING SIMILAR LEGISLATION THIS YEAR. FAVORABLE ACTION BY THE HOUSE APPEARS MUCH MORE LIKELY THAN IN 1972. THE FEDERAL

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S. ENV. & LAND USE COM.

LEGISLATION WOULD PROVIDE FINANCIAL INCENTIVES FOR EFFECTIVE LAND USE PLANNING AND CONTROL AT STATE, REGIONAL, AND LOCAL LEVELS. IT MAY ALSO PROVIDE PENALTIES FOR FAILURE TO IMPLEMENT SUCH CONTROLS IN A TIMELY FASHION. OUR VIEW IS THAT FEDERAL PENALTIES WOULD BE USEFUL. THE PROBABILITY OF THE FEDERAL LEGISLATION ADDS TO THE URGENCY FOR A COMPATIBLE LAND USE PLANNING AND ZONING LAW IN OREGON.

WE IN THE Oregon Division BELIEVE THE REVISED SB 100 IS A GENERALLY SATISFACTORY BILL AND A MUCH NEEDED IMPROVEMENT OVER THE PIONEER SB 10 ENACTED ABOUT 4 YEARS AGO. WE BELIEVE THAT PLANNING THAT ACHIEVES A HIGH QUALITY ENVIRONMENT OVER THE LONG RUN WILL ALSO PROMOTE A HEALTHY AND PROSPEROUS ECONOMY. WE AGREE WITH MOST OF THE PROVISIONS IN THE REVISED BILL BUT ALSO HAVE A FEW SUGGESTIONS BEFORE THE BILL IS FORMALLY CONSIDERED BY YOUR COMMITTEE.

1. POSSIBLY THE TASK ASSIGNED TO THE COMMISSION WHICH WOULD HAVE THE GREATEST LONG TERM SIGNIFICANCE IS THE ESTABLISHMENT OF STATEWIDE PLANNING GOALS (SECTION 11 [1]). WE SUGGEST THAT THIS SUBSECTION (OR SECTION 34) SPECIFY THAT THE GOALS BE "COMPREHENSIVE"--TO MATCH THE DEFINITION OF "COMPREHENSIVE PLAN" IN SECTION 3. ALSO WE SUGGEST THAT SECTION 11 (1) OR SECTION 34 SPECIFY THAT PLANNING GOALS SHOULD BE GEARED TO BOTH SHORT RANGE AND LONG RANGE (TO THE YEAR 2000 AND BEYOND) NEEDS.

2. LAND USE PLANNING GOALS AND IMPLEMENTATION PLANS, STATEWIDE, REGIONAL, OR LOCAL, ARE INEXTRICABLY INTERRELATED WITH SIMILAR GOALS AND PLANS FOR ECONOMIC DEVELOPMENT, FOR ENVIRONMENTAL QUALITY, FOR

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S. ENV. & LAND USE COM.

AND FOR OTHER MAJOR ACTIVITIES.
ENERGY, FOR POPULATION GROWTH, / ALSO GOALS AND IMPLEMENTATION
PLANS, IF PROPERLY CONCEIVED, ARE A CONTINUOUSLY EVOLVING PROCESS.
WE SUGGEST THAT THE BILL SHOULD EXPLICITLY RECOGNIZE BOTH THE INTER-
RELATIONSHIPS AND THE CONTINUING NATURE OF GOAL SETTING AND IMPLEMENTATION
PLANS IN SECTION 11, SECTION 34, OR ELSEWHERE.

3. SINCE ABOUT 52% OF THE LAND IN OREGON IS MANAGED BY AGENCIES
OF THE FEDERAL GOVERNMENT, WE SUGGEST THAT COORDINATION WITH PLANNING
EFFORTS OF FEDERAL AGENCIES BE ONE OF THE EXPLICIT MANDATORY FUNCTIONS
ASSIGNED TO THE COMMISSION UNDER SECTION 11. WE QUESTION THAT SUCH
COORDINATION SHOULD BE THE EXCLUSIVE PROVINCE OF THE DIRECTOR OF THE
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT AS PROVIDED IN
SECTION 14. (MAJOR PUBLIC POLICY ISSUES ARE BOUND TO ARISE WHICH
SHOULD HAVE THE BENEFIT OF PUBLIC HEARINGS, AFTER WHICH A STATE POSITION
SHOULD BE DETERMINED BY THE COMMISSION.)

4. COUNTIES AND CITIES ARE FAR FROM IDEAL COMPREHENSIVE LONG
RANGE PLANNING UNITS. THEIR BOUNDARIES WERE NOT ESTABLISHED FOR SUCH A
PURPOSE AND THEY ARE OUTMODED. THE PRESENT COUNTY STRUCTURE HAS A
BUILT-IN BIAS AGAINST ITEMS OF STATEWIDE OR REGIONAL SIGNIFICANCE.
COMBINATIONS OF TWO OR MORE COUNTIES INTO REGIONAL PLANNING ENTITIES
MAKES MUCH MORE SENSE. HOWEVER, WE AGREE WITH THE PRINCIPLE THAT
SUCH COMBINATIONS SHOULD BE APPROVED BY POPULAR VOTE OF THE RESIDENTS
IN THE AREAS CONCERNED. TO PROVIDE EXTRA INCENTIVES AND ENCOURAGE
PROMPT ACTION WE URGE YOU TO INCLUDE IN THIS BILL (SECTION 18), OR IN
APPROPRIATION BILLS, BONUS MATCHING FUNDS FOR COUNTIES THAT COMBINE
TO CREATE PROPERLY AUTHORIZED AND FUNDED REGIONAL PLANNING ENTITIES.

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March 6, 1973

SENATE BILL 100

PROPOSED AMENDMENT:

- A. The following geographic areas in this State are designated as areas of critical state concern.
1. All estuaries and associated tide marsh wetlands including the land extending 200 feet on a horizontal plane from the mean high tide mark as located by reference to the tidal bench mark date prepared by the U. S. Coast and Geodetic Survey.
 2. All sand spits and sand dune areas within the coastal zone.
 3. All lakes located in the coastal zone over 20 acres in surface area including the land extending 200 feet on a horizontal plane from the mean high water level.
 4. All land situated within 1000 feet from the right of way boundaries of highway U. S. 26 extending from Alder Creek to Government Camp.
- B. Not later than six months following the effective date of this Act the commission shall prepare regulations to be applied by state agencies, cities, counties and special districts in planning for, regulating, reviewing and passing upon development proposals to be carried out within the areas of critical state concern.

MPD:jai

STATEMENT ON REVISED SENATE BILL 100
by the Fish Commission of Oregon

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S. ENV. & LAND USE COM.

The Fish Commission strongly supports the concept of revised Senate Bill 100 as recommended by the Special Task Force. The Bill is complex and we have not had the time we need to thoroughly digest the revised form. Even though we may uncover some aspects of the Bill which we consider undesirable, the overall benefits and urgency to lend support override any reservations on our part.

It is not overstatement to say that responsible land use planning is a must if Oregon's quality fish resources are to be maintained. Anadromous, freshwater, and marine fish all require natural, unspoiled habitat in which to reproduce and grow. There is ample evidence from biological studies to show that man's modification of shorelines is one of the surest and most permanent ways to rid a stream of fish or an estuary of shellfish. Wall-to-wall buildings, docks, revetments, dikes, sewer outfalls and roads lining our rivers, lakes, estuaries and beaches can eventually eliminate wild fish production as well as the esthetic and recreational enjoyment of water.

Another sure way to eliminate fish is to dewater streams. Some of our coastal streams are well on the road toward being seasonally dewatered. The problem is uncontrolled growth in areas where developers' plans have exceeded water supply. In the Sandy system, we recently had to reduce production at one of our hatcheries by 50 percent in the summer because the stream was being depleted by increased water use associated with uncontrolled development of homes. Unless this is changed, the hatchery may have to be phased out. Relocation or replacement of this facility would cost at least a million dollars. This same fate confronts some of our other hatcheries in the future under present conditions.

In short, our agency is convinced of the need for effective land use planning laws. Revised Senate Bill 100 appears to be a reasonable compromise between strong state and strong local control of the planning endeavor. Uniformity in planning at the local level would be obtained through development of statewide goals and guidelines by the Land Conservation and Development Commission. The need is urgent for action this session. Even then, implementation of plans will require three or more years. Delay to the next session would increase this to at least five years. If the present Bill is found to be somehow deficient, it can be corrected later. We urge your Committee to act favorably on this Bill.

Fish Commission of Oregon
March 8, 1973

LEAGUE of WOMEN VOTERS of PORTLAND

308 SENATOR BUILDING . . . TELEPHONE 228-1675

PORTLAND, OREGON 97204

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S. ENV. & LAND USE COM.



Affiliated with the
League of Women Voters of the United States

March 9, 1973

Senator Ted Hallock
Oregon Legislative Assembly
State Capitol
Salem, Oregon, 97310

Dear Senator Hallock:

Our members are very concerned about the sections of SB 100 designating that counties handle the coordination of planning. We have worked long and hard since 1956 to provide for regional coordination of services in the Portland metropolitan area. I have talked to many League members here about this and they are strongly opposed to regressing to the present provisions in Section 19 of redrafted SB 100 which would allow only that each county be responsible for coordinating planning activities. We feel that encouraging this setup in this metropolitan area directly contradicts the stated purpose in Section 1 (1) of SB 100 which reads: "Uncoordinated use of lands within this state threaten the orderly development, the environment of this state and the health, safety, order, convenience, prosperity and welfare of the people of this state."

We are quite aware of resistance to regionalism in other areas of the state. But it is our feeling that this area is ready for it. There is strong evidence for this in the CRAG general assembly which on March 1 voted to ask the legislature to give CRAG better control of planning in this area.

We ask that the Senate Environment and Land Use Committee amend the bill to allow that a regional agency coordinate all planning activities in this metropolitan area. We vehemently oppose any legislation which would undo our work of so many years.

Let me say at this point that we are very much in support of the concept of state land use planning and we feel that redrafted SB 100 is acceptable in the main. However, I reiterate that we see some real problems with Section 19 as it reads today. If the bill comes out of committee without changes in that section, I am afraid our members will be lukewarm toward SB 100.

Our members are your own constituents. Please take their request into consideration.

Sincerely,
LEAGUE OF WOMEN VOTERS OF PORTLAND

Jane Cease
Jane Cease
President

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S. ENV. & LAND USE COM.

BRUCE STARKER
FORESTER
7240 S.W. PHILOMATH BLVD.
TELEPHONE 929-3877
CORVALLIS, OREGON 97330

March 9, 1973

Senators: ✓Hallock, Burns, Atiyeh, Macpherson, Hoyt, Ingalls (Representative)

Counsel: Toran & Brauner

Messrs: Armstrong, Brice

Gentlemen:

I am reading Revised SB 100 draft of 2/27/73 with considerable fear and trepidation.

It is highly "enabling" with few specifics, controls, safeguards, or much provision for review. It is largely at this stage a "pig-in-a-poke." I think there is too much centralized authority and not much indication of direction, or methods, or what kind of people might be selected to do the job. In contrast, Maine's 1970 Veto Law covers three specific areas with criteria for the veto. See enclosed sheet.

So far there is no protection built into SB 100 to protect the taxpayer--the fellow who pays the bill. The landowners or the developers who provide the facilities to serve Oregon's citizens could be frozen with nothing perhaps but a constitutional question on the legislation between them and continued activity. There is no machinery set up to consider landowners rights or interests or to compensate them for damages. In contrast, Maine's law provides a fund.

Many terms are undefined.

Goals and guidelines are unstated.

No qualifications are set for personnel.

Neither is there provision for legislative review.

I submit the attached partial list of specific recommended changes. I hope you share my view that you would need to be furnished such specifics before you could be in a position to defend a DO PASS recommendation.

Very truly yours,



Bruce Starker

jm

Enclosure

cc: Jim Allison
Howard Fugii

Jack Seabold
Dan O'Conner

Don Swift

STARKER'S SPECIFICS ON SB 100

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S. ENV. & LAND USE COM.

SECTION 1 (5): Siting permits are unnecessary since permits by a state agency would merely duplicate those required by a local agency. As presently written, siting provisions are unnecessarily broad requiring, I think, a taxi stand or a boat ramp to have a LO&D permit.

SECTION 3 (4): Near the end of this paragraph of definitions, "land" should be re-defined somewhat as follows to be more palatable and to be more closely in agreement with other laws:

Land includes water, if unmeandered, and the air above the land to the extent that air and the space above influence lawful use of land parcels.

SECTION 5 (1): Should enlarge membership of the commission up to perhaps fifteen. Should provide technical and experience qualifications for most of the members such as having had six years experience in this or a neighboring state working full-time as a registered:

Surveyor
Engineer
Architect
Attorney

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S. ENV. & LAND USE COM.

SECTION 5 (1): (CONTINUED)

or possibly a member of a local planning commission plus a minority of "citizen" or "public" members. A minority could be nominated by groups or associations active in the land planning or utilization field representing such interests as landownership, use and development fields, forestry, agriculture, commerce, transportation, and land development.

SECTION 9 (1) AND SECTION 13 (1): The Director also should have technical training and at least six years experience where one of the technical or learned registrations listed for SECTION 5 was necessary for his employment.

SECTION 9 (2): Promulgations of rules and regulations should be effective only after legislative review after Notice of Hearings published and affected individual landowners notified. (Section 36 applies only to specific topic of state-wide goals--not specific rules and regulations.)

SECTION 25: Powers and definitions are too broad. It could throttle many major state agencies from doing any effective planning on their own.

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SECTION 25: (CONTINUED)

S. ENV. & LAND USE COM.

For instance--The Department of Transportation already has an expensive staff of planners. But OSHD couldn't operate without several hundred permits per year from LC&D Commission.

For instance--The State Department of Health already supervises sewer works and septic tanks. (There is no recognition in the Bill of patented, chemical, or smokeless incineration methods for disposal of human and home wastes.)

For instance--The Public Utilities Commission supervises many aspects of transportation and energy generation and transmission.

For instance--The State Board of Education supervises school siting already along with a host of other state and local agencies. SB 100 provides additional permits and road blocks to activities which already have a multiplicity of supervision.

SECTION 53: Should provide for appeals through a separate and independent agency or the courts rather than the unsatisfactory system of "same-agency" hearings officers. Perhaps we could have a panel of professional private consultants and planners from neighboring states to draw from--to supply a rotating membership for an appeals board.

Emergency clause
SECTION 58: Should be deleted to provide time for needed thought, consideration, review, hearing and re-editing of goals and guidelines and specific rules and regulations.

February 1973

Oregon State University
WATER RESOURCES RESEARCH INSTITUTE
AIR RESOURCES CENTER
Covell Hall 115
Corvallis, Oregon 97331

Number 10

LAND USE CONTROL

Oregon's legislature is currently struggling with the question of land-use planning. Not long ago, the state of Maine went through the same deliberations and the result was a series of laws which placed the eastern state among the leaders in land-use controls. There are many similarities in the situations faced by both states---a concern over coastal management, rising tourism, the desire to attract "clean" industry, and protection against indiscriminate land development.

In 1970, Maine passed a Site Location Law which gave state government the power to "control the location of developments substantially affecting the local environment in order to insure that such developments will be located in a manner which will have a minimal adverse impact on the natural environment of their surroundings." This, in effect, constitutes veto power over new, industrial and commercial enterprises (including residential developments of 20 acres or more) which (1) do not appear to have the financial resources to install and carry out anti-pollution measures set by federal and state laws; (2) have a detrimental effect on the natural environment, including scenic character and property values; or (3) contemplate construction on unsuitable soil. To protect wetlands, other laws require local communities to zone all land within 250 feet of vigable waters by July 1973 or the state will intervene.

Local zoning laws figure prominently in the overall picture. They are expected to deal with the problems which might arise in all of the land development plans involving less than 20 acres.

A study sponsored last year by one of Maine's newspapers advocated that a portion of the property tax collected in every community be used to finance a state land bank. This bank would function like a development agency in acquiring land ---in critical areas which required such action to forestall large land developments. The land would remain in state ownership but would be subject to long-term leasing. The study, which also contains provisions regarding reform of the property tax system, is the subject of much controversy.

Since Maine has had over two years of experience with its land use controls it might be profitable to examine closely what has been learned thus far.

FINANCING WATER AND SEWER DEVELOPMENT

Some guidelines have been formulated in a recent study to be considered when water and sewer systems have to be extended in an urban area. The factors identified are: 1-2345

These five water and sewer financing techniques are mutually reinforcing and would complement a policy of urban growth guidance, the authors claim. ("Urban Water Policy as an Input in Urban Growth Policy", Report No. 28, September 1972; Water Resources Research Center, University of Tennessee, Knoxville, Tennessee, 37916).

CHECKLIST FOR COMMUNITIES FACING GROWTH

As an aid to communities pondering the problems of expansion, a checklist has been prepared by Dr. Tom Dickinson, Division of Environmental Studies, University of California, Davis, California. It systematically outlines possible extra costs of city services and sources of extra revenue associated with growth. The list is oriented towards residential growth, but possible costs/benefits of more commerce or industry can also be evaluated.

"A quick look at the tax rates of suburban bedroom communities indicates that the production of residential units, to the exclusion of other forms of land use, creates a tremendous burden upon the taxpayer. The trade-off is that the taxpayer enjoys, perhaps, a better environment---one that is more interesting to live in, with lower levels of air, water and noise pollution."

Env
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REVISED

ANALYST: Batties/Ralls DATE COMPLETED: March 20, 1973

1. Number of Measure SJR 19	2. Status Original	3. Class of Bill Fiscal <input checked="" type="checkbox"/> Non-Fiscal <input type="checkbox"/> Organizational <input checked="" type="checkbox"/>
4. Subject Creation of Interim Committee on Energy Conservation		OREGON STATE ARCHIVES <i>464</i>
5. Government Unit or Program Affected Legislative Assembly		S. ENV. & LAND USE COM.

6. Fiscal Impact

Effect on Revenue

None

Effect on Expenditures

Will increase General Fund expenditures for the Fifty-seventh Legislative Assembly an unspecified amount. The estimated cost for such an interim committee should be around \$59,121 for the 1973-75 biennium, based upon costs of comparable interim committees.

Organizational Impact

Creates Interim Committee on Energy Conservation.

Expenditures could be greater, depending on the level of program activity intended by the legislation.

RB:sc

Reviewed by Legislative Fiscal Office.

Analyst: Gould
Date: April 24, 1973

Towards a workable structure of statewide land use planning and regulation. Comments of the Oregon Environmental Council on SB-100 after consideration of testimony to date.

POINTS OF GENERAL CONSENSUS:

1. A state Department of Land Conservation and Development should be established.
2. Certain areas and activities are of critical state concern.
3. Planning goals and objectives are needed for the state.
4. Existing local planning efforts must be encouraged rather than replaced by the state.
5. Coordinating regional planning bodies to review disputes between the innumerable cities, counties and special districts and the state are needed.

POINTS OF DISAGREEMENT:

1. The structure and composition of COGs.
2. The nature or necessity for guidelines for city and county plans.
3. The extent of the critical areas and activities.
4. The date when state land use controls would be applied to critical areas and activities.
5. The extent of public discussion needed before the state assumes some regulatory power and sets guidelines for local plans.
6. The amount of time left to act decisively.

TIMING OF THE CONTROLS IN SB 100

- A. Statewide planning goals: - No framework.
- B. Issuing permits for critical activities: - 90 days after Act. Criteria for review set by statute.
- C. Objectives and regulations for critical areas: - Prepared by Department 1 year after Act. Commission adopts after hearing in each district.
- D. Statewide planning guidelines for local plans: - Prepared by Department on January 1, 1975. Commission adopts after hearing in each district. Cities and counties then have one year to bring plans into conformance with guidelines.

Points in SB 100 OEC will fight to retain:

1. Designation of some areas and activities in the Bill Sections 31 and 32.
2. Permits from the LCDC for critical activities Section 34.
3. Establishment of objectives and regulations for critical areas by the Commission by a fixed date. Section 42.
4. No change in the legislative review process whereby a positive action is required to ammend or revise the report of the Commission to the 58th Legislative Assembly. Section 66.
5. Establishment of planning guidelines by a fixed date.

Points of lesser concern to the OEC at the present time.

1. Structure and composition of COGs.
2. The date on which planning guidelines are imposed on cities and counties.

OREGON ENVIRONMENTAL COUNCIL
2637 S. W. Water Street
Portland, Oregon 97201

Phone: 222-1963

February 13, 1972

MPD:jai



DEPARTMENT OF JUSTICE

100 STATE OFFICE BUILDING
SALEM, OREGON 97310
TELEPHONE: (503) 378-6368

March 26, 1973

No. 6969

This opinion is given in response to questions submitted
by the Honorable Ted Hallock, Senator.

FIRST QUESTION PRESENTED

Would Section 12, Senate Bill 100 (1973
Regular Session), permit a land conservation
and development commission to bind the State
of Oregon to an interstate agreement or com-
pact relative to land conservation and develop-
ment planning?

ANSWER GIVEN

No.

SECOND QUESTION PRESENTED

Could such a commission work with or
cooperate with an interstate agreement or
compact?

ANSWER GIVEN

Yes.

DISCUSSION

Senate Bill 100 contemplates the creation of a Department
of Land Conservation and Development, to be established for purposes
of administering a comprehensive land use plan within the state.
Section 12 provides for the commission to perform the functions of

the state with respect to an interstate agreement or compact which may be entered into by the state. Concern has been expressed that Section 12 might authorize the commission to bind the State of Oregon to an interstate agreement or compact without further legislative action. It provides:

"If an interstate land conservation and development planning agency is created by an interstate agreement or compact entered into by this state, the commission shall perform the functions of this state with respect to the agreement or compact. If the functions of the interstate planning agency duplicate any of the functions of the commission under this Act, the commission may:

"(1) Negotiate with the interstate agency in defining the areas of responsibility of the commission and the interstate planning agency;

"(2) Suspend by rule the performance of any functions granted to the commission under this Act that duplicates a function of the interstate planning agency; and

"(3) Cooperate with the interstate planning agency in the performance of its functions."

We do not interpret this section to give the commission authority to bind the state to an interstate agreement or compact.

Binding interstate agreements and compacts between states are required by Art. I, § 10, cl. 3, of the Federal Constitution to be approved by Congress. This approval may come either before or after the states have reached an agreement, but any agreement or compact is not obligatory upon the states without congressional consent. Subject to this consent the states may enter into any agreement they feel proper. 49 Am. Jur., States, Territories and Dependencies, § 11. Such agreements are "almost always a statute in each jurisdiction

which is party to it." Zimmermann and Wendell, The Law and Use of Interstate Compacts, p. 2 (1961).

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Because a compact becomes a binding and enforceable contract against the state the legislature of the state must either enact the compact as law or else give an express grant of authority for another branch of the state to enter into a specific compact. For a more thorough discussion of how compacts are entered into and the effect of such entry see previous opinions by this office: ____ Op. Att'y Gen. ____ (No. 6961, January 10, 1973); 32 Op. Att'y Gen. 146 (1965); 31 Op. Att'y Gen. 64 (1962).

Section 12 contemplates an "interstate agreement or compact entered into by this state . . ." (emphasis added). When the state, not the commission, enters into an agreement or compact the commission is designated as the appropriate body to administer the compact on behalf of the state.

The language of the section simply does not confer authority on the commission to bind the state. If it were intended that the commission could bind the state to an agreement or compact without legislative action, it would be a very simple matter to specifically so provide.

We accordingly conclude that the commission would not have authority to bind the state to such an agreement or compact.

The second question is answered for a case in which the state has entered into a compact by the language of Section 12(3), which provides that the commission may:

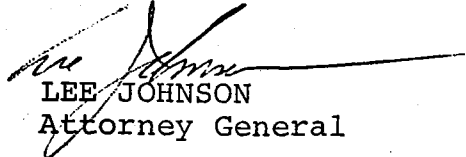
"Cooperate with the interstate planning agency in the performance of its functions."

Whether or not the state is a party to a compact, Section 9(3) would require the commission to cooperate with other interested agencies and bodies. It provides that the commission shall:

"Cooperate with the appropriate agencies of the United States, this state, any other state, any interstate agency, any person or groups of persons with respect to land conservation and development."

Thus the commission could cooperate with an interstate planning agency even if this state is not a party to the compact creating it, although of course the commission could not bind the state to the authority of such an interstate agency.

We conclude, in answer to the second question, that the provisions of Senate Bill 100 clearly contemplate that the commission will cooperate and work with other bodies in an interstate agreement or compact. This would be so whether or not the state has formally become a party to such an agreement or compact.


LEE JOHNSON
Attorney General

LJ:PJE:ljh

ANALYST: Frank/Goodman DATE COMPLETED: April 2, 1973

1. Number of Measure SB 100	2. Status Engrossed Bill (inc. Senate Amendments of March 23, 1973)	3. Class of Bill S. ENV. & LAND USE COM. Fiscal <input checked="" type="checkbox"/> Non-Fiscal <input type="checkbox"/> Organizational <input checked="" type="checkbox"/>
4. Subject Creates Department of Land Conservation and Development and regulates land use		
5. Government Unit or Program Affected Local governments; Oregon Coastal Conservation and Development Commission		
6. Fiscal Impact		

Effect on Revenue

None

Effect on Expenditures

While the expenditure requirements of SB 100, as amended, are not substantially different from the previous analysis, the type and level of funding have been revised.

The currently estimated 1973-75 General Fund requirements of the agency are as follows:

Personal Services (37 pos.)	\$599,215
Services and Supplies	
- Staff support	\$199,500
- Hearings expenses	150,000
	<u>\$349,500</u>
Capital Outlay	\$ 24,500
Total Department Expenses	<u>\$973,215</u>
Joint Committee on Land Use	
- Expenses	\$ 100,000
Grants-in-aid to local governments	<u>\$2,000,000</u>
Total General Fund	<u>\$3,073,215</u>

Again, these expenditure figures reflect only an estimate of the program level and funding necessary under SB 100.

LF:sc

Comments of Legislative Fiscal Office:

Senate Bill 100 would create a Department of Land Conservation and Development. The Governor's Recommended Budget for the Department of Land Conservation and Development, House Bill 5082, provided for \$300,000 General Fund support and \$1,500,000 Other Fund support to be derived from a real estate transfer tax proposed within House Bill 2189. There is not a direct correlation between Senate Bill 100 and the budget of the proposed agency. If Senate Bill 100 is enacted into law, a budget may be approved ranging anywhere from minimal support of the Commission and the Joint Legislative Committee to the rather extensive state support and grant-in-aid proposal contained within the above expenditure estimates. The principal difference between the above fiscal analysis of the engrossed Senate Bill 100 and the original Senate Bill 100 is the increase in the grant-in-aid program of approximately \$1.2 million, and change of funding in the program from approximately 16 percent General Fund to 100 percent General Fund. Neither of these changes are required by the amendments contained in the engrossed Senate Bill 100.

Analyst: Stinson

Date: April 4, 1973

SENATE COMMITTEE ON ENVIRONMENT AND LAND USE

TESTIMONY ON SENATE BILL 100

APRIL 3, 1973

By

SECRETARY OF STATE CLAY MYERS

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, SENATE BILL 100 HAS BEEN COMMONLY REFERRED TO IN THE LAST FEW MONTHS AS THE SECOND MOST IMPORTANT PIECE OF LEGISLATION IN THIS SESSION, RANKING ONLY BEHIND THE GOVERNOR'S TAX MEASURE.

IN POINT OF FACT, THE PERSPECTIVE OF HISTORY MAY VERY WELL MOVE SENATE BILL 100 UP AHEAD OF THE TAX REFORM MEASURE.

IF WE DO NOT WIN THE LAND USE PLANNING BATTLE IN THE NEXT FEW YEARS, THEN OREGON, AS WE HAVE KNOWN IT, WILL BE COMPLETELY LOST WITHIN TWO DECADES, AND IT WON'T MATTER PARTICULARLY THEN WHAT SYSTEM OF TAXATION WE HAVE.

SO I AM HERE TONIGHT TO URGE YOU TO SEND SENATE BILL 100, AS AMENDED, TO THE FLOOR OF THE SENATE WITH A "DO PASS" RECOMMENDATION.

IN SAYING THIS, I REALIZE IT WILL REQUIRE CONSIDERABLE POLITICAL COURAGE FOR SOME OF YOU TO VOTE FOR THIS BILL, BOTH HERE IN COMMITTEE AND LATER ON THE FLOOR.

- 2 -

AS A PRACTICAL POLITICIAN WHOSE BUSINESS IT IS TO KNOW WHAT THE PEOPLE OF OREGON ARE THINKING AND FEELING, AND AS CHAIRMAN OF THE WILLAMETTE VALLEY ENVIRONMENTAL PROTECTION AND DEVELOPMENT PLANNING COUNCIL, I AM WELL AWARE THAT TO SOME PEOPLE IN THIS STATE, "PLANNING" IS ONE OF THE DIRTIEST WORDS IN THE ENGLISH LANGUAGE.

EVERY LEGISLATOR IN THIS SESSION HAS AMONG HIS CONSTITUENTS THOSE PEOPLE FOR WHOM "PLANNING" IS A FEAR WORD.

IT IS A WORD THAT EVOKES IMAGES OF CONSCRIPTION OF PRIVATE PROPERTY BY GOVERNMENT BUREAUCRATS, OR HEAVY-HANDED DECISIONS FROM SALEM, OR A DARK COMMUNIST PLOT, OR WHATEVER.

SOME OF YOU COME FROM AREAS WHERE THAT ATTITUDE IS STRONG, AND IF YOU VOTE FOR SENATE BILL 100, IT WILL BE REMEMBERED THE NEXT TIME YOU STAND FOR ELECTION. THAT IS THE POLITICAL REALITY OF THIS BILL.

BUT, AT THE SAME TIME, THERE IS A GROWING NUMBER OF OREGONIANS -- CLEARLY THE MAJORITY, IN MY JUDGMENT -- WHO UNDERSTAND THE ABSOLUTE NECESSITY FOR A STATEWIDE EFFORT IN PLANNING AND ZONING.

MOST OREGONIANS UNDERSTAND WE MUST HAVE SOME BULWARK AGAINST THE TIDE OF IMMIGRANTS -- OVER 90,000 IN THE LAST TWO YEARS -- A TIDE THAT WILL INUNDATE US UNLESS WE MAKE DEFENSIVE PREPARATIONS.

LAND USE PLANNING AND ZONING REGULATIONS ARE AN IMPERFECT DEFENSE, GRANTED, BUT THEY ARE THE ONLY MATERIALS WE HAVE AVAILABLE TO US. WE CANNOT STOP THE IN-MIGRATION, BUT THROUGH PLANNING AND ZONING, WE CAN AT LEAST CONTROL WHERE THE NEW RESIDENTS WILL LIVE, WORK AND PLAY.

WITH PROPER LAND USE PLANNING AND ZONING, WE CAN PUT AN END TO URBAN SPRAWL.

AND, WE CAN SEE TO IT THAT OUR PRIME AGRICULTURAL LAND IS PRESERVED FOR FOOD PRODUCTION, RATHER THAN BEING GOBBLED UP FOR SUBDIVISIONS OR TRAILER PARKS OR PARKING LOTS.

WE CAN SET ASIDE ADEQUATE GREEN SPACE AND PARK AND RECREATION AREAS.

IN SHORT, WE CAN INSURE THAT OREGON WILL CONTINUE TO BE OREGON, AND WILL NOT COME TO THE SAME DISMAL END AS CALIFORNIA AND OTHER STATES THAT, WITHOUT PROPER PLANNING, WERE OVERRUN WITH POPULATION.

THIS COMMITTEE HAS DEALT WITH SOME OF THE MOST DIFFICULT PROBLEMS IMAGINABLE. NOT THE LEAST OF THESE WAS HOW TO PROVIDE FOR THE BASIC PLANNING TASK TO BE DONE AT THE CITY AND COUNTY LEVEL, WHILE RETAINING ENOUGH AUTHORITY AT THE STATE LEVEL TO INSURE THAT THE JOB WOULD BE DONE, AND DONE WELL.

STILL ANOTHER WAS HOW TO MAKE CERTAIN THAT SOME PARTICULARLY SENSITIVE AND VULNERABLE AREAS OF THE STATE WOULD RECEIVE PRIORITY ATTENTION, WITHOUT PRE-EMPTING THEM FOR STATE-LEVEL ACTION.

IN EACH CASE, THE PROBLEMS HAVE BEEN MET AND OVERCOME. THE SPECIAL TASK FORCE APPOINTED BY THE COMMITTEE TO RESOLVE SOME PROBLEMS IN THE ORIGINAL PRINTED BILL PERFORMED WITH IMAGINATION AND RESOURCEFULNESS.

I HAVE STUDIED THIS BILL IN ITS NEW FORM, AND AM CONVINCED NOW OF THREE THINGS:

975 Vista Ave., SE
Salem, Oregon 97302
3 April 1973

OREGON STATE ARCHIVES

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S. ENV. & LAND USE COM.

Senate Environment and Land Use Committee
Oregon State Capitol
Salem, Oregon

Mr. Chairman and Members of the Committee:

My name is Craig Markham; I am a professional ecologist, and am here tonight to present what I hope will be concluding testimony on SB100, on behalf of the 2000 Oregon members of the Sierra Club.

In the early hearings on the original bill I stated that SB100, though well-conceived, was an evolving bill: a starting point from which we could establish a piece of legislation which squares what is needed in land use planning with what is possible in the context of today's political climate. Well, to say the least, SB100 has evolved! Despite a few baldly counterproductive grandstand performances, the adversary process which has occurred during the past 2 months has resulted in an engrossed SB100 which is creative, forward-looking and politically realistic. Whether or not this bill as now written is an ultimate answer to the embarrassingly obvious land use planning problems of Oregon remains a matter of some question. I, of course would guess that it probably is not. But whether or not Oregon continues to be embarrassed by the land use planning problem once SB100 is enacted will properly answer this question.

I want to make it eminently clear, especially for those who seem predisposed to misunderstand, that the Sierra Club actively supports Engrossed SB100 as a distinctive step in the right direction in land use planning. We appreciate the efforts which have been made to mold it into a form which is both workable and viable. With the exception of Don Barney's amendment to Section 19, regarding the planning coordination relationships of a city of over 300,000 population and its respective county, we would generally

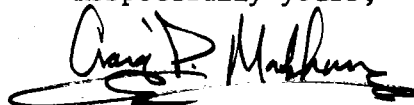
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S. ENV. & LAND USE COM.

discourage ^{farther} ~~future~~ attempts to amend Engrossed SB100. It appears that few further viable and realistic decisions can be made beyond those that have already been made. Two years of running time will give us a far better idea of further needs in this type of legislation.

The Sierra Club encourages this Committee to expedite Engrossed SB100 to the Senate floor with a "do-pass" recommendation and to aggressively support the bill on the floor. You may be assured that we will offer our best efforts and continuing support in the passage of the present bill.

Respectfully yours,



Craig P. Markham

Wagner?

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PROPOSED AMENDMENTS TO SENATE BILL 100

On page 26, section 51, (1) (d) after "persons," insert "whose interests are substantially affected,".

On page 26, section 52, (3) after "group of persons" insert ", whose interests are substantially affected,".

On page 26, section 52, (3) after the second "group of persons" insert ", whose interests are substantially affected,".

THE AMERICAN INSTITUTE OF ARCHITECTS

OREGON STATE ARCHIVES

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April 3, 1973

S. ENV. & LAND USE COM.

The Honorable Senator Hallock
Environment and Land Use Committee
State of Oregon Legislature
Salem, Oregon

Dear Senator Hallock:

The Portland Chapter of the American Institute of Architects, believing that the needs and aspirations of all people of the state must be recognized by the planning process, and recognizing the efficiencies that can be realized in the development of natural and man-made resources through comprehensive planning, goes on record in support of Engrossed Senate Bill 100.

We would recommend a change in Section 54, Paragraph (2) to ensure that review proceedings do not encounter unreasonable delay when referred back to a hearings officer by the commission for additional information or evidence. This recommendation is as follows:

Section 54

(2) In case of a referral of a matter back to the hearings officer pursuant to subsection (1) of this section, the 60-day period referred to in subsection (3) of section 53 of this Act is suspended for a reasonable interval not to exceed 60 days.

Sincerely yours,



Neil Farnham, AIA
President
The Portland Chapter, Inc.

NF/jp

THE Portland Chapter, Inc.

200 Dekum Building
519 S.W. Third Avenue
PORTLAND, OREGON 97204
(503) 223-8757



1973 OFFICERS

Neil Farnham
President
Andrew Wheeler
Vice-President
Albert Biggerstaff
Secretary
B.J. Gannett
Treasurer

DIRECTORS

Kenneth Kaji
Alex Pierce
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Jon Schleuning

PAST PRESIDENT

Gary Michael

Mrs. Jo Ann Proppe
Executive Secretary

ALLISON (President Oregon Rural Landowners Association) statement
to Senate Environment and Land Use Committee regarding ENGROSSED SB 100

Tuesday, April 3, 1973:

OREGON STATE ARCHIVES

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Mr. Chairman and members of the committee. I'm Jim Allison, President of the Oregon Rural Landowners Association.

For 2½ months, I've listened to and watched with admiration and respect for this committee in its deliberations on many bills. I've listened to you insist and demand that state witnesses and others be precise in the meaning of certain terms and phrases.

Recently, I asked a friend who has more experience in these legislative halls than I the following question:

"Why does the Senate Environment and Land Use committee go into such detail on definitions in some bills and apparently choose not to define the terms "state-wide planning guidelines" and "state-wide planning goals" in Engrossed SB 100?"

His answer:

"Jim, you have to have faith in the system. You have to believe that the State Planning Commission to be appointed by the Governor will not go overboard in adopting the guidelines and goals."

I thought about this for some time. Perhaps I was being too pessimistic, too negative and too fearful.

So, I re-read Engrossed SB 100. I talked with several lobbyists and legislators and after a good deal of soul searching, I arrived at this conclusion.

I don't have faith in the system that SB 100 proposes to establish as long as guidelines and goals remain undefined and unrestricted. Perhaps the majority of the committee does.

Unless I can convince you to my way of thinking, then it

would appear that these two terms will remain undefined. OREGON STATE ARCHIVES

Let me explain why I don't have faith.

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S. ENV. & LAND USE COM.

First, Engrossed SB 100 calls for the Governor to appoint the commission. It seems logical to me that the Governor will appoint persons whose philosophy is similar or identical to his.

So what is the Governor's philosophy on rural land use?

It seems perfectly clear to me. I heard his ad-lib remarks on a Portland TV station the night of the election in November and he made it quite clear what he intended to do.

But, Mr. Chairman and members of the Committee, if you really want to know the philosophy of the Governor and those around him when it comes to land use regulations, you should, in my opinion, take the time to read House Bills 2607 and 3113. And in the case of HB 3113, I mean in its entirety, not just the few pages brought to you today for insertion into SB 487.

HB 2607 states on the face of it that it was introduced at the request of the Governor. HB 3113 doesn't have the Governor's name on it, but it came from the Executive Department. I know this because I obtained a copy of it from there before it was printed by the legislature.

If after you have read these two bills completely, knowing that they were requested by the Executive Department, you wish to send this SB 100 to the Senate floor without limiting or defining the terms state-wide planning guidelines or goals, so be it. You have more faith than I.

Once again, we request that this committee define or limit the term guideline and that goals be determined by the legislature.

Thank you.

STATEMENT ON ENGROSSED SB 100

Prepared for Senate Committee on Environment and Land Use
April 3, 1973

S. ENV. & LAND USE COM.

by James R. Moore, Beaverton
Legislative Committee Chairman, League of Oregon Cities

The League of Oregon Cities strongly opposes Engrossed Senate Bill 100.

We have, since the introduction of the original SB 100, supported the concept of a state role in land use planning. However, we have felt that SB 100 has been plagued with both conceptual and technical problems. The League has offered what we believed were constructive suggestions for resolving these problems, including the drafting of an alternate bill, but we do not believe that our suggestions have been seriously considered. In weighing the balance between Engrossed Senate Bill 100 and the elements which are crucial to a meaningful state role in land use planning, the League finds the bill to be seriously deficient and opposes it.

Let me review briefly the reasons for this decision. Engrossed SB 100 fails to provide at the state level what it demands at the local level--a coordinated, carefully-developed land use plan. There is no requirement for the Land Conservation and Development Commission to develop a state land use plan although one is referred to in the policy statement of the bill. Without a state plan, the task of adopting goals and guidelines for planning with emphasis on areas and activities specified in the bill will result in nothing more than spot zoning at the state level. Having the state merely superimpose the judgment of a state commission over the actions of local governments on local plans, without having a statewide plan as a basis for state action, cannot produce anything else.

The League has encouraged collection of basic data as the first step before adopting state goals and guidelines--a normal course in development of a comprehensive land use plan. The League has urged careful definition of such key terms as "goals" and "guidelines" since much of the confusion about the bill results from those interested in the bill defining these important terms in their own differing ways. The League has urged that the state follow a procedure that would be used in developing a comprehensive plan by any level of local government--collection of information, development of goals, adoption of a plan based on these goals, and development of implementing guidelines. The League feels that these recommendations have been flatly rejected.

The League has never been interested in a "do nothing" approach in developing a state role in land use planning. On the contrary, we feel that the bill does not go far enough in having the state assume such a role while it goes much too far in needlessly and inappropriately interfering with and reorganizing local planning that has been going on for many years. The bill does not require the state to develop a comprehensive state land use plan or to coordinate the land use activities of many state agencies with such a plan, but it does restructure local planning and downgrade city planning activities by making the cities subservient to counties in the planning process. A companion bill proposes to reimburse counties for the extra expense they will incur in coordinating local planning efforts, but recognizes no responsibility to cities for costs cities would incur in revising plans to meet state regulations or in appealing county planning decisions to the state level. Despite the stated intentions of many who have worked on the bill, we feel that the bill for all practical purposes dis-enfranchises cities from the planning process and drops them out of any treatment as partners in the state-local planning process.

Based on city experience in planning, we don't see how the Land Conservation and Development Commission can carry out all of its assignments in the bill under the time schedule proposed if a meaningful and effective job is to be done. The Commission, after it is appointed and staffed, must prepare goals and guidelines (but not based on any comprehensive planning effort), inventory land uses, review local government plans for compliance with goals and guidelines, coordinate state agency plans, insure citizen involvement in the process by holding hearings, prepare model ordinances and regulations and consider areas of critical concern for recommendation to the 1975 legislature. We doubt that all these assignments can be carried out effectively in the 18 months available to the commission for this purpose, and think the effort would be better spent at developing a comprehensive state plan that would be ratified by the 1975 legislature. True, such an approach does not provide regulation during the 18 month interim but Engrossed SB 100 does not promise regulation during this period either. We submit that rather than "doing nothing" under this approach, the commission would be productively occupied during the interim by establishing a comprehensive state policy on land use that could be implemented as soon as approved by the 1975 legislature.

The many other suggestions that the League has made regarding the technical and conceptual problems in the bill have been consistently rejected, and we think the final product demonstrates a lack of understanding about the process of planning and plan implementation as well as a lack of understanding about where and how planning has been done at the local level long before the state became seriously interested in problems of development and land use planning.

The League stands ready to assist in defining a useful and constructive state role in land use planning that will acknowledge the experience and efforts of cities in land use planning. We don't think Engrossed Senate Bill 100 accomplishes this objective, and we strongly oppose it.

Respectfully submitted,

James R. Moore, Beaverton
Chairman, Legislative Committee

League of Oregon Cities
Local Government Center
1201 Court Street N.E.
Salem, Oregon 97301

Webber & Sons, Inc.

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Berry and Fruit Packers

S. ENV. & LAND USE COM.

TO THE SENATE LAND USE COMMITTEE
ON SB 100

4/3/73

PHONE 266-9368

L.D. 266-3660

Rt. 1, Box 123

CANBY, OREGON 97013

1 THIS BILL SHOULD BE REFERRED TO A VOTE OF THE PEOPLE AT THE NEXT GENERAL ELECTION.

2 SECTION 5 PARAGRAPH 1

THE LAND CONSERVATION COMMISSION SHOULD BE ELECTED BY THE VOTE OF THE PEOPLE IN EACH CONGRESSIONAL DISTRICT, AND THE COMMISSIONER AT LARGE BY ALL THE DISTRICTS. COMMISSIONERS SHOULD NOT SERVE OVER 2 YEAR TERMS AND NOT MORE THAN 2 TERMS. WE HAVE TOO MANY APPOINTED COMMISSIONS NOW. THESE LEAD TO A ABSOLUTE DICTATORSHIP BY THE GOVERNOR AND A BIG GRAFT. THIS GRAFT IS GETTING STARTED AT THE LOCAL LEVEL NOW BECAUSE OF THE FACT THAT THEY CANNOT BE FIRED. TWO TERMS OF 4 YEARS IS TOO LONG FOR ANY COMMISSIONER. THE COMMISSIONERS ALL SHOULD BE BONDED FOR AT LEAST A MILLION DOLLARS EACH AS THEY ARE MAKING DECISIONS ON PRIVATE PROPERTY THAT IS WORTH BILLIONS OF DOLLARS BELONGING TO THE LAND OWNERS AND TAX PAYERS. IF THEY MAKE DECISIONS THAT COST THE LAND OWNERS MONEY THE LAND OWNERS ARE ENTITLED TO DAMAGES.

THE CLIFF HOLMES CASE JUST DECIDED BY THE SUPREME COURT OF OREGON IS A GOOD EXAMPLE OF BUREAUCRACY IN PRIVATE BUSINESS WHICH COST THIS MAN \$ 75,000.00 OR MORE BY A PLANNING COMMISSION USING POOR JUDGEMENT IN THEIR DECISION. THIS CASE WAS DECIDED IN FAVOR OF MR. HOLMES HE CAN NOW BUILD HIS PLANT. NOW WHO IS GOING TO STAND MR. HOLMES LOSS?

HOUSTON TEXAS HAS NO PERMITS NOR ZONING AND HAS 2 1/2 MILLION PEOPLE. THIS IS MORE THAN THE POPULATION OF THE WHOLE DAMN STATE OF OREGON.

3 SECTION 45 PARAGRAPH 6-7-8-9

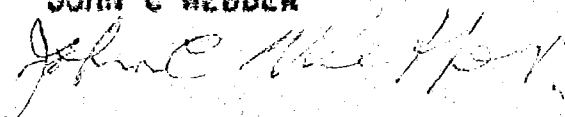
THE STATE WILL BE ABSOLUTE DICTATOR OVER COUNTY OR CITY GOVERNMENT AS THEY WILL BE FORCED TO FOLLOW STATE PLANNING GOALS & GUIDELINES. THERE ARE MANY PARAGRAPHS IN THIS BILL WHICH DICTATES THE SAME IDEA.

4 SECTION 48 SUB SECTION 4 D

THIS SECTION SHOULD BE DELETED AS THERE IS NO POSITIVE DEFINITION FOR PRIME FARM LAND. ALL FARM LAND DOES NOT GROW ALL FARM CROPS. A GOOD SHARE OF THE LAND IN THE WILLAMETTE VALLEY IS ALSO PRIME HOUSING PROPERTY AND IS WORTH 5 TO 6 TIMES AS MUCH FOR HOUSING AS FOR FARM LAND. THE GENERAL PUBLIC DOES NOT WANT TO PAY A FAIR PRICE FOR FARM PRODUCTS SO FARMERS CAN MAKE A PROFIT ON THEIR INVESTMENT SO THERE IS NO ALTERNATIVE FOR THE FARMER BUT TO SELL HIS LAND AND RETIRE.

SB 100 IS STILL THE SAME OLD LEOPARD THE SPOTS HAVE NOW BEEN PAINTED BROWN INSTEAD OF BLACK. IT DOES NOT PROTECT PRIVATE CITIZENS RIGHTS AS PROVIDED FOR BY THE BILL OF RIGHTS AND THE CONSTITUTION OF THE UNITED STATES AND THEREFORE SHOULD BE TABLED.

JOHN C WEBBER



Subject: FINAL DRAFT OF SB 100

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STATEMENT IN OPPOSITION BY: KENNETH ALEXANDER BROWN, Ex. Dir. ENV. & LAND USE COM.
FARMER'S POLITICAL ACTION COMMITTEE

Gervais, Oregon 97026

TO SENATE ENVIRONMENT AND LAND USE COMMITTEE

FOR THE FOLLOWING REASONS, AND SPEAKING FOR THE ORGANIZATION WHICH I REPRESENT, I AM REGISTERING OPPOSITION TO THE REVISED EDITION OF SB 100, BETTER KNOWN AS THE MACPHERSON BILL....WHETHER IT BE THE ORIGINAL OR THE PRESENT VERSION OF THIS PROPOSAL, WE SEE NO FUNDAMENTAL CHANGE IN THE END PRODUCT.. IMPLEMENTATION IS GIVEN TO THE SUBDIVISIONS OF GOVERNMENT: BUT IS IS QUITE CLEAR THAT THEY REMAIN COMPLETELY SUBSERVIENT TO THE APPOINTEES OF THE GOVERNOR.

AGAIN WE SEE NO PROTECTION FOR THE INDIVIDUAL WHO SUSTAINS VALUE LOSS OF PROPERTY AS A RESULT OF LAND CONTROL. TRUE, THE SUBJECT IS MENTIONED; BUT IT REMAINS NOTHING MORE THAN A MENTION --- CERTAINLY THERE IS NO BUILT IN GUARANTEE OF PROTECTION FOR THE INDIVIDUAL CITIZEN.

WE ARE UNIMPRESSED WITH PROVISIONS IN THE MEASURE CALLING FOR CITIZEN PARTICIPATION ---WE HAVE EXPERIENCED THIS SO-CALLED CITIZEN PARTICIPATION DURING THE PERIOD OF INTERIM ZONING IN MARION COUNTY AND IT HAS PROVED NOTHING MORE THAN A YES-MAN OPERATION.

AGAIN, WE AFFIRM, THE STATED OBJECTIVES OF SB 100, WE FIND COMPLETELY DESIRABLE --- LIBABILITY, WISE LAND USAGE --- WHO CAN QUARREL WITH THESE IDEALISTIC CONCEPTS --- HOWEVER, THERE IS NO ASSURANCE ANYWHERE THAT THESE IDEALISTIC GOALS WILL BE ACCOMPLISHED. IT IS THE INFERENCE OF ACCOMPLISHMENT, PLAYED UPON BY THE NEWS MEDIA, THAT HAS MOLDED THE THINKING OF MANY WELL MEANING AND SINCERE PEOPLE WHO SUPPORT SB 100. WHAT IT HAS ALL AMOUNTED TO IS A BRAIN-WASHING OPERATION BY THE SOCIALIST LEARNING NEWS MEDIA: *Hey Sam, that's you.*

WHAT IS BEING CREATED WITH SB 100 IS A VAST PAPER SHUFFLING BUREAUCRACY --- YET ANOTHER HORDE OF DICTATORIAL BUREAUCRATS TO PLAGUE THE PRODUCTIVE SEGMENT OF OUR SOCIETY. I WOULD LIKE TO RAISE A QUESTION IF PRIVATE PROPERTY IS BEING TAXED TO THE POINT WHERE THAT TAX LOAD CONSTITUTES A HIGH RENTAL FIGURE -- WHICH IS THE CASE AT PRESENT; AND IF THE MACPHERSON BILL BECOMES LAW AND THE INDIVIDUAL LOSES HIS OPTIONS AS TO THE USAGE OF THAT PROPERTY -- MY QUESTION IS: WHO THEN ACTUALLY OWNS THE PROPERTY? OF THE TWO PARTIES INVOLVED -- THE INDIVIDUAL OR THE STATE -- CERTAINLY IT IS NOT THE INDIVIDUAL.

WHAT WE WILL WITNESS WITH ENACTMENT OF THE MACPHERSON BILL INTO LAW IS THE IMPLEMENTATION, IN THE STATE OF OREGON, OF THAT BASIC PREMISE OF KARL MARK: ALL PROPERTY THE PROPERTY OF THE STATE....THIS IS THE FUNDAMENTAL DOGMA OF THE WORLD SOCIALIST CONSPIRACY. SUCH ENACTMENT WOULD INDEED REINFORCE THE POSITION OF THOSE CYNICS WHO HAVE OPINED THAT THE AMERICANS ARE THE ONLY PEOPLE IN ALL HISTORY WHO/HAVE BOUGHT THEIR OWN WAY INTO SOCIALIST SLAVERY.

TRAGIC WORLD HISTORY HAS PROVED OVER AND OVER THAT THIS SOCIALIST PRINCIPLE DOES NOT WORK. TODAY WE SEE THIS ONCE AGAIN AS THE NIXON ADMINISTRATION PLACES UPON THE BACK OF AMERICA'S FREE ENTERPRISE SOCIETY THE BURDEN OF SUPPORTING THE SOVIET UNION IN WHAT IS PERHAPS THE GREATEST HAND-OUT OF ALL TIME. TWICE THE AMERICAN PEOPLE WILL PAY -- INITIALLY FOR THE GRAINS, SECONDLY IN INFLATED PRICES FOR VIRTUALLY EVERY ITEM IN THE SUPER MARKET. WE WOULD ASK YOU THE SIMPLE QUESTION: IS THIS THE WAY OUR GOVERNMENT SHOULD GO? IS THE SOCIALIST PATH

SB 100 IS NOT A PRODUCT OF LOCAL THINKING -- THIS FACT WAS ADMITTED AT THE INITIAL PUBLIC MEETING ON THIS BILL BY ITS CHIEF SPONSOR --- THIS MEASURE, CLOSELY RESEMBLING OTHER SUCH MEASURES BEING CRAMMED DOWN THE THROATS OF AMERICAN CITIZENS THE NATION OVER, IS THE PRODUCT OF DREAMY SOCIALIST INTELLECTUALS WHOSE WHIMS AND FANCIES THIS MACPHERSON BILL WOULD INFLICT UPON THE WEALTH PRODUCERS OF THIS STATE.

WE PROTEST THE EMERGENCY CLAUSE UPON THIS MEASURE -- THIS AMOUNTS TO AN ACTUAL AND BLATANT REPUDIATION OF THAT STATED PRINCIPLE OF CITIZEN PARTICIPATION.

THE MACPHERSON BILL IS A REPUDIATION OF THE RIGHT OF PRIVATE PROPERTY. WE ALSO BELIEVE IT IS CONTRARY TO SPECIFIC PROVISIONS OF THE CONSTITUTION ITSELF; AND WE URGE THIS COMMITTEE TO RENDER A NEGATIVE DECISION UPON SENATE BILL 100.

Kenneth Alexander Brown
KENNETH ALEXANDER BROWN

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S. ENV. & LAND USE COM.

WU TXA PTL *
ORSTATELEG SAM
EAP00WIEE093)PD 04/03/73 1824
ICS IPMRNCZ CSP
5036384111 TDRN WILSONVILLE OR 49 04-03 0624P EST
PMS SENATOR TED HALLOCK CHAIRMAN ENVIRONMENT AND LAND USE COMMITTEE
SALEM OR
INGROSSED SB100ALLOWS FOR THE OVERRIDING OF LOCAL ZONING AND
PLANNING DECISIONS. WITHOUT REQUIRING JUSTIFICATION ON THE PART
OF THE GOVERNING BODY. SEE SECTION 40 LINES 11 12 AND 13. THIS
WILL DESTROY LOCAL INCENTIVE. I URGE YOU TO CONSIDER CITIES
RIGHTS WHICH ARE NOT DETRIMENTAL TO STATES NEEDS.
PHILLIP R BALSIGER MAYOR WILSONVILLE OREGON

ETQP APR 3 1973

Telex

western union

HOME ADDRESS
TED HALLOCK
2445 NW IRVING
PORTLAND, OREGON 97210
MULTNOMAH COUNTY



OREGON STATE SENATE
SALEM, OREGON
97310

COMMITTEES
CHAIRMAN:
ENVIRONMENT AND LAND USE
VICE CHAIRMAN:
ECONOMIC DEVELOPMENT
MEMBER:
HUMAN RESOURCES
AGRICULTURE AND
NATURAL RESOURCES

OREGON STATE ARCHIVES

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S. ENV. & LAND USE COM.

On a motion by the Chairman, the Chairman polled personally each committee member on returning SB 100 to the floor of the Senate with a do-pass recommendation, in the same form as it was passed out on April 5, 1973. Voting no: Sen. Burns. Voting aye: Sen. Atiyeh, Sen. Macpherson, Sen. Ripper, Sen. Thorne, Sen. Wingard.

"GOALS" ARE INTENDED TO ACHIEVE THE PURPOSES EXPRESSED IN THE PREAMBLE AND POLICY STATEMENT OF SB 100. NO EFFORT IS MADE TO FURTHER DEFINE "GOALS" - PREFERRING THE DEFINITION TO BE REFINED IN THE PROCESS OF CITIZEN INPUT, COMMISSION APPROVAL AND LEGISLATIVE REVIEW.

"GUIDELINES" ARE SUGGESTED DIRECTIONS THAT WOULD AID LOCAL GOVERNMENTS IN ACTIVATING THE "GOALS". THEY ARE INTENDED TO BE INSTRUCTIVE, DIRECTIONAL AND POSITIVE AND NOT LIMITING LOCAL GOVERNMENT TO A SINGLE COURSE OF ACTION WHEN SOME OTHER LOCALLY CONCEIVED COURSE WOULD ACHIEVE THE SAME RESULT. "GUIDELINES" ARE NOT INTENDED TO BE A GRANT OF POWER TO THE STATE TO CARRY OUT ZONING FROM THE STATE LEVEL.

Senator Hallock, Chairman TH

Senator J. Burns, Vice Chairman JB

Senator Atiyeh WA

Senator Macpherson JM

Senator Ripper J.R.

Senator Thorne MT

Senator Wingard W

Env.
401

ANALYST: Frank/Goodman/
Seibert/Yunker

DATE COMPLETED: April 23, 1973

1. Number of Measure SB 673	2. Status Engrossed Bill and Senate Amendments of April 19	3. Class of Bill Fiscal <input checked="" type="checkbox"/> Non-Fiscal <input type="checkbox"/> Organizational <input type="checkbox"/>
4. Subject Public contract provisions requiring compliance with statutes and regulations relating to pollution and preservation of natural resources		
5. Government Unit or Program Affected State agencies; local governments		OREGON STATE ARCHIVES

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6. Fiscal Impact

Effect on Revenue

None

Effect on Expenditures

SB 673 would require that public contracts for public improvements set forth certain statutes and regulations relating to the prevention of environmental pollution and the preservation of natural resources.

While the requirement could result in minor increased costs, a more significant consideration would be the shift in responsibility to the awarding agency for ensuring compliance with existing law. Currently it is presumed that the contractor is aware of and will comply with existing requirements. As engrossed, SB 673 would create a significant potential liability on the part of the awarding agency should there be an omission in provisions set forth in the contract.

The additional requirement of the bill that the awarding agency grant a reasonable extension in time and a reasonable adjustment in compensation for necessary additional work is a current practice and would not in itself result in increased expenditures.

LF:sc

Reviewed by Legislative Fiscal Office.

Analyst: Stinson
Date: April 24, 1973

Senator William H. Holmstrom, Co-Chairman
Representative Philip D. Lang, Co-Chairman
Joint Committee on Ways and Means
118 State Capitol
Salem, Oregon

Gentlemen:

The Senate Committee on Environment and Land Use has been considering legislation relating to land use planning (SB 100) and, after considerable hearings and amendments, *has reported this* [is ready to report the] bill out to the Senate. In summary (perhaps over simplified) the proposed legislation contains the following points:

1. Retains primary responsibility for land use planning at the city and county level.
2. Establishes state commission and staff to develop state planning goals and guidelines to be used by all planning agencies, both state and local.
3. Requires state and local plans to comply with state goals.
4. Mandates citizen involvement programs for all levels of planning.
5. Places regional planning coordination responsibility with the counties with options for formation of multi-county coordination entities.
6. Provides appeals processes, including detailed hearing requirements, to the state commission.

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S. ENV. & LAND USE COM.

7. Provides that state may take over planning functions if not carried by local units.
8. Establishes Joint Legislative Committee to conduct studies, advise Commission and review planning activities.
9. Designates certain activities of state-wide significance and establishes permit system for such activities.
10. Requires reporting to the Legislative Assembly on planning activities.

In order to implement the proposed legislation, the Senate Committee on Environment and Land Use feels it is imperative that adequate financing be provided. We have reviewed, and recommended to the Joint Committee on Ways and Means, the attached budget to implement SB 100. Key to the budget are 1) staffing of central staff to carry out the duties of the Commission; 2) field staff to provide staff assistance to local governments; 3) resources to allow adequate hearings, both for citizen input to the planning process and for appeals; 4) resources for the Joint Legislative Committee; and 5) planning grants to local governments to assure capability to accomplish their responsibilities. We also recommend that financing of the budget not be tied to a dedicated fund source, but rather come from general revenue sources.

Also attached are proposed amendments to HB 5082 to accomplish our recommendations. Your favorable consideration of these recommendations will be appreciated.

Sincerely,

Ted Hallock, Chairman
Senate Committee on Environment
and Land Use

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S. ENV. & LAND USE COM.

PROPOSED BUDGET TO ACCOMPLISH FINANCING
OF SB 100 AS RECOMMENDED BY THE
SENATE ENVIRONMENT AND LAND USE COMMITTEE

	<u>No. of Positions</u>	<u>Monthly Salary</u>	<u>Implement. Date</u>	<u>No. of Months</u>	<u>1973-75 Cost</u>
Commission members per diem (48 meeting days x 5 members x \$20 per day) \$ 4,800					
<u>Central Staff:</u>					
Director	1	\$2,086	7/73	24	50,064
Deputy Director	1	1,633	7/73	24	39,192
State Agency Coord. (Prog. Exec. 3)	1	1,106	7/74	12	13,272
Fed. Agency Coord. (Prog. Exec. 3)	1	1,106	7/74	12	13,272
Advis. Comm. Spec. (Prog. Exec. 3)	1	1,106	7/73	24	26,544
<u>Central Planners:</u>					
Planner 3	3	1,280	7/73	72	92,160
Planner 2	4	955	7/73	96	91,680
Draftsman 1	2	656	1/75	12	7,872
Draftsman 2	1	796	9/74	10	7,960
Secretary 5	1	594	7/73	24	14,256
Secretary 4	2	531	7/73	48	25,488
Accounting Clerk 2	1	558	7/73	24	13,392
Clerk 3	1	459	7/74	12	5,508
Clerk Typist 2	2	397	(1) 1/74 (1) 7/74	18 12	7,146 4,764
<u>Field Staff:</u>					
Field Admin. (Planner 4)	1	1,412	7/74	12	16,944
<u>Field Planners:</u>					
Planner 3	3	1,280	9/74	30	38,400
Planner 2	4	955	9/74	40	38,200
Clerk Typist 2 (1/2 time equiv)	7	397	1/75	21	8,337
	<u>37</u>			<u>527</u>	<u>\$519,251</u>
OPE 15.4% (FTE 21.9)					79,964
Total Personal Services					<u>\$599,215</u>
Services and supplies - support for staff (33% of P.S.)					199,500
Services and supplies - hearings expenses					150,000
Capital outlay					24,500
Total Department Expenses					<u>\$973,215</u>
Joint Committee on Land Use expenses					100,000
Grants-in-aid to local governments					2,000,000
Total Budget Requirements					<u>\$3,073,215</u>

Proposed Amendments to HB 5082
to accomplish financing of SB 100
as recommended by the
Senate Environment and Land Use Committee

On page 2 of the bill, line 8, delete "\$300,000" and
insert the following:

"3,073,215. Such sum may be expended only
for the following purposes:

- (1) Administrative expenses of
the department.....\$973,215
- (2) Expenses of the Joint
Committee on Land Use.....\$100,000
- (3) Planning assistance to
local governments.....\$2,000,000

HOME ADDRESS
TED HALLOCK
2445 NW IRVING
PORTLAND OREGON 97210

MULTNOMAH COUNTY



OREGON STATE SENATE
SALEM, OREGON
97310

COMMITTEES
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ENVIRONMENT AND LAND USE
VICE CHAIRMAN:
ECONOMIC DEVELOPMENT
MEMBER:
HUMAN RESOURCES
AGRICULTURE AND
NATURAL RESOURCES

OREGON STATE ARCHIVE

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S. ENV. & LAND USE COM.

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- 475
S. ENV. & LAND USE COM.
7. Provides that state may take over planning functions if not carried by local units.
 8. Establishes Joint Legislative Committee to conduct studies, advise Commission and review planning activities.
 9. Designates certain activities of state-wide significance and establishes permit system for such activities.
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Sincerely,

Ted Hallock

Ted Hallock, Chairman
Senate Committee on
Environment and Land Use

496

PROPOSED BUDGET TO ACCOMPLISH FINANCING
OF SB 100 AS RECOMMENDED BY THE
SENATE ENVIRONMENT AND LAND USE COMMITTEE

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Clerk 3	1	459	7/74	12	5,508
Clerk Typist 2	2	397	(1) 1/74 (1) 7/74	18 12	7,146 4,764
<u>Field Staff:</u>					
Field Admin. (Planner 4)	1	1,412	7/74	12	16,944
<u>Field Planners:</u>					
Planner 3	3	1,280	9/74	30	38,400
Planner 2	4	955	9/74	40	38,200
Clerk Typist 2 (1/2 time equiv.)	7	397	1/75	21	8,337
	<u>37</u>			<u>527</u>	<u>\$519,251</u>
OPE 15.4% (FTE 21.9)					79,964
Total Personal Services					<u>\$599,215</u>
Services and supplies - support for staff (33% of P.S.)					199,500
Services and supplies - hearings expenses					150,000
Capital outlay					24,500
Total Department Expenses					<u>\$973,215</u>
Joint Committee on Land Use expenses					100,000
Grants-in-aid to local governments					2,000,000
Total Budget Requirements					<u>\$3,073,215</u>

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Proposed Amendments to HB 5082
to accomplish financing of SB 100
as recommended by the
Senate Environment and Land Use Committee

On page 2 of the bill, line 8, delete "\$300,000" and
insert the following:

"3,073,215. Such sum may be expended only
for the following purposes:

- (1) Administrative expenses of
the department.....\$973,215
- (2) Expenses of the Joint
Committee on Land Use.....\$100,000
- (3) Planning assistance to
local governments.....\$2,000,000

Enr
701
498

ANALYST: Frank/Goodman

DATE COMPLETED: April 2, 1973

1. Number of Measure SB 100	2. Status Engrossed Bill (inc. Senate Amendments of March 23, 1973)	3. Class of Bill: ENV. & LAND USE COM. Fiscal <input checked="" type="checkbox"/> Non-Fiscal <input type="checkbox"/> Organizational <input checked="" type="checkbox"/>
4. Subject Creates Department of Land Conservation and Development and regulates land use		
5. Government Unit or Program Affected Local governments; Oregon Coastal Conservation and Development Commission		
6. Fiscal Impact		

Effect on Revenue

None

Effect on Expenditures

While the expenditure requirements of SB 100, as amended, are not substantially different from the previous analysis, the type and level of funding have been revised.

The currently estimated 1973-75 General Fund requirements of the agency are as follows:

Personal Services (37 pos.)	\$599,215
Services and Supplies	
- Staff support	\$199,500
- Hearings expenses	150,000
	<u>\$349,500</u>
Capital Outlay	\$ 24,500
Total Department Expenses	<u>\$973,215</u>
Joint Committee on Land Use	
- Expenses	\$ 100,000
Grants-in-aid to local governments	<u>\$2,000,000</u>
Total General Fund	<u>\$3,073,215</u>

Again, these expenditure figures reflect only an estimate of the program level and funding necessary under SB 100.

LF:sc

499

Comments of Legislative Fiscal Office:

Senate Bill 100 would create a Department of Land Conservation and Development. The Governor's Recommended Budget for the Department of Land Conservation and Development, House Bill 5082, provided for \$300,000 General Fund support and \$1,500,000 Other Fund support to be derived from a real estate transfer tax proposed within House Bill 2189. There is not a direct correlation between Senate Bill 100 and the budget of the proposed agency. If Senate Bill 100 is enacted into law, a budget may be approved ranging anywhere from minimal support of the Commission and the Joint Legislative Committee to the rather extensive staff support and grant-in-aid proposal contained within the above expenditure estimates. The principal difference between the above fiscal analysis of the engrossed Senate Bill 100 and the original Senate Bill 100 is the increase in the grant-in-aid program of approximately \$1.2 million, and change of funding in the program from approximately 16 percent General Fund to 100 percent General Fund. Neither of these changes are required by the amendments contained in the engrossed Senate Bill 100.

Analyst: Stinson
Date: April 4, 1973

En
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ANALYST: Frank/Goodman DATE COMPLETED: April 2, 1973

1. Number of Measure SB 100	2. Status Engrossed Bill (inc. Senate Amendments of March 23, 1973)	3. Class of Bill Fiscal <input checked="" type="checkbox"/> Non-Fiscal <input type="checkbox"/> Organizational <input checked="" type="checkbox"/>
4. Subject Creates Department of Land Conservation and Development and regulates land use		
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6. Fiscal Impact		

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D. ENV. & LAND-USE COM.

Effect on Revenue

None

Effect on Expenditures

While the expenditure requirements of SB 100, as amended, are not substantially different from the previous analysis, the type and level of funding have been revised.

The currently estimated 1973-75 General Fund requirements of the agency are as follows:

Personal Services (37 pos.)	\$599,215
Services and Supplies	
- Staff support	\$199,500
- Hearings expenses	150,000
	<u>\$349,500</u>
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Total Department Expenses	<u>\$973,215</u>
Joint Committee on Land Use	
- Expenses	\$ 100,000
Grants-in-aid to local governments	<u>\$2,000,000</u>
Total General Fund	<u>\$3,073,215</u>

Again, these expenditure figures reflect only an estimate of the program level and funding necessary under SB 100.

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Analyst: Stinson
Date: April 4, 1973

PROPOSED STAFFING - LAND USE AND CONSERVATION DEPARTMENT

Oregon State Archives

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S. ENV. & LAND USE COM.

	No. Positions	Monthly Salary	24-months	Imp. Date	Imp. Months	Imp. Cost
Director	1	\$2,086	\$ 50,064	7/73	24	\$ 50,064
Deputy Director	1	1,633	39,192	7/73	24	39,192
Field Admin. (Planner 4)	1	1,412	33,888	7/74	12	16,944
State Coord (Prog. Exec 3)	1	1,106	26,544	7/74	12	13,272
Fed. Coord (Prog. Exec 3)	1	1,106	26,544	7/74	12	13,272
Field Planners						
Planner 3	3	1,280	92,160	9/74	30	38,400
Planner 2	4	955	91,680	9/74	40	38,200
Central Planners						
Planner 3	3	1,280	92,160	7/73	72	92,160
Planner 2	4	955	91,680	7/73	96	91,680
Advisory Comm. Spec. (Programmer 3)	1	1,106	26,544	7/73	24	26,544
Draftsman 1	2	656	31,488	1/75	12	7,872
Draftsman 2	1	796	19,104	9/74	10	7,960
Secretary 5	1	594	14,256	7/73	24	14,256
Secretary 4	2	531	25,488	7/73	48	25,488
Accounting Clerk 2	1	558	13,392	7/73	24	13,392
Clerk 3	1	459	11,016	7/74	12	5,508
Clerk Typist 2	5.5	397	52,404	(3-1/2) 1/75	21	8,340
				(1) 1/74	18	7,146
				(1) 7/74	12	4,764
	33.5		\$737,604		527	\$514,454
OPE 15.4%			113,591	FTE	21.9	79,225
Total Personal Services			\$851,195			\$593,679
Services & Supplies (25%)			283,700			197,900
Capital Outlay			24,500			24,500
			\$1,159,395			\$816,079

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CITY OF PORTLAND
INTER-OFFICE CORRESPONDENCE
(NOT FOR MAILING)

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From

To

Addressed to

Subject

Proposed amendment

Section 19, Subsection (2) Delete existing language and substitute:

Notwithstanding subsection (1), where ~~the people of one or more counties~~ the people of one or more counties have authorized a regional agency to act as their planning authority, that regional agency shall be responsible for coordinating all planning activities affecting land uses within the region, including those of the counties, cities, special districts, and state agencies, to assure an integrated comprehensive plan for the entire area of the region.

Proposed amendment

Section 19. Subsection (3)

In counties where the population exceeds 300,000, the most populous city in that county may designate itself as the planning authority for the area within the city's jurisdiction.

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KEY ISSUES IN STATE LAND USE REGULATION

A portion of the report the Quiet Revolution
in Land Use Control

Prepared for the Council on Environmental
Quality by Fred Bosselman and David Callies

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KEY ISSUES IN STATE LAND USE REGULATION

S. ENV. & LAND USE COM.

The administrators of all the programs covered in this report are sailing uncharted waters. Each day brings new problems that must be solved by the use of common sense interpretations of sketchy statutory guidelines. It should be no surprise, therefore, to learn that although the administrators find their work challenging and interesting they also find themselves so occupied with immediate tasks that they have little time to spend contemplating the long range philosophy behind their work. Except in Hawaii, where there is now some reexamination of basic goals, the administrators are too busy to be reflective. If you ask them, "What are the key issues?" they are likely to respond-- "finding time to review these 10 applications before midnight."

Given the youth of this legislation, and the charged-up atmosphere in which it is administered, it is not even easy for the outside observer to sit back and view it from a broader perspective. But the following six issues seem to recur throughout most of the states that have been affected by the quiet revolution.

(1) Toward a New Concept of Land

If one were to pinpoint any single predominant cause of the quiet revolution it is a subtle but significant change in our very concept of the term "land," a concept that underlies our whole philosophy of land use regulation. "Land" means something quite different to us now than it meant to our grandfather's generation. Its new meaning is hard to define with precision, but it is not hard to illustrate the direction of the change.

Basically, we are drawing away from the 19th century idea that land's only function is to enable its owner to make money. One example of this change in attitude is that wetlands, which were once characterized as "useless," are now thought of as having "value." As we increasingly understand the science of ecology and the web of connections between the use of any particular piece of land and the impact on the environment as a whole we increasingly see the need to protect wetlands and other areas that were formerly ignored.

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This concern over the interrelatedness of land uses had led to a recognition of the need to deal with entire ecological systems rather than small segments of them. San Francisco Bay, Lake Tahoe, the Hackensack Meadows, Adirondack Park are now all seen as single entities rather than as a collection of governmental units.

The new attitude toward land can also be seen reflected in the increasing concern about its scarcity. Industries that in an earlier day seemed to have their choice of an unlimited supply of land now see land as a limiting factor. With some, such as the forest products industry, this recognition came early--with others, such as agriculture, it is just beginning in states like Hawaii and California.

The economically productive users of land are not the only ones who are increasingly recognizing its scarcity. Wilderness buffs have recognized this for some time. But now the large segment of Americans who just want to live in the country, and who once seemed to have a wide choice of location, now find their supply of land limited. The jet plane, and particularly the interstate highway network, have permitted millions of Americans to achieve their goal of "country living" on either a permanent or temporary basis, but they are finding that there isn't as much "country" to live in as there used to be. Their annoyance is reflected in the new legislation in Maine and Colorado.

The scarcity of land reflects both its increasing use and the increasing limitations put on its use by local governments. The problems of inner city dwellers seeking adequate housing seem impossible to solve unless we can overcome the scarcity of suburban land on which low and moderate-income can be built. The Massachusetts Zoning Appeals Act was passed in recognition of this scarcity.

Conservationists describe the changing attitude toward land by saying that land should be considered a resource rather than a commodity. But while this correctly indicates the direction of the change, it ignores the crucial importance of our constitutional right to own land and to buy and sell it freely. It is essential that land be treated as both a resource and a commodity. The right to move throughout the country and buy and sell land in the process is an essential element in the mobility and flexibility our society needs to adjust to the rapid changes of our times. Conservationists who view land only as a resource are ignoring the social and economic impact that

would come with any massive restrictions on the free alienability of land. But land speculators who view land only as a commodity are ignoring the growing public realization that our finite supply of land can no longer be dealt with in the freewheeling ways of our frontier heritage.

The idea that land is a resource as well as a commodity may appear self-evident, but in the context of our traditions of land use regulation it is a highly novel concept. Our existing systems of land use regulation were created by dealers in real estate interested in maximizing the value of land as a commodity. Subdivision regulations which encouraged uniform lots fronting on public streets enabled land to be divided into tradable units. Traditional zoning ordinances with only a few use districts, each governed by relatively nondiscretionary regulations, attempted to give these lots some of the fungible qualities of corn futures or stock certificates, making it possible to determine in advance the specific type of use permitted on the land and providing quick shorthand labels for identifying various categories of land. Bulk and yard regulations created an envelope on each single lot which enabled the owner of that lot to build without further consideration of the relationship of his land to the land of his neighbors, thus assuring potential buyers of the land's usability. The highest goal of the system was to enable barkers to sell Florida lots in Grand Central Station.

The promoters of these land use regulations in the 1920's made no attempt to conserve land for particular purposes or to direct it into a specific use, but only sought to prevent land from being used in a manner that would depreciate the value of neighboring land. The traditional answer to the question, "Why regulate land use?" was "to maximize land values." To achieve this purpose they sought to restrict those uses of land that adversely affected the price of neighboring land by concentrating them in specific parts of the city.

Where development would not harm property values it went unregulated. Zoning permitted residential uses to be built in the most polluted industrial districts on the theory that any development which did not reduce the value of the surrounding land should not be prohibited. Land use regulation was limited to urban areas where the close proximity of land uses made it likely that the particular use of one man's land might reduce the value of another's, but there was no regulation of land outside urban areas where such a reduction in value was not likely to take place.

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In a dynamic and mobile society such as ours the ability to buy and sell land readily is an essential ingredient in the operation of the system, and the extent to which zoning and subdivision control have been adopted throughout the country testifies to the usefulness of these original concepts. The last 20 years, however, has seen increasing recognition that the purpose of land regulation should go beyond the protection of the commodity value of land. A realization is growing that important social and environmental goals require more specific controls on the use that may be made of scarce land resources.

This recognition is seen not only in the new state role in land use regulation, but in the actions of many local governments. Modern zoning ordinances typically rely less and less on pre-stated regulations and require developers to work with local administrative officials in designing a type of development that fits more closely into the specific circumstances of the surrounding neighborhood. Similarly, regulations tend to encourage larger scale development in which the various land uses are arranged and designed according to a comprehensive plan for the specific site, as opposed to the traditional lot-by-lot development under which individual lots were sold to individual purchasers who might develop each lot according to pre-established rules. More specialized use districts, which permit only those uses appropriate to a specific geographic area rather than some abstract category of uses such as M-1 or R-4, are also evidence of local governments' growing attempt to tailor land use regulations to local needs.

Most importantly, perhaps, numerous systems of local land use regulation are beginning to contain regulations that recognize land as a resource as well as a commodity. Exclusive agricultural and industrial zoning preserves land as a resource for these important uses. Regulations prohibiting topsoil removal or requiring common open space find their justification in the protection of land as a resource for recreation and beauty. Regulations which require that a specified percentage of dwelling units in each housing development be reserved for low-income groups are recognizing the importance of land as an essential resource for housing all elements of our society.

Recent years have seen a rapid increase in local zoning and subdivision regulation in relatively undeveloped areas. Here the concern is not that the use of land might injure immediate neighbors, but that it might impair the possibility of more desirable long-range land use patterns.

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Increasingly the question being asked is not only, "Will this use reduce the value of surrounding land?" but "Will this make the best use of our land resources?". S. ENV. & LAND USE COM.

The clearest evidence, however, that there has been a change in the attitude toward why land should be regulated is in the legislation described in this report. The purposes sought to be achieved by the various bills are a far cry from the simple value-maximization concepts of early real estate interests. Hawaii seeks to conserve the land for agriculture and to preserve scenic beauty. In Tahoe and San Francisco the goal is to preserve the amenities of the area. Maine and Vermont are trying to protect the rural atmosphere of their states. Massachusetts wants to preserve some suburban land as a resource for low and moderate-income housing and to preserve wetlands as a resource for wildlife and other ecological values. In the Hackensack Meadows the goal of New Jersey is to utilize this centrally located land for the ideal combination of development and conservation purposes.

But the recognition of new purposes for regulating land should not and does not mean that the old concerns with land's value and salability should be ignored. On the contrary, the longer-range view expressed in the new land regulatory systems will enhance land values over the long run to a far greater degree than systems motivated primarily by a desire to increase immediate salability. The preservation of the amenities of San Francisco Bay is of tremendous economic value to all landowners in the Bay area. The preservation of the quality of Maine's lakes and coastline will be of great value to owners of property in those areas, not just today but for years to come. Today's broader view of land values recognizes that in the long run land values will reflect our ability to maintain a society in which people will want to own land, and this is the overall goal of the legislation now being enacted by the states.

(2) The Role of the State

Changes in a state's pattern of land use involve thousands of individual decisions--to drill a well, to widen a street, to build a power plant, to build a garage--the new patterns that result are the sum of all of these decisions, some major, others very minor. The state's goals can be achieved if only the major decisions can be regulated. One of the important issues in each state land regulatory system is to separate the major decisions from

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the minor so that state officials are not bogged down with gas station applications when they should be considering power plant sites, and so that irate homeowners do not have to go to the state capital to get permission to build a garage.

To succeed in solving this dilemma it is essential to avoid the classic bureaucratic trap. Regulation is not desirable for its own sake. Any system of land regulation imposes substantial costs. These include not only the costs borne by the taxpayers who pay the administrators' salaries and expenses, but the costs borne by the developers and eventually passed on to the consumer. Time is a particularly important cost to most land developers because heavy front-end expenses are usually paid with money borrowed at relatively high interest rates, which makes each additional day of delay a significant factor in increasing the cost.

The costs imposed on developers by land use regulations have a peculiarly regressive nature. Developers of expensive housing, for example, can much more easily absorb the cost of regulation than developers of housing designed for lower income groups. The cost of processing an application to build a mobile home park and a luxury apartment building may be approximately the same, but when considered as a percentage of the consumers' cost per unit the costs loom much larger to the mobile home buyer.

Regulation has other inherent disadvantages. Any complex system of regulation has a natural tendency to reduce innovation. Minima become maxima. When regulators approve one design it creates a powerful incentive for other builders to use the same approach. The monotonous subdivision of the 1950's is being replaced by the monotonous planned unit development of the 1970's.

For these reasons all of the states engaging in land use regulation have used some method of concentrating their energies on a limited number of important development decisions to avoid diffusing the state regulatory power too widely. A variety of methods are used: In the Twin Cities regulation is concentrated on major capital improvements, such as airports and sewers. Both Vermont and Maine have attempted to define development subject to the state's jurisdiction in a way that excludes small-scale development and concentrates only on development of more significant size. Hawaii classifies development into four basic categories and (in theory at least) the state attempts to decide only the proper category applicable to a particular

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piece of land, leaving the details to be worked out by the counties.

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The problem of isolating the types or areas of development that have a significant state or regional impact does not seem headed for an easy solution. Further experimentation with the various methods now in use in the states may discover increasingly better methods. But the need is apparent for some method of concentrating state efforts on major land use issues if the burdens of regulation are not to exceed its benefits. Those who cry for comprehensive regulation of all development by the state merely show that they have not thought through the problem.

(3) The Role of Local Government

Local regulation of land use has been in existence for many years in at least the urbanized portions of most states for many states. These local systems of zoning and subdivision control have proven quite adequate for controlling many types of development, particularly small-scale development in urban areas. At a time of increasing demands for citizen participation and community control, the value of encouraging local decision-making wherever possible is obvious.

A common failing of most of the new state land regulatory systems is that they do not relate in a logical manner to the continuing need for local participation. Most of them tend to by-pass the existing system of local regulation and set up completely independent and unrelated systems. This requires the developer who is subject to both systems to go through two separate and distinct administrative processes, often doubling the time required and substantially increasing the costs required to obtain approval of the development proposal.

Most states have chosen to create duplicating procedures in order to eliminate the need to make any change in existing zoning and other regulatory systems. By leaving local zoning alone the state reduces the number of potential enemies of new legislation. Moreover, in many states the motives behind the state land regulatory system were solely to prohibit development that would otherwise occur. To persons having this motive the duplication does not seem to be a problem because duplication can only operate to prevent and not to encourage development.

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Not all of the states have accepted the idea of duplication. The Massachusetts Zoning Appeals Act explicitly rejects it; here the state system comes into play only as a means of reversing a decision of a local board. The Hawaii system also minimizes duplication; some of the major development proposals require action by both state and county agencies, but most ordinary development needs action by only one or the other. S. ENV. & LAND USE COM.

As the states move toward more balanced systems of land use regulation that are not weighted exclusively toward the prevention of development, it will be increasingly necessary to merge both state and local regulations into a single system with specific roles for both state and local government in order to reduce the cost to the consumer and taxpayer of duplicate regulatory mechanisms.

(4) Regulation and Planning

Once government recognizes that land can be a resource to achieve many different goals, some method is needed to balance these various goals to see which uses of land will provide the greatest overall benefit. The operations of the Hawaiian Land Use Commission offer a good example of this balancing process. The Commission is constantly weighing the need for more housing against the need for agricultural land--the need to protect the views of the mountains against the need to attract jobs and tourists.

"Planning" can be defined as just this kind of balancing process. The Hawaiian Land Use Commission is engaged in "planning" although most of the Commissioners do not think of themselves as planners. Similarly, many of the other agencies discussed in this report are determining the best use of land by a planning process which measures alternative uses against the overall goals and policies of the state. In some cases these policies are clearly articulated and the process is consciously perceived as "planning," while in others it is not.

In Maine, for example, the statutory direction given to the Environmental Improvement Commission would also appear to preclude much balancing of conflicting goals. The statute directs the Board to insure maximum protection of the environment and does not provide any process by which countervailing development needs can be weighed. In practice, however, the Board utilizes a balancing process in deciding how far to press its jurisdiction.

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Other statutes more explicitly instruct the administrator to consider a variety of goals. The Wisconsin Shorelands Act, although primarily oriented toward protecting the environmental values of the rivers and lakes, does recognize the need for some types of development. Similarly, the Massachusetts Zoning Appeals Act, although primarily oriented toward making land available for housing needs, also recognizes that it is important to protect health and safety and preserve open space.

Other statutes involve more sophisticated planning processes. In Vermont, although the present regulatory process is oriented primarily toward protection of environmental values, the planners are directed to prepare a plan that takes into consideration both environmental and socio-economic conditions. The Twin Cities Regional Council uses a comprehensive planning approach as a basis for the decisions assigned to it. Similarly, the Tahoe Regional Planning Agency and the Hackensack Meadowlands Development Commission are taking into consideration a wide variety of factors in preparing the plans on which their regulatory systems are based.

It seems clear that as state land regulatory systems evolve they will increasingly spawn better planning processes on which to base regulatory decisions. The Massachusetts Wetlands Act, for example, does not ask its administrators to balance the pros and cons of various uses of the wetlands. The legislature has presumably done this balancing itself and concluded that the goal of preserving the wetlands outweighs all other possible goals. Consequently, the administration of the Act can be said to involve a minimum of planning. But as it increasingly becomes recognized that other values are involved, it seems reasonable to assume that the state will institute a planning process that will take all values into consideration.

To see regulation as the predecessor of planning is not wholly logical. But Americans have rarely looked kindly on the idea of planning for its own sake, and have paid attention to planning only when it immediately affects decision-making. As a political matter probably the most feasible method of moving towards a well-planned system of state land use regulation is to begin with a regulatory system that concentrates on a few goals that are generally perceived as important, and then to gradually expand the system by adding more comprehensive planning elements, as is being done in Vermont. To insist that the planning precede the regulation is probably to sacrifice feasibility on the altar of logic.

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If the land regulatory systems are to be assisted by competent land use planning it will require substantial redirection of current state planning efforts in many states. The Department of Housing and Urban Development has increasingly been directing the state's attention towards the management of state government programs, with the result that many states have been drifting away from the more comprehensive approach toward land use planning that was characteristic of the states in the 1930's. There is no reason why land use planning is inconsistent with budgetary and management planning, and if the state planning agencies are to perform a meaningful role in land use regulation, they must reassert their interest in comprehensive planning for land use. Unless the state planners divert at least a share of their attention toward land use issues they may find that other more specialized agencies will have taken over, and the opportunity for a comprehensive approach will have been lost.

(5) Constitutional Limits on Regulation

One of the most important issues in any land regulatory system is the extent to which the use of land may be restricted without violating constitutional rights. Almost every state and local government that is trying to implement an environmentally-oriented land regulatory system finds itself plagued with constitutional doubts. The constitution prohibits the "taking" of property without payment of just compensation. Judicial interpretations of this clause have held that the regulation of property in a manner to severely limit its use may in some cases be interpreted as such a taking. These cases pose a constant problem to land use regulators.

Most land regulatory systems find a need to prevent all "use" of at least some portion of the land within their jurisdiction. Funds are not usually available to pay the owners of this land for the loss in speculative value to which they might claim to be entitled. The administrators therefore find themselves in the difficult position of either permitting uses that would be environmentally harmful or facing court challenges that may endanger the entire regulatory program.

This dilemma posed by the "taking" issue requires a creative legal response on the part of the regulatory agencies and their attorneys. A number of approaches are promising:

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First, if one really studies the cases the law on this subject has by no means been as bad as most people seem to assume. The Supreme Court of the United States has frequently upheld regulatory systems that prevent any development of a man's land if the regulation is essential to promote the public health or safety, and the preservation of a livable environment and a desirable ecological balance is in the long run clearly essential to the health of the nation. "Brandeis briefs" and expert ecological testimony, when combined with a sophisticated analysis of existing case law, can provide sound constitutional arguments for the validity of many regulatory measures that might otherwise be thought so restrictive as to require compensation.

Second, draftsmen of regulations need to make a careful analysis of the types of activities that may be allowed to take place on land without destroying environmental values. Too often regulations have taken the form of blanket prohibitions when a variety of activities could be permitted on the land without detracting from the values that the regulations are designed to protect.

Third, further exploration is needed to provide a sound legal rationale for setting off benefits created by the regulatory program against the losses caused by restrictions. A regulatory program that prohibits the filling of low-lying land in a flood plain, for example, may reduce the value of the portion of a man's land on which filling is prohibited, but it may substantially increase the value of the higher land by reducing the threat of flooding. Mechanisms by which these benefits can be set off against any losses can be very helpful in reducing the necessity of paying compensation.

Fourth, where compensation must be paid, new legal methods of relating the amount of compensation more exactly to the losses suffered should be devised. The government should not be forced to purchase the entire land if some lesser remedy provides equitable compensation. Compensation through the purchase of development rights, a year-to-year-interest or some type of easement should be considered.

This report is not the place to discuss in detail the many ramifications of the constitutional issue, and the many interesting approaches to it being undertaken around the country. Those who create systems of land regulation based on modern ecological knowledge should be aware of the constitutional issue, but should not be so afraid of it that they ignore the approaches that are available for working creatively within the constitutional limits.

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S. ENV. & LAND USE COM.

(6) Choice of State Agency

The selection of the proper agency to exercise the state's role in land use regulation has not followed any uniform pattern. Three alternatives seem to be found in the existing legislation: line agencies of state government, independent state commissions, and state-created regional commissions.

Line agencies have been used primarily for systems of regulation that focus on a single purpose or a small number of purposes. Thus, both the Massachusetts Zoning Appeals Act, the Wisconsin Shoreland Protection program, and most wetlands acts are administered by line agencies. All of these programs have relatively specific goals that fall within the purview of an existing agency.

Where more comprehensive statewide land use regulation has been tried, independent state commissions have been chosen. Hawaii, Vermont and Maine have all used this model, and public attitudes in the three states would all seem to favor continuation of independent commissions for statewide land use regulation--existing state agencies are all thought to be too biased towards the existing programs they administer to do a fair job in balancing the full range of policies that go into these decisions. But independent commissions contribute to the fragmentation of executive authority at the state level.

The ideal approach from a textbook standpoint would be a new line agency directly under the governor, but in some states centralization of power in the governor is not popular. State planning agencies might serve a regulatory function, but in many states these agencies have paid little attention to land use matters.

Where the regulation is concentrated in a specific geographical area of the state, the states have generally chosen to set up independent commissions having a regional orientation. In some cases members of the commission are appointed by the governor. In other cases the local governments in the region exercise direct or indirect control in the selection of members of the commission. Some of the regional agencies have proven quite successful, but participation by the local governments in the selection of members seems likely to produce a strong pro-development bias because of the dependence of local governments on new development to produce tax revenues.

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Selection of the appropriate agency to represent state or regional interests will undoubtedly vary with the specific conditions in each state at each particular time. Hopefully, the inter-agency bickering that accompanies so many programs of an interdisciplinary nature can be minimized.

OS. ENV. & LAND USE COM.

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POSTSCRIPT: FUTURE DIRECTIONS

The great advantage of our federal system is that it facilitates experimentation. New state laws need not follow a single pattern but can search out many avenues for solutions.

To those seeking to decide what directions their state should take, assistance is promised by the various land use policy bills now pending before Congress. But these bills will provide only funds and basic guidelines, not detailed prescriptions.

Organizations such as the Council of State Governments and the American Society of Planning Officials are assembling resources to assist their members in finding creative new solutions for land use regulation. A study by Richard RuBino for the Council of State Governments, currently in preparation, will explore "The Emerging Role of States in Land Resource Management."

Also in process is a Model Land Development Code being prepared by the American Law Institute. Intended not as a uniform law but as a guide to the issues, the complete code is not likely to be ready until 1974, but tentative drafts of portions of it are available from the Institute at 4025 Chestnut Street, Philadelphia, Pennsylvania 19104.

But none of this assistance can replace good hard work, at the state level--analyzing the issues and forging creative approaches. The reform of our land regulatory systems is a fascinating challenge that will continue to occupy us for many years to come.

MEMORANDUM

Res File

TO Jack Brookins
FROM Maynard Jensen

SUBJECT Joint Chamber Meet
DATE Jan. 19/73

OREGON STATE ARCHIV-S

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S. ENV. & LAND USE COM.

I attended the Oregon Coast Assn-Joint Chamber meeting today--as did some 200 other people.

Gene Magee's presentation began with a brief history of the association and the things it has been instrumental in accomplishing--mentioning especially his lobbying efforts at the 1971 legislative sessions which, he says, were instrumental in saving the bulk of the tourism advertising budget and in obtaining a moratorium of 10 years on the removal of highway signs. This period will be utilized in planning for uniform sign regulations, orderly removal and/or replacement, and a method of compensation.

Magee's main thrust dealt with what he termed were the dangers inherent in SB 100, 101, and 77, the land use planning and environmental bills. His concern centered around the loss of local control in planning inherent in the Hector McPherson bill, and the restrictions implicit in strengthening the Department of Environmental Quality as spelled out in SB 77.

Attached is a handout detailing the history of the Oregon Coast Association.

Maj

PAST, PRESENT & FUTURE OF THE OREGON COAST ASSOCIATION

OREGON STATE ARCHIVE

The Oregon Coast Association (OCA) originally was formed April 23, 1923 by businessmen of Coos, Curry and Del Norte Counties. Purpose: To work for and obtain a road from Crescent City, California to Coos Bay, Oregon.

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S. ENV. & LAND USE COM.

This group started the success story of the OCA. First, a resident engineer was assigned to the area. They were so successful that other Coastal Counties wanted to join with them. In 1931, the group re-organized and was called The Roosevelt Highway Association. Purpose: To improve the Coastal Highway from border-to-border by working for the replacement of all ferries with bridges. The first bridge was built in 1932 in Curry County across the Rogue River at Gold Beach. In 1941, the name was changed to Oregon Coast Highway Association and later the Association changed its name to Oregon Coast Association and incorporated as a non-profit organization. Promotion of tourism and an improved 101 highway were still the aims of the group.

Pacific County of Southwest Washington joined the Association bringing the total number of Coastal Counties to 9.

Each of the 7 Oregon counties so persistently and constantly pursued the Highway Commission for highway improvement in their counties that the Highway Commission requested the OCA to set up a list of priorities and make recommendations to them. The priorities established by the members of the OCA were:

1. 44 miles from Brookings to Gold Beach.
2. Bridge at Astoria replacing the last ferry.
3. Highway realignment in Tillamook County.

All members of the 9 counties of OCA unselfishly went to work on these priorities.

The Brookings to Gold Beach section was completed and by 1966, the Astoria Bridge was completed.

In 1964 Vern Ayres, the OCA Manager, resigned because of health.

From 1965-1970, the new manager spent little time in the field, on public relations, lobbying and the dispersement of coastal information so vital to us all. However, a very professional film "Portraits of the Oregon Coast" was produced and it is in constant demand by TV Stations and groups throughout the United States and Canada.

Gene Magee was hired as manager of OCA in May, 1970. Since then, a complete restructuring of policies and working aims have been put into effect - active committees on highways, trailer parks, legislation, membership and tourism have been established.

The Oregon Coast Association does not wish to infer that the Association was solely responsible for the following projects, but the OCA has worked on these projects with other groups and will continue to work in areas that are in the best interests of our coast!

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HIGHWAYS:

1. New section from Cascade Head, Lincoln County to Neskowin.
2. 3 miles to be contracted late March, 1973.
3. Final hearing on approximately 4 - 7 mile section from Neskowin to Oretown (near Nestucca River), Tillamook County.

S. ENV. & LAND USE COM.

Since the 101 Highway priorities are moving ahead, the OCA is now able to lend its support and strength to East-West Highway groups as soon as the local businessmen, Chambers of Commerce, cities and county officials make a decision where the highway should be located.

The Oregon Coast Association is actively working for the elimination of pull-out lanes and replace these with passing lanes every 5-10 miles.- Also, left turn and right turn lanes at major intersections (refugee lanes). There are other sections of 101 that need improving, but again we need your help and guidance.

TOURISM:

The Oregon Coast Association prints and distributes a full, 4-color Travel Guide. By keeping the format to 80% tourist attractions and 20% advertising, the OCA members have free distribution outside of Oregon by Automobile Clubs (AAA, National, Canadian) and major oil companies. The Travel Guide is given to only ^{those} planning a trip to the Oregon Coast. 80,000 per year have been distributed in the past - 100,000 in 1973. The 1973 Guide will be 4 pages larger and the emphasis will promote off-season travel.

WEATHER NOW PROGRAM:

OCA is working on factual daily weather reporting program. At present, the TV and Radio Stations use the general forecast for the Oregon Coast. Often there are areas that enjoy periods of good weather. The OCA is working on setting up a weather information gathering center in the Willamette Valley. Each day, each major area would call in, in the A.M., and give the actual weather conditions in their area. The TV and Radio Stations then could contact this center, obtain the current weather report and give a much more actual report to its listeners.

LEGISLATION:

In 1971, Gene Magee spent most of his time in Salem lobbying:

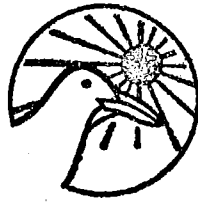
1. When OCC & DC Bill was passed, the inland people wanted 24 members on the 30-man Committee leaving only 6 from the coast. Combined efforts were able to reverse this to 24 from the coast and 6 inland. There will be another try to turn this around this year.
2. The Travel Bureau had one million dollars cut from the advertising budget. Finally, \$850,000.00 was put back into the budget. There already is a movement to cut this out of the advertising budget again.

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S. ENV. & LAND USE COM.

Besides these two items in the 1973 session, there are other Bills that need watching.

3. The Hector McPherson Senate Bill 100. This is a land-use planning Bill. It sets up a 5-man Planning Commission with absolute control over many areas in Oregon among which are all lands lying west of Highway 101, land for 1/4 mile around all parks, and 1/4 mile on each side of all Estuaries. If this Bill is passed, it's easy to assume where the 5 appointed members will come from. The Oregon Coast would be lucky to get one member on the Commission.
 4. Senate Bill 77 would give DEQ much more power than in the past. Septic tank permits would require a \$30.00 fee and would be sent directly to DEQ rather than the local health officer. There are other parts of this Bill, and many others that need watching.
- In the 1973 Legislative Session, Mr. Magee is now a registered lobbyist and will spend most of his time in Salem. The Oregon Coast Association will send out bulletins to members and inform them when help and support is needed.



CITY OF COOS BAY

P. O. BOX 1118
COOS BAY, OREGON 97420

February 1, 1973

The Honorable Tom McCall
Governor of Oregon
State Capitol
Salem, Oregon 97310

RE: Senate Bill 100 (Sponsored by Senator Macperson & Hallock)

Dear Sir:

We, the Planning Commission and City Council of the City of Coos Bay, Oregon, have reviewed Senate Bill 100 and League of Oregon Cities Summary of said Bill. We are definitely opposed to the adoption of Senate Bill 100 and any other bill that unjustly and unfairly usurps the Rights of the Public to Govern themselves at a local level.

This bill will remove from the cities and counties their controls over Comprehensive Planning, Zoning and other related regulations and place it in the hands of persons not directly thereby effected.

We believe that the citizens of Coastal Oregon, and particularly the citizens of Coos Bay, are entitled to as much autonomy as the citizens of the rest of the State. This country was founded to protect the rights of the people. We feel that Senate Bill 100 singles out a specific region of Oregon and destroys its rights to self government. We refer you to the underlined portions of the attached enclosure, League of Oregon Cities, January 1973, Summary of Senate Bill 100.

The State of Oregon has requested comprehensive plans and regulations governing land and water development from the cities and counties of Oregon. Every effort to finalize and adopt these plans and regulations are being made by all local governing bodies in Coos County to meet this request.

(Cont'd)

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S. ENV. & LAND USE COM.

Page 2

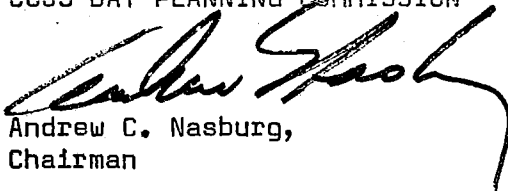
The Honorable Tom McCall
February 1, 1973

What good are these plans and regulations; and we quote from said above mentioned League Summary, "A regulation of a City or County would be void if it were in conflict with a State Planning Objective or Regulation for an area or activity of critical State concern." ... if this measure is allowed?

Again, we are definitely opposed to Senate Bill 100.

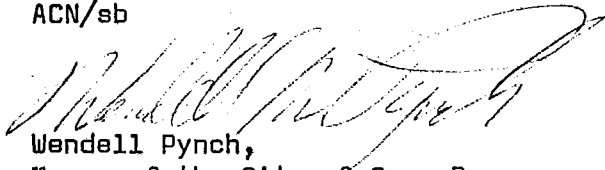
Sincerely,

COOS BAY PLANNING COMMISSION



Andrew C. Nasburg,
Chairman

ACN/sb



Wendell Pynch,
Mayor of the City of Coos Bay

WP/db

cc: The Honorable Jack Ripper
The Honorable Ed Stevenson
The Honorable Jason D. Boe
The Honorable Richard Eymann
The Honorable Ted Hallock
The Honorable Wm. Grannell
Coos County Planning Commission
Curry County Planning Commission

City of North Bend
City of Coquille
City of Bandon
City of Gold Beach
City of Port Orford
City of Brookings
City of Myrtle Point
City of Powers

LAND USE PLANNING

SB-100 (sponsored by Senators Macperson and Hallock) pertains to establishing a state planning responsibility and structuring a system of state-regional-local planning. The bill involves three major organizational concepts:

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S. ENV. & LAND USE COM.

1. A joint legislative committee on land use.
2. Creation of a State Department of Land Conservation and Development.
3. Creation of regional (district) planning agencies.

The State Department of Land Conservation and Development would develop and adopt:

- a. state-wide general planning guidelines,
- b. for areas and activities of critical state concern, state planning objectives and regulations, and
- c. review comprehensive plans for conformance with state-wide objectives, regulations and guidelines.

The guidelines, objectives and regulations would require legislative approval. Interim regulations could be established by the Department subject to approval by the next legislature.

All state agencies, district councils, cities, counties, and special districts would be required to prepare or revise comprehensive plans, zoning, subdivision or other ordinances and regulations in accordance with the state objectives, regulations and guidelines.

Various methods of gaining compliance are proposed:

- a. A regulation of a city or county would be void if it were in conflict with a state planning objective or regulation for an area or activity of critical state concern.
- b. The commission would have power to issue administrative orders halting developments not in compliance with regulations, objectives for areas and activities of critical state concern. Such developments could also be taken to court.
- c. The Governor could plan for those units of government that do not revise or prepare comprehensive plans in accordance with regulations, objectives or guidelines. Cost of such planning would be deducted from state shared revenues.

The district council would review all comprehensive plans, zoning, subdivision and other ordinances or regulations of state agencies, counties, cities and special districts within the district for compliance with state objectives, regulations and guidelines.

HOME ADDRESS
BRAD MORRIS
516 GLAIRGEAU CIRCLE
MEDFORD, OREGON 97501



COMMITTEES
MEMBER:
HUMAN RESOURCES
LOCAL GOVERNMENT
URBAN AFFAIRS

HOUSE OF REPRESENTATIVES
SALEM, OREGON
97310

OREGON STATE ARCHIVES

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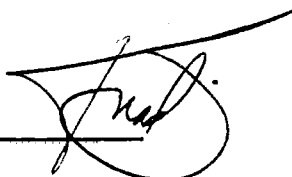
I RECEIVED THIS LETTER IN REGARDS

TO SB 100.

I THOUGHT YOU MIGHT LIKE TO SEE IT

AS YOU WILL BE CONSIDERING THE

BILL IN COMMITTEE.



BRAD MORRIS

JOHN A. CLEVER, MAYOR

CITY OF GOLD HILL

~~ESTABLISHED 1852~~

JUDY FOUTS, RECORDER-TREASURER

GOLD HILL, OREGON 97525

OREGON STATE ARCHIVES

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S. ENV. & LAND USE COM.

February 5, 1973

Mr. Brad Morris
State Representative
Salem, Oregon 97310

Dear Representative Morris:

In regard to S.B. 100, we of the City of Gold Hill feel that the establishment of district councils has been done here in Jackson and Josephine Counties in the form of the Rogue Valley Council of Governments, and that the appointment of a planning commission at that level would tend to have great difficulties in working together, also in working with the communities themselves, as has been demonstrated by the councils of governments throughout the state already.

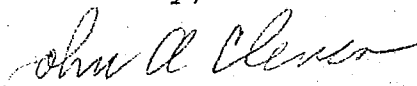
We will agree that these areas of critical state concern do need state control as the small individual governments do bend to large financial interests instead of sticking to a desired plan.

The sections on Guidelines objectives and regulations seem to be drawn a little late, as most of the cities and counties have just finished comprehensive planning and zoning, as required by previous legislation, and it will be an additional expense, if for some small reason, they do not meet these now required guidelines.

So, there seems to us to be more liabilities to this bill than there are assets.

We are hoping this will help you in making a decision.

Yours truly,



John A. Clever
Mayor

P. O. Box 1147
Bandon, Oregon 97411
February 7, 1973

OREGON STATE ARCHIVES

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S. ENV. & LAND USE COM.

Senator Ted Hallock
State Capitol Building
Salem, Oregon 97310

While it is an exercise in futility for anyone from the Southern Oregon Coast To attempt to communicate with you, the arrogance of your attitude drives one in desperation to make some reply.

As a former Judge of the Allied Military Government Courts in Germany I found your statements and actions regarding the method in which you would clear the hearing room at the opening of consideration of Senate Bill 100 strongly reminiscent of those charged against various NSDAP officials brought before our tribunals for trial. Like them you apparently believe in your omniscience and omnipotence.

Many of us in this area feel that it is tragic that President Lincoln's philosophy of government of the people, by the people, and for the people should be corrupted to government of the people, by the self-righteous, for the elite of the Willamette Valley.

To the list of oppressed minorities add the residents of Southern Oregon who resent being treated like slightly retarded children and being told "Papa knows best!"

Very truly yours,


R. M. MacWhorter

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P. O. BOX G -- NORTH BEND, OREGON 97459

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S. ENV. & LAND USE COM.

February 12, 1973

Chairman, Mr. Ted Hallock
Senate Bill 100
Capitol Building
Salem, Oregon

Gentlemen:

I protest SB 100 for many reasons. I want to expound on one in particular however because it will be different testimony than you have been receiving in the last few weeks.

My testimony, which I swear is the truth deals with the action of some of these State Agencies of which your bill hopes to find relief by the creation of one more.

I dare say, there is not six people in Oregon who have as good an opportunity to evaluate the working of this type of appointed personnel. I have been through hell for over a year now and will enclose a letter summarizing the problem as asked for by Governor McCall. I also enclose a copy of letter which is quite interesting.

Frankly, properly presented, my treatment in this case could be embarrassing enough to dethrone some of the parties involved. I may well do this.

But the point I wish to make with you is that any planning does not need an autocratic person to control such planning by the manner of his own appointment. I suggest you seek more information regarding this -

There is no representation from Coos Bay area on the initial strings of progress, to name a few

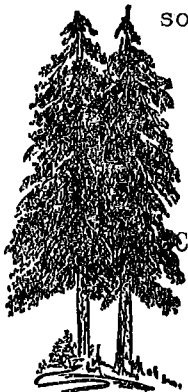
1. Highway Commission
2. Water Resources Board
3. Director of State Lands

Certainly this coincidence can and does have a decided effect on Port of Coos Bay vs Port of Portland future. Don't you agree? I am sorry I have to be in such haste.

Respectfully,

Glae C. Gould

Glae C. Gould



CG:eg



TOM MCCALL
GOVERNOR

OFFICE OF THE GOVERNOR
STATE CAPITOL
SALEM 97310

OREGON STATE ARCHIVE

December 6, 1967

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S. ENV. & LAND USE COM.

District Engineer
Corps of Engineers
U. S. Army
Portland District
628 Pittock Block
Portland, Oregon 97205

Att: George E. Hyde, Chief
Navigation Division

Dear Sir:

In response to receipt of Public Notice 67-135, 1507-29 (Coos Bay Fills)-2, dated November 7, 1967, five (5) agencies, state of Oregon, replied with no objection or comment.

The State Land Board said it had sold its tideland at this location, hence private ownership extends to ordinary low water. The erection or extension of a dike does not affect the line of ownership. However, if new lands are created per ORS 274-905 a permit would be required from the Land Board prior to such creation.

The Fish and Game Commissions of Oregon have asked the following:

1. That dredge spoils be deposited behind a berm.
2. That dredging will be confined to a period between November 1 to March 1 of the given year.
3. That silting as a result of the dredging shall be held to a minimum.

Sincerely,

Tom McCall
Governor

TM:wa

cc: State Water Resources Board

Notes
②
X

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S. ENV. & LAND USE COM.

July 15, 1972

Honorable, Tom McCall
Governor of Oregon
Salem, Oregon

Dear Governor:

It has been three hours since you spoke at the Dunes dedication and since I in turn spoke to you. Believe me, it was certainly appreciated that you consented to the second few words as you were leaving, since there had been many who wished to associate with their governor, young and old, I have always believed your personal touches with the public such as here and at the capitol, is indicative of your personal care of the state's citizens.

Governor, following the State Water Resources Board meeting in Burns, I went East and crossed out of Oregon and actually waved goodbye to Oregon. I was gone four days and after meditation again stopped at Roseburg where my first question to James Richmond, my attorney and cousin was "Jim have I done anything wrong, illegal." He said, "No--the state thinks the dike is illegal, the Corps of Engineers told you to go ahead." You had a corp permit for dredging and filling which was still in effect. He indicated a desire to get the matter before someone to render a legal opinion on it and that he would file the case in circuit court.

Governor, you should ask for, and take time to read, the minority opinion as presented by Mr. Kramer who has a legal background and who of course is a Water Board member.

Kess Cannon was one of four or five in Salem who received from me at the outset, copies of five or six document which I feel should have sufficed for an early positive decision. These enclosures were followed two or three days later by what I feel is the strongest evidence of all, the cover letter on your stationery and with your signature. This letter was brought to my attention by the corps when they were explaining to me the need for such in any new request. All of these are at your disposal at Mr. Cannon's or Mr. Cox's files. Here is the way it was wrong in the beginning:

1. The State Division of Lands asked for my letter of December 23, 1970, for the \$50.00 fee for next years permit (1971).
2. The check was mailed on the 24th and was cancelled and returned to us. Then we had Xmas and New Years vacation. This must have been the planning state for the next move.

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S. ENV. & LAND USE COM.

3. On January 14th the Division of State Lands sent me a letter notifying of a temporary suspension and cited the attachment to original permit that they could renew after three years.
4. They may or may not have had such a hearing to entertain the decision. But at least Mr. Dick Engstrom and Mr. Tuscon Meyers can tell you their views on this which was relayed to me by them and which alerted my feeling of apprehension. Following receipt of this letter I replied by certified mail on January 16, 1971 and protested their letter on several grounds. One being it was to early by 15 days, another that I should have been present to counter what statement or letter were submitted. (Let me interject this amazing statement. "Today I have not seen nor do I know who, or what, or what voice brought on the temporary decision. I was told by Mr. Cox and By Mr. Johnson of State Division of Lands that I would have this information; one said tomorrow and the other in the mail Monday.) The third state error was that as per their attached section of laws they had thirty days in which to take action following my protest, and they did not. Failing to do this, they had by the same law, to grant a temporary permit. This they did not do.
5. Finally on February 24th came the smooth letter that "Would an on site view be helpful"? This I quickly agreed by by letter and asked and invited other people including corps and fish people to be on hand March 10 (9th changed to 10th.)

At this meeting among other things Mr. Montague did ask for the entire permitters to be shown. Then he did stand at a well known spot on the Kentuck Road, and did say that he didn't feel that they would approve of the dike extending westerly to contain the whole eight acres, but did say. "If I would chop it off where it is, and dike it across to this point, I see no reason this would not be acceptable." We immediately rearranged the stone on the extreme end to serve as a drain for mud to ooze through and refrained from any more construction of the dike. This dike was resumed in the manner Mr. Montague described in November of 1971 after carefully entering into the communication with the corps as to how and when we would commence and how we would complete the entire proposal by December 31, 1971. A letter was addressed on October 26, 1971.

Particular emphasis was given with to corps direction and approval and care to leave just enough room to accommodate the 6,000 yards of spoils which would be removed for the barge to float in.

I cite this as one serious falsification. I further point out that before a group of state people and others, he called this a misunderstanding and apologized for it. In Salem in his office, Mr. Cox promised me the sources of complaint as soon as he made the decision. On the following Thursday Mr. Johnson of the same staff said he was inclosing all of this as per Mr. Cox's instructions along with the denial in that night's mail. Neither of the above has come about. On the following Tuesday when I called Mr. Cox he stated, as a matter of fact Mr. Gould, The Justice Department has decided to initiate the letter and it has just now crossed my desk for the signature.

Governor, by this time on Tuesday I am wondering for Mr. Meyers of the Water Resources Board had discussed my hearing before that board on Thursday evening from 4:15 to about 5:30 PM in which he said it would be my hearing, I

could have it how, where, and when. And all of these three had been answered in front of the entire Board members, as soon as possible, and in North Bend preferably on the site itself.

Now back to Mr. Cox statement on Tuesday. I'm finally getting the letter of denial the next morning. It comes and it takes five minutes to realize it is not a denial as told to me three times by three state people. I call Mr. Meyers, and he states yes, I know, he was surprised and further advised me later of your hearing on Wednesday in which he would endeavor to get my hearing to be a combination before both boards in order to speed the decision. This was not possible it seems.

¹ and many others have a questionable feeling of the manner in which this hearing was conducted, particularly on the way the state witnesses were questioned at length on their testimony and their qualifications; and how six of my eight witnesses were not afforded the opportunity to testify and how I myself was shouted down by Peter Herman, an incident that Mr. Cox apologized for at the time.

If you read the minutes of the first Water Resources Board hearing even though the hearing was before only one member, and not as promised to me by Mr. Meyers, you will see our community public response clamoured to testify of the injustice of the earlier hearing. Interestingly enough your investigation might reveal that the justice department, actually my own justice department, as well as yours who were seemingly against me, actually did most of the preparation of a paper which was to be a fair summary of the transcript and which was presented to the seven members of the Water Board. How can this be justice?

As for the site itself, look at it, it will speak for itself. It looks like Hell today and there are those who desire it that way. But I say it would have been completed and looking very presentable and even attractive. The dredge spoils would have been sitting on the otherwise completed site. This is why the sand is there. The end result would see Mr. Wallace with the dredge spoils located and placed by myself on his place in exchange for valuable consideration one of which hopefully is a home for myself and on a location whose beauty is not equalled anywhere. Again it would be the nerve center of our business and the first and last home I have ever had. This is my plea and dream since 1952. You must believe that no unsightly mess can ever prevail in my front yard.

Again I say, look at the records, come look at my tracks. My dad, and his dad before him, and my children, have always heard "Keep your tracks straight and you will be proud you did".

My second approach to you on this day called your attention to the Elliott State Forest and our old homestead. Yes, Mr. Cox, has seen this a few days ago. Ask him to review the sign that is displayed at site entrance. Secondly ask Mr. Cal Heckard and Senator Hatfield to review this family's support of any public need on our ownerships. This proposed water system would drown the old homestead, would enter the viaduct on our property, would exhaust on the head of our quarry source, and would terminate on the hill overlooking this disputed barge site.

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S. ENV. & LAND USE COM.

As you stood on the platform today this same family (five people) own 200 acres that is in the white (must purchase) part of the Dunes Recreation area which was to your rear and South. I was to your office two years ago seeking state aid and in funds. I keep my dream alive by excruciating work by myself, my wife and two sons. But it is closing in on us, since Xmas $\frac{1}{2}$ of the drive has been diverted to this effort to stop Kandock. Both it and the quarry source should be considered as one. House Bill 407 spells this out.

With all of this which you will have read, you probably will expect to see something drastic in proportion and in poor taste. It just simply is not so, you must look, or at least send Mess Cannon to see. Make sure I am there along with whoever else you might think proper so I can explain what it takes to complete, what it will look like, how it relates to the entire surrounding area, my new homesite, the Kentuck area, Coos Bay area and how it is and why it is being fought by lobbling of one firm who thinks he has the strangle hold on all jetty rock construction, in the Pacific Northwest and on all oil rock produced in this area.

The full story (and you will only scratch on it is a weeks review) will be one of the most amazing one to come from the depths of S.W. Oregon. and when and if we grow to know one another, you will find that I am likely, every bit as dedicated to the environment of nature as you are. This I am.

If you were ever to get to my office up here in the hills (and you might, I first met you on a lonely trail in the Elliott forest) I am afraid you would want to trade my view at least. I see coyotte, wildcat, bear, deer and elk some of which come down to the pond, and birds of all kinds. I allow only kids of any age and old men who use fly to fish the pond, and to use the one canoe. It figures very strongly in this long range quarry development.

And this is my story. Please let us look together in August as you have said today.

Respectfully,

Glae C. Gould

Senator Hallock

OREGON STATE ARCHIVES
S. ENV. & LAND USE COM.

To JB

OREGON STATE ARCHIVES
S. ENV. & LAND USE COM.

OREGON STATE ARCHIVES

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S. ENV. & LAND USE COM.

Route East, Box 40
Newport, Oregon 97365
February 13, 1973

Senate Environment and Land Use Committee
State Capital Building
Salem, Oregon

Dear Senators:

The enclosed material represents what would have been my testimony at your public hearing on Senate Bill 100 on the evening of Monday, February 12. If I had had my wits about me I would probably have tried to make your Monday morning sub-committee meeting on areas of critical concern, as my testimony is intended to express to you what I believe to be concerns representative of a great many coastal residents. We are anxious that you be cognizant of the fact that what may be the loudest coastal voices at present are not necessarily voices representing the majority of voters.

I hope that my testimony is not unduly burdensome to you, and that it will prove helpful to you in your continuing assessment of Senate Bill 100. My thanks for your kind attention to my words.

Cordially,

Randy Chakerian
Randy Chakerian

RC/cv

enc.

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S. ENV. & LAND USE COM.

TESTIMONY BEFORE OREGON SENATE

ENVIRONMENT AND LAND USE COMMITTEE

My name is Randy Chakerian.

I come from land now called Lincoln County, on the Oregon Coast.

Before that it was called the Siletz Indian Reservation.

And before that small bands of Indians, not Coast Salish, lived there.

Before the Indians, no man walked its hills and shores.

Bear and deer, coyotes and cougars, eagles, hawks and condors did the "planning" in this land.

What this land will be called decades from now is, it seems to me, among the reasons we are here tonight.

My work in Lincoln County is with the State of Oregon's Children's Services Division, as a caseworker. It is my job, as a caseworker, to plan for the families entrusted to my care and attention, and as a caseworker I know only too well how impossible it is to plan for another.

I also know, however, that sometimes it is necessary, unavoidable, if future generations are not to be maimed, for me to step in and assume responsibilities which have been abdicated by parents.

I believe one of the things we are talking about tonight is responsibility to future generations for the land entrusted today to our care. This responsibility must be met. If we, locally, are unable to discharge these functions responsibly, then we necessarily cede control over them to others who are more willing and able to accept that responsibility.

In the course of my work I am privileged to drive to and through every part of the county almost every week. I'd like to share briefly with you tonight some of the things I see, the world I live and work in, and something of what I think it all means.

On the County's southern border lies Cape Perpetua, sighted and named by Captain Cook two hundred years ago. Each time I see it I am moved to remember the words Robinson Jeffers, the poet, wrote about a similar place, his home at Big Sur in California.

This is the prow and plunging cutwater,
This rock shore here, bound to strike first, and the world behind will watch
us endure prophetic things and learn its fate from our ends.

I feel this way about what brings us here tonight.

On the northern border of Lincoln County lies Cascade Head, whose steep meadows sloping south to the Salmon River estuary were once grazed by cattle. On the cliff--edges of those meadows grow alpine wild flowers, two hundred feet above the Pacific breakers. The estuary above which they lie is one of the last in the world still largely intact.

On the northeast lies the Van Duzer Corridor, whose tall fir forests still stand today as forests stood throughout the Willamette Valley and Coast Range when this land was first settled.

And on the County's eastern border rises the Coast Range, whose farms, covered bridges, and low rolling hills remind me so much of my native New England that I sometimes must fight against my nostalgia to return; but I have only to remember how New England looked, before I left; particularly the Coast.

In Lincoln County these boundary lands are safe today to be passed on to our future. The Forest Service holds Cape Perpetua much as it was when Captain Cook first sighted it. The State set aside the Van Duzer Corridor decades ago. Cascade Head's meadows are owned by the Nature Conservancy, whose function is nowhere better defined than there. County parks and private landholdings keep intact coast range valleys, to lie forever in trust beneath sun and rain and the rainbows of spring.

We have no Cape Kiwandas or Big Creek nuclear sites in Lincoln County yet, but these sites lie just beyond our borders and every thoughtful citizen is concerned about their disposition.

And between our borders among beauties equal to Cape Perpetua and Cascade Head lie defaced, scarred lands blunted by men's hasty too--heavy hand.

Salishan Spit, assaulted by unwise development, lies now in jeopardy. Behind it Siletz Bay silts with soil once held in place on upriver slopes by spruce and hemlock. Siletz Bay is smaller than it was several years ago; yet another highway bridge has been run through it, for automobiles, whose days are surely numbered as we squander remaining fossil fuels.

A few miles north of Newport, on Yaquina Head, a gravel operation is in process of leveling the Head--to build yet more roads, again for automobiles. The cover of an Oregon Historical Society publication, entitled Pioneer Trails of the Oregon Coast, is a topographic map of the Head as it was one hundred years ago. The gravel operation today makes a mockery of that map, and of Oregon's concern for its Coastal scenic resources. Quarrying a headland has little analogue in the history of environmental travesties--perhaps the closest recently is the flooding of Glen Canyon on the Colorado in the southwest. Such a history has no place in Oregon.

Tonight, in Newport, the Lincoln County Planning Commission is considering a 500 unit condominium to be built west of Highway 101, and a 120 unit motel to be built west of Highway 101, on a strip of ocean front bluff some 200 feet wide.

The Newport Planning Commission, meanwhile, tonight considers an 8-acre shopping center to be built adjacent to Highway 101.

Both Planning Commissions are appointed at the pleasure of elected officials, rendering them thereby inaccessible to the electorate. There is virtually no meaningful way

that citizens at large can participate in an ongoing way in what is one of the most crucial functions of what is otherwise a representative governmental system. It is the exception rather than the rule that planning commissions are responsive to the wishes of citizens, and little opportunity is offered to let those wishes be known. It is worth noting, however, that the Lincoln County Planning Commission was singularly unwilling to override an overwhelming November ballot limiting building heights along the coastal strip, and declined to extend a variance to a development seeking one shortly after the election.

There is no question that local planning commissions and other responsible bodies are in great need of firm guidelines. If they are unable to produce such guidelines for themselves, or unwilling to, then the burden of responsibility must shift to those willing and able to assume it. There is urgent need today to direct what remaining coastal growth is desirable.

I would like to end by speaking to the issue of local control, often mentioned in Lincoln County and surely elsewhere. It is, basically, a valid issue, but one which ought not go unexamined.

There are modern day Paul Reveres at work today in Lincoln County. Their words read: "Warning: Stop State takeover of private land ownership and use. Join us to bring fair legislation."

I have some opinion who these people are who are organizing a resistance to such measures as those you consider tonight. They fall, I think, into two categories. On the one hand are realtors, developers, contractors, some politicians, holders of large and desirable parcels of land, men whose business it is to know what occurs in the market-place of land speculation. Frequently they travel to Portland, Salem, even Seattle and San Francisco. Their fear of measures such as the one you consider tonight is not loss of a way of life, but of profit. It is absurd to hear them speak of preserving local control.

On the other hand are the people who may well follow them, having no better place to turn. I speak now--unmasked--for them. These are the small landowners, men and women who have owned land for many years along creeks and streams in the coast range particularly. Close to the land, they are far from the County Seat, far from Salem. They are many, but their worldly power is small. The very thing they most cherish, their independence, prevents them from organizing to save themselves. They are powerless against developers who understand economics but not the land, equally powerless against the State--and now, even, the County. Their fear is loss of livelihood. They fear laws which will force them to fence their stock off their water. They fear laws which will order them to cease a way of life to which they were born. I pray you not allow this, at the hands of others, or at your own.

It seems to me that their fears may be justified; but developers are not, thank God, elected by the people, and for reasons which still gravely distress me, are not expected to be concerned, or even considerate, of many of the things of which we speak tonight. Elected representatives must and ought and will be so concerned--for the people will have it so.

February 14, 1973

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Senator Ted Hallock
Oregon State Senate
Salem, Oregon 97310

S. ENV. & LAND USE COM.

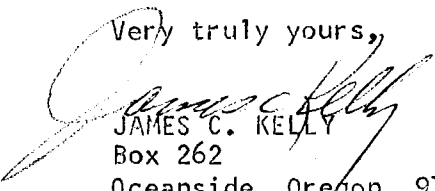
Dear Senator Hallock;

I want to take this opportunity to register my rejection of S.B. 100.

As written, it is another invasion into the few remaining rights of the individual, rights that have been eroded and taken one by one by legislation and executive or departmental directive.

I do not see any limitation of power from the Governor's office, or from the appointed commission members, by requiring their desires or decisions on land use be reviewed by the legislature or by referral to the State of Oregon. By the State of Oregon, I refer to the people who make up the State of Oregon, the individuals who are paying the costs and who are losing their rights of ownership and enjoyment of the use of property through politically motivated regulations by boards, departments, and commissions.

Very truly yours,



JAMES C. KELLY
Box 262
Oceanside, Oregon 97134

OREGON SHORES CONSERVATION COALITION
 post office box 488 portland, oregon 97207

540

S. ENV. & LAND USE COM.

Steven R. Schell
 1200 Bank of Calif. Tower
 Portland, Oregon 97205

February 14, 1973

Senator John Burns
 Subcommittee on Critical Areas
 and Activities of the Senate
 Environmental and Land Use
 Committee
 State Capitol
 Salem, Oregon 97310

Dear Senator Burns:

In testimony before your committee on February 12, several points were raised that I would like to expand upon in this letter.

Senators Atiyeh and Wingard raised the question of home rule and Senator Wingard asked if there were any cases. The case most nearly on point with regard to the State's ability to preempt a local jurisdiction in the home rule area is Fischer v. Miller, 228 Or. 54 (1961). In that case, Linn County had passed an ordinance regulating the taking of migratory waterfowl. The courts held that the county was preempted by statutes which gave the State Game Commission authority to formulate general policies and programs respecting management of game animals and birds. An extensive analysis of the relationship between county home rule and state power is found in an article by Orval Etter entitled "County Home Rule in Oregon" (46 Ore. Law Rev. 251 (1967)).

The basic idea for areas of critical state concern comes from the American Law Institute's Model Land Development Code. Section 7-201 of that Code provides the basic framework for the concept of areas as well as the concept of activities of critical state concern. For your reference, I am sending copies of the Oregon Law Review article and Sections 7-101 to 7-208 to John Toran along with a copy of this letter.

The testimony of the Oregon Shores Conservation Coalition indicated that the proposal for everything west of

...dedicated to preservation of our shoreline resources...

Senator John Burns
February 14, 1973 - Page 2

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S. ENV. & LAND USE COM.

Highway 101 being designated as an area of critical concern was not an extreme measure. I am forwarding copies of the Delaware Act mentioned in the testimony and the California Initiative to Mr. Toran to illustrate what has been done in other states. Upon reviewing the testimony, I noted that we said California protected everything 1,000 feet back from the ocean. This is an error. Everything 1,000 yards back from the ocean is protected by Proposition No. 20. The designation of Highway 101 as the eastern boundary of the coastal area of critical concern seems even less extreme given this California measure.

It was suggested that the Oregon Shores Conservation Coalition provide amendments to SB 100 that we would like to see considered. There are attached hereto two amendments--one to Section 31 and the other to Section 60(1)(d). The amendment to Section 31 adds lakes as an area of critical state concern. The amendment to Section 60 provides a petition procedure for alleged public nuisances in areas of statewide critical concern.

Please call on us if we can be of any more help to your subcommittee or the committee as a whole.

Yours very truly,



SRS:bw

cc: Sen. Victor Atiyeh
Sen. George F. Wingard
Sen. Hector Macpherson
Sen. Ted Hallock ✓
John Toran, Esq. (with enclosures)

2/14/73

OREGON STATE ARCHIVES

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S. ENV. & LAND USE COM.

AMENDMENT TO SB 100 PROPOSED BY THE
OREGON SHORES CONSERVATION COALITION

There is added to Section 31 the following:

(9) All lakes in the state with a surface area of 20 acres or more and all lands adjacent thereto situated within 1,000 feet on a horizontal plain from the mean high water line of such lakes.

2/14/73

OREGON STATE ARCHIVES

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S. ENV. & LAND USE COM.

AMENDMENT TO SB 100 PROPOSED BY THE
OREGON SHORES CONSERVATION COALITION

There is added to Section 60(1)(d) the following:

(d) Petition by any person or group of persons, a provision of an adopted comprehensive plan /or/, an action taken by a district council, or a final action taken or authorized by any state, regional or local agency within an area of statewide critical concern but not an activity of statewide critical concern.



**Oregon Shores
Conservation
Coalition/** P.O. Box 488 • Portland, Oregon 97207

Dr. George Diel/Executive Director

OREGON STATE ARCHIVES

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S. ENV. & LAND USE COM.

Dedicated To The Preservation Of Our Shoreline Resources

TO: Members of the Senate Committee on Environment and Land Use
RE: Summing Up Some Pivotal Factors in Your Decision on SB 100
FROM: George Diel

First I want to thank Chairman Hallock and all of the members of your committee for the opportunity you gave Stan Pintarich to make some observations and generalizations based on his experience with the controversial -- to put it mildly -- Tillamook County Planning Commission. I certainly concur, as would hundreds of other residents and/or homeowners in Tillamook County, that two conditions must exist if the rape of our coastal resources is to stop and sound, coordinated planning is to prevail:

1. Clear rule-making power must exist ~~from the outset~~ in the LC&DC and must be accorded to the OCC&DC.
2. Interim permit authority and power to declare selective moratoriums also must exist.

If these features ~~do not survive in SB 100, the coastal zone~~ management legislation introduced in the House by Representative Kafoury and others and related bills, then the LC&DC would emerge as another toothless tiger like OCC&DC as presently constituted. And land hustlers and their allies would have two more years of uninhibited -- but undoubtedly speeded-up -- exploitation of our rapidly diminishing land resources on the Coast and throughout the rest of the state.

I am sure that none of you are impressed by the hysterical outcry of the ill-informed who see SB 100 as a sinister satanic plot -- that you realize the legislation would give them considerable protection from the very sources that are deliberately stirring up the hysteria. But the more sophisticated -- and more dangerous -- argument that the LC&DC should do nothing more than play the planning game for two years is one that you should also reject.

If you do not include rule-making power and interim permit authority, a great opportunity will have been lost to save what remains of coastal and inland land and water resources.

We strongly urge that your committee resist any effort to water down SB 100 because unbridled, irresponsible development would inevitably be encouraged.

Respectfully,

George
George Diel

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Eugene, Oregon 97402
Phone 688-8746



OREGON STATE ARCHIVES

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S. ENV. & LAND USE COM.

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135 East Sixth Avenue
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February 16, 1973

Senator Ted Hallock
State Capital Building
Salem, Oregon 97310

Re: Senate Bill #100

Dear Senator Hallack:

At the regularly scheduled meeting, February 7, 1973, the Southwest Chapter of the Professional Land Surveyors of Oregon unanimously approved a resolution in opposition to Senate Bill #100.

Your attention is very much appreciated.

Very truly yours,

SOUTHWEST CHAPTER
PROFESSIONAL LAND SURVEYORS

Robert W. Wade, Secretary

RWW/na

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From Anita Nielson (member of ^{S. ENV. & LAND USE COM.} advisory
commission to Tillamook County Planning
Commission)

re: SB 100

Bill should be strengthened to include
entire flood plane of West Central
Tillamook County

360 Eckloff Rd.
Tillamook Ore. 97414

842-2802

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I am Virginia Bennet, President of the Lincoln County Area League of Women Voters.

We endorse the principles of Senate Bill 100 with some modifications.

In order to apply area-wide solutions to problems and to prevent small groups from impeding the progress of an area toward a general good, the legislature should have the power to provide, by statute, solution for problems of growth and to preserve our natural and aesthetic values.

We recognize the concept of comprehensive planning with citizen participation and support a partnership of state and local government for effective coordination of efforts.

Since our cities and counties are created by and are agencies of the state, we believe it the responsibility of the state to help foster good comprehensive planning with effective regional planning agencies whose membership include socio-economic balance and both governmental and non-governmental representation.

Provision should be made for enforcement authority which should remain with each local government unit, with provision for the people to file appeals or civil suits without having to bear attorney and court costs.

2680 S.W. Glen Eagles Rd.
Lake Oswego, Oregon.
January 23, 1973.

Senator Ted Hallock, Chairman
Senate Environment and Land Use Committee
State Capitol Building
Salem, Oregon.

OREGON STATE ARCHIVES

SB 100
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S. ENV. & LAND USE COM.

Dear Senator Hallock,

This is to inform you of our interest as proponents of Senate Bill 100. Tri County New Politics, a non-partisan citizen organization, is in support of land use planning at the State, as well as local levels of government.

After studying Senate Bill 100, we are interested in exploring the possibilities of including within the statutes, a statement requiring the adoption of procedures which would insure citizen input into the initial stages of any County, City, or District Comprehensive plan and zoning ordinances. We believe the public residing within an area of consideration, or area of critical concern should have opportunity to participate in the drafting, as well as review of comprehensive land use plans. This in no way need negate the function of professional planning staff or the local governmental structure.

We have some concerns as to the clarity of SB100 with regard to the responsibilities of Enforcement. Does the Commission indeed have the power to enforce the state guidelines in all areas including the local cities and counties? It seems to rely on the petition and review proceedings in Part VI. We would remind the committee that preparation of a petition by "person or persons" is an option open rather exclusively to those with enough unlimited funds to pay such attorney fees. Our organization is in accord with legislation which has enforcement powers to accomplish its purpose.

Finally, we are in support of the following:

Including (f) major industrial sites, (g) regional shopping centers, to the list of activities of critical state concern in Section 32 page 15 of SB100.


Including (9) the Mt. Hood Corridor, (10) Flood Plains, especially those involving the Willamette greenway areas. to the list of areas of critical state concern in Section 31 page 15 of SB100.

Again, we are most interested in the citizen participation aspects. We would like to meet with you or your staff to explain details and discuss any suggestions you might have as to how we can be of assistance in the effort to enact Senate Bill 100.

Communications should be directed to Joyce Cohen,
2680 S.W. Glen Eagles Rd., Lake Oswego, Oregon 97034. Telephone 636-2625.

Thank you for your consideration.

Sincerely,


Joyce Cohen,
TCNP Land Use Task Force.

cc:
Senator Hector Macpherson
Mr. John Toran

Portland, Oregon

Feb. 12, 1973

OREGON STATE ARCHIVES

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S. ENV. & LAND USE COM.

Senate Bill 100

Salem, Oregon

Dear Sirs,

The Rhododendron Improvement Committee is an informal group of interested property owners of the Franzetti Addition ^{to others} in Rhododendron. When we were advised by the Clackamas County Planning Commission that a hearing would be held on Mar. 23, 1970 to construct a 91 unit Townhouse, Planned Unit Development on a 13.2 acre swamp in the center of Rhododendron we knew it would take organized group action to try to save this unique, lovely mountain area from intensive development.

We have attended many, many hearings since March 1970, but the developers are always a step ahead of us with their plans that look beautiful only on paper. Our marsh that serves such an important part in nature's pattern of ecology is still undeveloped. But how much longer can we save it unless we adopt a strong Land Use plan for all of Oregon.

Sincerely Yours,

Violet Oja

11925 S.E. Clover Lane

Portland, Ore. 97266

550

S. ENV. & LAND USE COM.

1126 SW Cheltenham Street
Portland, OR 97201
February 12, 1973

Mr. Ted Hallock
State Senator
State Capitol Building
Room 401
Salem, OR 97310

Dear Senator Hallock:

Subject: Senate Bill 100

I wish to express my concern over the deletion of the Mt. Hood Highway (State 26) easterly from Alder Creek to Government Camp as an area of critical state concern. This highway is a portion of the Oregon Mt. Hood Scenic Loop Highway and is also the access route to one of the outstanding scenic recreation areas in the state.

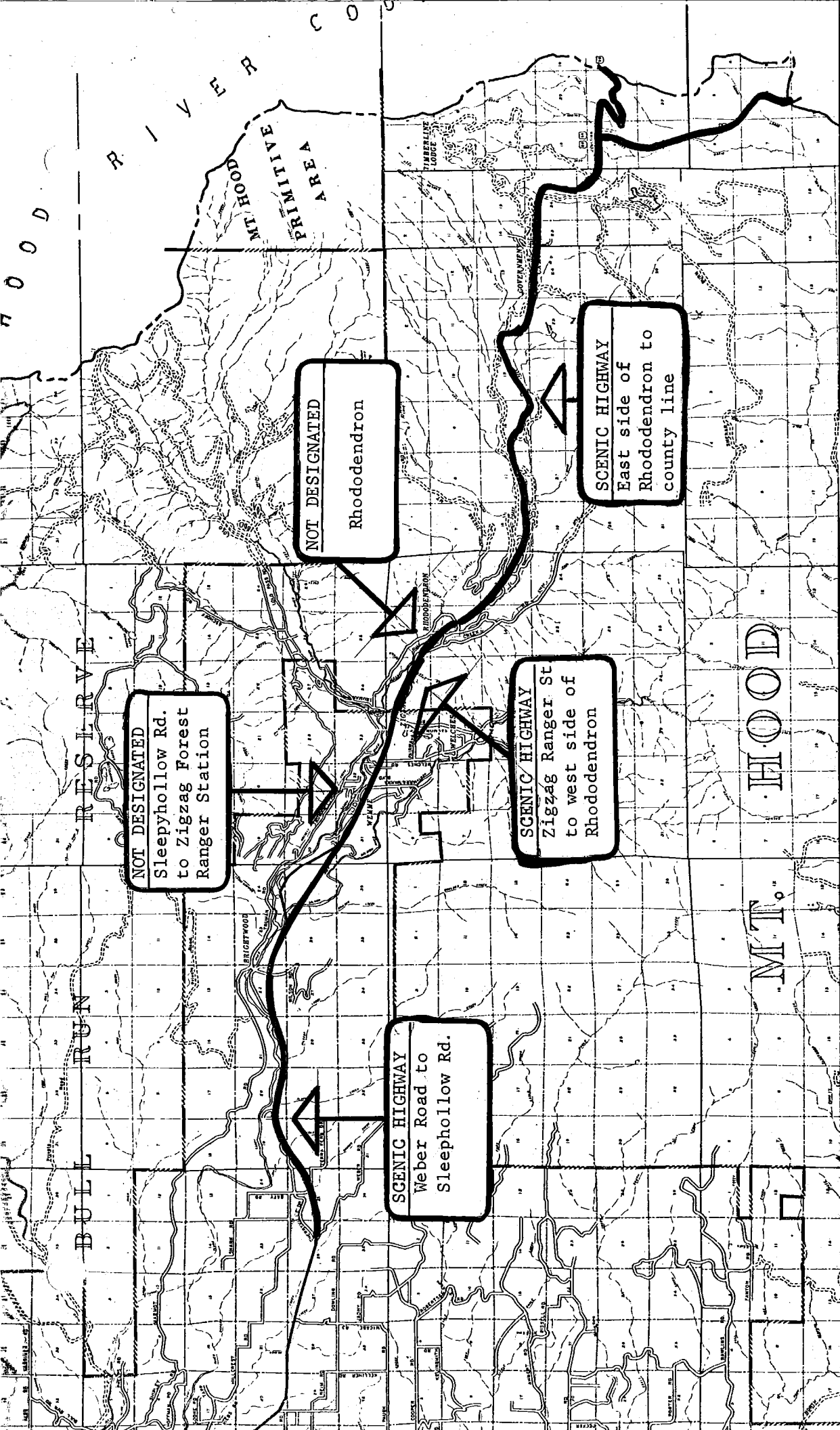
Portions of the highway are presently designated as scenic highway under ORS 377.53, and would consequently be designated as areas of critical state concern under section 31 (8) of Senate Bill 100. The most vulnerable portion of the highway, however, is not designated as a scenic highway. This is the portion of the highway between Sleepyhollow Road and the Zigzag Ranger Station. The attached map shows the portions of the highway designated as highway and those sections not designated as scenic highway.

To ensure the continued use of Highway 26 as one of the State's most valuable scenic corridors, I feel that all the highway should be included as an area of critical state concern.

Yours truly,



Edmund T. Ames



DESIGNATED UNDER ORS 377.530 AS SCENIC HIGHWAY

- Weber Road to Sleepy Hollow Road, 4.5 miles.
- Zigzag Ranger Station to west side of Rhododendron, 1.75 miles.
- East side of Rhododendron to county line, 16 (approx) miles.

NOT DESIGNATED AS SCENIC HIGHWAY

- Sleepy Hollow Road to Zigzag Forest Ranger Station, 7.25 miles.
- Rhododendron, 1.0 mile.

HOUSE ENVIRONMENT AND LAND USE COMMITTEE

May 3, 1973

8:00 a.m.

Room 20

MEMBERS PRESENT: Rep. Fadeley, Chm., Burrows, Groener, Gwinn, Hanneman, Kafoury, Katz, Paulus, Stults, Whiting, Wolfer

Tape 18, Side 1 0 - 1120

WITNESSES:

11 - 135 Chris Casady and Miles King, Oregon Architectural Barriers Council
136 - 194 Sen. Hallock
195 - 305 L. B. Day, Teamsters' Union
306 - 649 Sen. Macpherson
650 - 889 Steve Hawes, Legislative Counsel
924 - 1040 Don Willner, former Senator
1042 - 1120 Ward Armstrong, Weyerhaeuser, and Gordon Fultz, Association of Oregon Counties.

SB 693 Eng.

Chris Casady, OABC, said that state ABC groups as well as many senior citizens were pleased with the engrossed bill, and that as major cities were already planning or preparing curb cuts, the bill would serve smaller cities and towns.

Miles King, Salem, spoke in support, saying that roll curbs were not workable as too much strength was required to make use of them. Mr. Cassady explained that regular curbs served to keep water off sidewalks.

SB 100 ENG. RE-ENG.

Sen. Hallock said that Sen. Macpherson was the father of land use planning in Oregon. L.E. Day was the godfather, and he himself is the obstetrician. He said that SB 100 Eng. Re-Eng. bears little resemblance to SB 100 and does not go far enough, having left out critical areas and also relying on the archaic institution of the county rather than COGS. He said that the Governor concurs in this testimony but has accepted this bill as a beginning. He also said that SB 100 Eng. Re-Eng., if tampered with too much, would not pass.

L. B. Day, Teamsters' Union, said that he had been chairman of the ad hoc committee responsible for the bill. He said that some form of regional government within the state will emerge in the future, possibly as a bi-product of the bill. He offered his help to the committee and also said that if tampered with too much, the bill would not pass. He termed it the committee's responsibility to explain to the Legislature that \$1,500,000 would be necessary to finance the bill and that since some seven years may be necessary to institute land use planning, a sum of up to \$10,000,000 may be needed. He said that the bill was a bundle of compromises, but that it was needed; it will be able to accomplish its purpose even if counties fail to exercise their authority. Counties must submit plans which are not in conflict with their cities and towns, and may work with COGS if they so wish. He spoke of the bill as being basically tough underneath, as the Governor would appoint a tough commission.

Sen. Macpherson gave a history and explanation of the bill and said that the non-controversial rather than the controversial aspects need emphasizing. He called the policy statement (Section 2) the most important part, stressing the need for a living and constantly up-dated policy. He spoke to the question of control at the federal, state and local levels, and also emphasized that the inclusion of critical areas would prevent the bill from passing. He said that his mail at present reflects a complete change in attitude and that the people of the state would vote for such a bill. He cautioned that economic interests, however, might stall such a vote for four years. He cited the appeal section of the bill as its main strength, as it gives the state the authority to resolve conflicts.

Steve Hawes, Legislative Counsel, used charts to explain the bill's basic provisions (copies to committee).

SB 77 Eng., HB 2436 Eng.

Chm. Fadeley said that conflicts between SB 77 Eng. and HB 2436 Eng., would be best resolved by reconsidering SB 77 Eng.

Rep. Stults moved that SB 77 Eng. be reconsidered. The motion passed 9-0 (Absent: Paulus, Wolfer).

HB 2921

Don Willner, former Senator, said that HB 2921 does for the state of Oregon what the federal Environmental Protection Act does for the country: that, in effect, every action of a federal agency must be reviewed for its environmental impact. He said that the committee must deal with the City of Portland, if Portland remains in opposition, as HB 2921 is a very high-priority bill and should pass. He suggested that "major impact" be defined. He also hoped that the commission would hold fewer hearings, as neither funds nor time would be sufficient for both holding extensive hearings and setting policy.

Ward Armstrong, Weyerhauser, and Gordon Fultz, Association of Oregon Counties, spoke to a conflict between HB 2921 and SB 100 Eng. Re-Eng. They said that SB 100 Eng. Re-Eng. is the better and more practical vehicle for land use planning, as it would make better use of people and resources.

Respectfully submitted,


Committee Clerk

HOUSE ENVIRONMENT AND LAND USE COMMITTEE

May 8, 1973

8:00 A.M.

Room 20

Members present: Rep Fadeley, Chm., Burrows, Gwinn,
Groener, Hanneman, Kafoury, Katz, Paulus
Stults, Whiting, Wolfer

Tape 18, Side 2 900 - 1594

Witnesses:

903 - 938 Lee Johnson, Attorney General
939 - 958 James Redden, State Treasurer
960 - 1009 James Moore, League of Oregon Cities
1011 - 1073 Kess Cannon, assistant to the Governor
1075 - 1134 Bob Logan, Local Government Relations Division
1135 - 1175 Diarmuid O'Scannlain, DEQ director
1176 - 1208 John Porter, Oregon chapter, American Institute
of Planners
1210 - 1246 W.J. Kvarsten, Mid Willamette Valley Council
of Governments
1247 - 1302 Loren Kramer, Multnomah County Board of Commissioners
1304 - 1391 Dorothy Anderson, League of Women Voters
1392 - 1399 Nan Dewey, Oregon Wheat Growers League
1400 - 1524 Jim Allison, president, Oregon Rural Landowners
Association
1526 - 1546 George Bell, assistant Secretary of State
1550 - 1594 Joyce Cohen, Tri County New Politics, Land Use
Task Force

SB 100 Eng, Re-Eng.

Lee Johnson, Attorney General, spoke to the review provisions, saying that the commission would be spending too much time reviewing permits and proposed amendments (copies to committee).

James Redden, State Treasurer, said that SB 100 Eng, Re-Eng. may not be ideal, but that it was possible. He said that SB 100 Eng, Re-Eng would need to be passed before HB 3210 for compliance.

James Moore, League of Oregon Cities, said that in the existing bill, counties have taken over the planning role of the cities. He submitted amendments (copies to committee).

Kess Cannon, assistant to the Governor, spoke of the Governor's commitment to land use planning. He referred to the federal S.268 and the interest of many agencies and organizations at all levels in such planning. He asked for quick approval of SB 100 Eng, Re-Eng.

Bob Logan, Local Government Relations Department, referred to the "land use package" of bills and a critique of those bills (copies to committee). He also gave background information on decisions concerning various aspects of the bill.

Diarmuid O'Scannlain, DEQ director, spoke in support of comprehensive planning as opposed to chaotic development (copies to committee).

John Porter, American Institute of Planners, Oregon chapter, spoke in support. He said that his organization looked forward to working with the commission and offered it help to the committee.

W.J. Kvarsten, Mid Willamette Valley Council of Governments, spoke in favor (copies to committee).

Loren Kramer, Multnomah County Board of Commissioners, spoke in favor but questioned Section 19 (1) as being contrary to the bill's purposes and a late Senate addition to the bill.

Dorothy Anderson, League of Women Voters of Oregon, spoke in favor of land use planning and submitted amendments (copies to committee).

Nan Dewey, Oregon Wheat Growers League, spoke in support (copies to committee).

Jim Allison, president, Oregon Rural Landowners Association, spoke in opposition. He said that changes in the bill represented improvements, and that one more version is needed. He proposed that the goals be established by the Legislature, that the word "guidelines" be defined, and that SB 849 be inserted into SB 100 Eng, Re-Eng. to provide compensation and other provisions. He also asked that no action be taken on SB 100 Eng, Re-Eng. until the Senate acts on SB 769.

George Bell, assistant Secretary of State, spoke on behalf of the Secretary of State. He said that at present neither the purists nor the opponents are happy with the bill, but that it is the best bill that could come out of the Senate.

Joyce Cohen, Tri County New Politics, Land Use Task Force, spoke in favor (copies to committee), asking for reinstatement of the emergency clause.

SB 693

Rep Burrows moved that SB 693 be sent to the floor with a do pass recommendation. The motion passed 10 - 0 (absent: Groener).

HB 2439

Rep Kafoury moved that the amendments to HB 2439 be adopted. The motion passed 11 - 0.

Rep Kafoury moved that HB 2439 as amended be sent to the floor with a do pass recommendation. The motion passed 11 - 0.

New Legislation

Rep Groener asked the committee to introduce a bill providing for

Rep Whiting.

Mabel Schiffer, Willamette Tuberculosis and Respiratory Disease Association, spoke in favor (copies to committee).

Wade Patterson, State Health Division, spoke in favor and quoted survey results on the effects of smoking on health.

SB 100 Eng Re-Eng

Ken Omlid, Lane County Commissioner and president, Association of Oregon Counties, spoke in favor and said that a majority of the Lane County Commissioners also favored the bill.

Lloyd Anderson, City of Portland and Columbia Regional Association of Governments, spoke in favor. He emphasized the need for regional planning in the Portland area and gave the committee copies of a CRAG area map. He said that since urban problems have a state-wide impact and counties have had little experience with urban problems, the state rather than counties should have jurisdiction. He asked that review procedures at the local level involve both counties and cities, with neither having jurisdiction over the other. He also requested adequate funding to provide for staffing.

Craig Markham, Sierra Club, spoke in favor (copies to committee) and asked that the bill remain as is.

Roger Yost, Portland Chamber of Commerce, asked that the board and commission include representatives from federal agencies, since SB 100 will eventually relate to federal legislation. Copies of the Portland Chamber of Commerce recommendations for SB 100 were given to the committee. He urged the inclusion of a more regional structuring on other bills, to ensure passage of SB 100.

Fred Van Natta, Oregon State Homebuilders Association, spoke in favor, saying that moving the planning process back to the local level provides for strong citizen involvement.

Ward Armstrong, Weyerhaeuser, spoke in favor, saying that sound land use planning and zoning are essential to industry. He also spoke his approval of the committee's concern over financing.

John Webber, Canby, spoke in opposition, saying that the issue should be referred to the people in the next election. He termed SB 847 a farce and a gimmick (copies to committee).

HB 2486

Jim Durham, deputy Attorney General, submitted amendments to HB 2486 to make it an appropriations bill (copies to committee), along with copies of an explanatory letter from the State Treasurer).

SB 100 Eng Re-Eng

Phil Balsiger, mayor, Wilsonville, spoke in favor but asked for more local control and broader representation at the county level. He showed slides of planning concerns and results in the Wilsonville area and submitted amendments. (copies to committee)

Walter Brown, president, Clackamas County Citizens Association, spoke in favor and asked for amendments as follows: on page 24, lines 8 and 9, after "persons" insert "whose interests are substantially affected"; provide standing for citizen appeal as in the original version; and add an emergency clause.

John Nielson, OEC, spoke in favor, saying that other needs could be taken care of later and that even minor changes could cause problems.

HB 2086

Dave Hedges, Rep. AuCoin's office, submitted amendments (copies to committee).

Rep Kafoury moved that HB 2086 be engrossed and returned to committee. The motion passed 9 - 0 (excused: Gwinn, Katz).

HB 2372

Stan Church, Oregon Association of Realtors, said that the bill arose from a State Board of Health ruling on land transfers. He said that OAC members were aware of this ruling and have worked out a form, but that ordinary citizens involved in "kitchen table deeds" would be unaware of it. He submitted amendments (copies to committee, and copies of the OAC form).

HJR 21


Rep Paulus moved that the amendments to HJR 21 be adopted. The motion passed 7 - 2 (excused: Rep Gwinn, Katz; no: Hanneman, Stults).

Rep Groener moved that HJR 21 as amended go to the floor with a do pass recommendation. The motion passed 8 - 2 (excused: Rep Gwinn; no: Hanneman, Stults).

HB 2786

Rep Stults moved to amend HB 2786. The motion passed 10 - 0 (excused: Rep Gwinn).

Respectfully submitted,


Committee Clerk

of production programs and Elkton rancher, said that a letter from the Field Burning Committee chairman three months ago indicated that present funds were adequate. He said that having a feasibility model does not mean that the problems are solved, because these are not the same as production models, and the budget for an adequate program would cost about 2 million dollars per year in order to meet the cut-off date. He said there were parallels between the burners and other agricultural machinery, as growers already have had to buy other expensive equipment for necessary pollution control. He said that the services of several equipment manufacturers will be needed along the way, but that manufacturers have not been and will not be interested without adequate funding. He said that ten years' increase in grass seed prices are worth about \$100 per acre to growers, and that farmers already have many tax benefits. He gave as an example of conflicting testimony the statement that the committee does not know what to do with the money it now has, and the statement that not enough money is available for necessary equipment testing. He said that incentives are needed, and if the fee is less for straw removal, that in itself is an incentive. He said that staff trained in engineering and manufacturing in the agricultural field are also needed before manufacturers will show an interest. He said that the first necessary step is to draw up specifications. He said that the two million dollars per year amounts to some forty man-years, an amount he considers quite realistic.

Sen Wingard advocated funding rather than tax credit, since this is being done with sewage and other pollution problems.

SB 100 Eng Re-Eng.

Rep Kafoury moved that SB 100 Eng Re-Eng be sent to the floor with a do pass recommendation. The motion passed 8 - 3 (no: Hanneman, Stults, Wolfer).

HB 2204, 2205

Scott Lamb, Oregon Seed Council, referred to crops, including grass seed, which have been grown in other parts of the United States but are mainly grown in Oregon now.

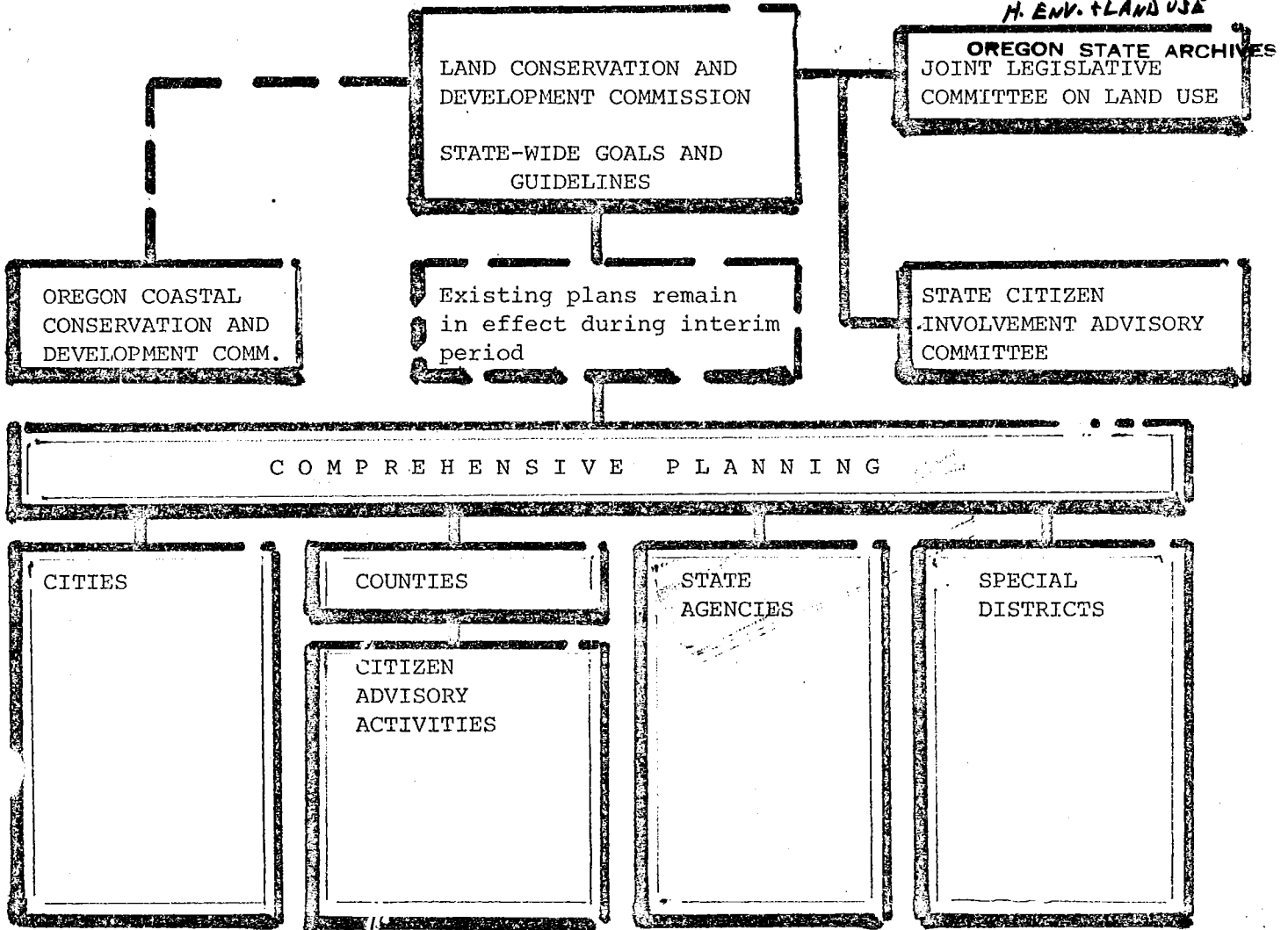
Philip Brandt, agricultural financing, Willamette Production Credit Association, gave the committee information on the expense of grass seed farming, depending upon where a farmer lives, how much acreage he has, and percentage of his acreage is in grass seed. He based his figures on this year's costs.

Dave Doerfler, Oregon Seed Council, said that he felt the growers would be in favor of a fee only if the 50¢ tax credit was made a part of the bill. He hoped that it would be possible to keep a close watch on the fees so that they would not become a never-ending source of financing.

Bill Rose, chairman, Oregon Seed Council, said that the committee had to be realistic. He said that farming is the most technical business there is, and that farmers have been trying to meet

WHO PLANS ...

SB 100
5/3/73
HAUES
EXHIBIT 1 1/13
H. ENV. + LAND USE



Prepared for the House Committee on Environment and Land Use, re SB 100
House of Representatives, Salem, Oregon

WHO ADMINISTERS PLANNING...

LAND CONSERVATION AND DEVELOPMENT COMMISSION
(with its administrative agency: Department of Land Conservation and Development)

ACTIVITIES OF STATE-WIDE SIGNIFICANCE

CITY
(over 300,000)
responsible for all its internal activities

COUNTIES
coordinate all planning within the county

or

SEVERAL COUNTIES cooperate to coordinate planning

or

CITIES AND COUNTIES establish a PLANNING AREA by vote of the people

or

A VOLUNTARY ASSOCIATION OF GOVERNMENTS coordinates planning

WHO ENFORCES... AND HOW

LAND CONSERVATION AND DEVELOPMENT COMMISSION

After January 1, 1975,
permit system established
for activities of
state-wide significance

After 1976, appeals from
comprehensive plans and actions
may be brought

After 1976, failure of
cities and counties to comply
will bring about transfer of
authority to the COMMISSION

After a hearing before a
hearings officer

His recommended order will be
submitted to each party and
to the COMMISSION

And the COMMISSION will issue
a final order, which may be
appealed under ORS 183.480

Prepared for the House Committee on
Environment and Land Use, re SB 100
House of Representatives, Salem, Oregon

SB100
5/8/73
JOHNSON
EXHIBIT 2
H. ENV. + LAND USE 176

PROPOSED AMENDMENTS TO
REVISED SENATE BILL 100

OREGON STATE ARCHIVES

Replacing sections 51 to 54.

Section 51. (1) Upon petition by the department, any state agency or governmental body or any interested person or group of persons, the commission may review any comprehensive plan provision or any zoning, subdivision or other ordinance, regulation or other action adopted or taken by any state agency or governmental body that the petitioner asserts *to be* or the department considers may be in conflict with state-wide planning goals approved under section 37 of this Act or interim goals specified in ORS 215.515.

(2) A petition under subsection (1) of this section must be filed with the commission no later than *15* days after the date of final adoption or approval of the plan, ordinance, regulation or action which is the subject of the petition.

(3) The commission shall within 15 days after the filing of the petition enter its order accepting the petition for review, or denying review of the petition. If the commission fails to take such action within 15 days it shall be deemed to have denied review of the petition.

(4) A petition shall be deemed to have been filed on the day it is received by the commission.

Section 52. (1) Review by the commission of a petition filed under section 51 of this Act shall be based on the administrative record prepared with respect to the adoption, approval or other action taken which is the subject of the petition.

(2) The commission shall adopt rules prescribing the form and content of a petition under section 51 of this Act, for the submission to it of the administrative record, and for the conduct of review proceedings. Such proceedings shall be subject to the provisions of ORS 183.310 to 183.500 relating to contested cases; except that notwithstanding ORS 183.480, any petition for judicial review of the commission's order shall be filed with the circuit court for the county in which the respondent governmental body is located, or in which the greater portion of its inhabitants reside, or in case the respondent is a state agency, in any county in which affected property is located, *and shall be filed not later than 15 days after the final action of the commission.*

(3) Any governmental body or any affected person or group of persons may intervene in and be made a party to a review proceedings under sections 51 to 53 of this Act;

(a) Upon the request of the hearings officer appointed to conduct the proceedings, approved by the commission; or

(b) Upon the request of such governmental body, affected person or group of persons, approved by the hearings officer.

Section 53. (1) Upon the entry of an order accepting a petition filed under section 51 of this Act for review, the ~~chairman of the commission shall set a date for hearing and designate a hearings officer to conduct the review proceedings.~~ Such hearing shall be held no later than 30 days after the date of the order accepting the petition for review, unless the petitioner, the state agency or governmental body whose action is in question and the commission agree to a postponement.

(2) Upon the conclusion of the hearing, the hearings officer shall promptly prepare proposed findings of fact, conclusions of law and order in the matter for submission to the commission and shall submit a copy of his proposed ^{findings, conclusions and} order to each party to the proceedings.

(3) If the hearings officer deems that the administrative record before him is incomplete, or is inadequate to determine whether the plan, ordinance, regulation or other action which is the subject of the proceedings is in conflict with state-wide planning goals or interim goals, he may adjourn the hearing to a date and time certain, not more than 21 days later, to permit the state agency or governmental body whose action is in question to complete or conduct further proceedings to supplement the administrative record.

(4) Within 30 days after conclusion of the hearing, the commission shall act upon the hearing officer's proposed order. The commission may:

(a) Adopt, reject or amend and adopt the proposed findings of fact, conclusions of law and order, or prepare its own order; or

(b) Re-refer the matter to the hearings officer, or to another hearings officer, with directions to hear argument or take written or oral testimony (notwithstanding subsection (1) of section 52 of this Act) on specific matters which the commission deems necessary for a decision on the petition.

(5) The commission's order may deny the petition, or if it finds that the plan, ordinance, regulation or other action which is the subject of the petition is in conflict

with state-wide planning goals approved under section 37 of this Act or interim goals specified in ORS 215.515, its order shall vacate and nullify such plan, ordinance, regulation or other action, or severable portion thereof which is in conflict, or may vacate and nullify the same or the portion thereof which is in conflict unless the governmental body amends or modifies it in specific respects in order to eliminate such conflict.

(6) In case of a re-referral under paragraph (b) of subsection (4) of this section the hearings officer shall conduct the necessary additional hearing, which shall be deemed a continuation of the original hearing, and submit his revised proposed findings, conclusions and order to the commission and to the parties, within 15 days after the re-referral, and the commission shall enter its order within 30 days after the re-referral.

(7) No order of the commission entered under subsections (4) to (6) of this section shall be valid unless all members of the commission have received the hearings officer's proposed findings, conclusions and order, and unless at least four members of the commission concur in the order.

~~Section 54. (1) A petition may be filed pursuant to this section for judicial review:~~

(a) Of any action of a city or county in adoption, approval or amendment of a comprehensive plan, zoning ordinance, or subdivision ordinance;

(b) Of any action taken under or pursuant to such plan or ordinance, including the grant or denial of any variance

or conditional use;

(c) Of any refusal to amend such plan or ordinance with respect to particular property; or

(d) Of any approval or rejection of any proposed subdivision or grant or denial of any building permit if the grant or approval is allegedly in violation of such plan or ordinance, or the rejection or denial is based upon failure to conform to the requirements of such plan or ordinance.

(2) Such petition may be filed in the circuit court for the county, or if a city is the respondent for the county in which the greater portion of the inhabitants of the city reside, by:

(a) Any state agency;

(b) Any other governmental body whose territorial jurisdiction includes land within or abutting upon the territory of the respondent city or county, or which is affected by the disputed action; or

(c) Any other affected person or group of persons.

(3) Such suit shall be filed within ~~45~~¹⁵ days after the final action of the respondent city or county which is the subject of the suit; *or if a petition is filed with the Land Conservation and Development Commission under section 51 of this Act, within*

~~(4) The court before which the petition for judicial review is filed shall not consider whether the action which is the subject of the suit is in conflict with state-wide planning goals approved under section 37 of this Act or interim goals specified in ORS 215.515 unless review of such action was sought in a petition filed under subsection (1) of section 51 of this Act, and the Land Conservation and Development~~

15 days after and not before final action of the commission on such petitions. Denial of review of the petition shall be deemed such final action.

Commission denied review of such petition.

(5) In any case in which a petition is pending before the Land Conservation and Development Commission under sections 51 to 53 of this Act, and its disposition may affect or be dispositive of the issues before the court, the court may postpone consideration of the petition for judicial review until entry of the order of the Land Conservation and Development Commission. Any petition for judicial review of the order of the commission shall be consolidated with the proceedings previously filed with the court.

~~(4) Notwithstanding subsection (4) of this section, the court shall consider whether the action which is the subject of the suit is in conflict with state-wide planning goals approved under section 37 of this Act, or interim goals specified in ORS 215.515, ^{only} if so alleged by the petition, ~~or~~ ^{and} a petition raising the same issue was timely filed with the Land Conservation and Development Commission under section 51 of this Act; ~~but review thereof was denied; and the court shall in any case consider an assertion raised as a defense by respondent, that the action sought by petitioner would be in conflict with such goals.~~ ^{or} ~~in a case in which such issue is~~ ^{raised as}~~

→ (5) (6) Notwithstanding any other provision of law to the contrary, it is the intention of the Legislative Assembly that the procedure provided by this section shall be the sole method of review or appeal of an action or decision of a city or county governing body on any zoning, planning, or land development matter specified in this section, and that no other form of action, suit or writ shall be available to obtain judicial review thereof.

SALEM: Local Government Center
1201 Court Street N.E.

P.O. Box 928, Salem 97308

Telephone: (503) 585-6987

H. ENV. & LAND USE COM.

EUGENE: Hendricks Hall
University of Oregon

P.O. Box 3177, Eugene 97403

Telephone: (503) 686-5232

OREGON STATE ARCHIVES

League of Oregon Cities

MEMBER, NATIONAL LEAGUE OF CITIES • OFFICIAL PUBLICATION "WESTERN CITY"

Salem, Oregon

May 8, 1973

To: House Committee on Environment and Land Use
Representative Nancie Fadeley, chairman
Representative Stephen Kafoury, vice chairman
Representative Mary M. Burrows
Representative Ralph Groener
Representative William F. Gwinn
Representative Paul A. Hanneman
Representative Vera Katz
Representative Norma Paulus
Representative David Stults
Representative Pat Whiting
Representative Martin Wolfer

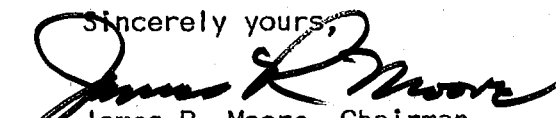
The League of Oregon Cities believes that the 1973 legislature needs to define an active role for the state in land use planning and to strengthen land use regulation. Despite this policy position, the League opposes SB 100 as adopted by the Senate.

The primary reason for League opposition is based on Section 19 of the bill. We strongly believe that Section 19 restructures local planning needlessly, and downgrades city planning activities and programs by making cities subservient to counties in the planning process. For all practical purposes, Re-engrossed SB 100 dis-enfranchises cities and drops them from treatment as partners in the state-local planning process. The companion appropriations bill likewise assumes a state responsibility to reimburse counties for planning efforts, but not cities.

Cities have more experience with comprehensive planning and land use regulation than either counties or state government, and have, we think, much to contribute to a coordinated planning effort. SB 100 proposes to scrap this experience at a time when it could be extremely useful in helping the state achieve its objectives for better land use planning and regulation. We urge that you consider revising Section 19 so that cities will have an opportunity to participate and cooperate in the way we believe you want them to.

A suggested amendment to carry out the request of cities is attached. We respectfully urge your favorable consideration.

Sincerely yours,


James R. Moore, Chairman
Legislative Committee

OFFICERS: Mayor Dewey W. West, Jr., Boardman, president • Mayor D. Lorin Jacobs, Medford, vice president
Robert S. Moore, city manager, Salem, treasurer • Donald L. Jones, executive secretary

DIRECTORS: Lloyd E. Anderson, commissioner of public works, Portland • Mayor Cecil Barker, Corvallis • Mayor Paul D. Geuy, Florence • Mayor Gail L. Haakinson, Clatskanie • Francis J. Ivancie, commissioner of public affairs, Portland, immediate past president • Mayor H. B. "Bard" Johnson, Baker • Mayor Eddle O. Knopp, Pendleton • Mayor Norman R. Scott, McMinnville • Tom R. Williams, councilman, Eugene

PROPOSED AMENDMENT TO ENGROSSED RE-ENGROSSED SB 100

On page 9 of the printed bill, delete lines 20 through 29, and insert:

"Section 19. (1) A local land use coordinating council, composed of officials of the county and cities within the county, shall review and coordinate all planning activities affecting land use within each county, including those of state agencies, the county, cities, and special districts to assure compliance with statewide guidelines and local comprehensive plans and to assure integration of all land use plans within the county. Except as otherwise agreed upon by the governing bodies of the county and cities within the county, city representation on the council shall be in proportion to the ratio that the total population within cities in the county bears to the total population of the county. A copy of the agreement creating the council shall be forwarded to the commission within 90 days following the effective date of this Act.

On page 9 of the printed bill, delete lines 30 through 32.

On page 9, line 33, delete (3) and add (2).

On page 10, line 10, delete (4) and add (3).

League of Oregon Cities
Local Government Center
Salem, Oregon

TO: Robert K. Logan, Administrator
Local Government Relations Division

DATE: May 7, 1973

FROM: Sherry Smith and Herb Riley
Local Government Relations Division

SUBJECT: Comments on HB 3210
Points of Conflict with SB 100 and Other Pending Legislation;
Questions and Comments.

1. Confusion is created by use of the term "guidelines"; SB 100 makes these non-mandatory.
2. What is the relationship between this bill and
 - (a) Willamette River Greenway Act
 - (b) Scenic Waterway Act
 - (c) The proposed Estuary Protection and Revitalization Bill
 - (d) The proposed OCCDC Permit Bill
 - (e) The proposed Oregon Environmental Protection Act.
3. In Section 4, a priority is given to single family residences. Since not very many of these can fit down the shoreline, is this really in the "best interests of the people of Oregon"?
4. There would be a 9-month guidelines development process if the maximum times allowed were taken. Under SB 100 LCDC could move as quickly as this. In other words, this is not a shorter process. Also, SB 100 requires citizen involvement including eleven hearings.
5. This bill only deals with that area in and around shorelines. It takes them out of the context of the overall land use plan which relates to all land use activities [Section 6].
6. Under the proposed Oregon Environmental Protection Act and under the Federal NEPA, EIS's are required on substantial environmental impact decisions. DEQ would have the lead role in the OEPA as EPA has the lead role in NEPA. This bill, however, sets up a separate procedure involving the Department of State Lands and Waters.
7. The items listed on Page 8, line 10 and following, are already things which should be included in a comprehensive plan.
8. Section 7 is in direct conflict with SB 100. It requires the State Land Board to coordinate plans for shorelines which run between cities and counties. SB 100 leaves coordination to the counties.

9. Section 8(2) -- Compare with Section 32 of SB 100: Whose goals will prevail? LCDC or those of the DSLW?
10. SB 100 requires LCDC to give priority consideration in formulating their goals to, among other things, estuarian areas; tide, marsh and wetland areas; lake and lake shore areas; beach, dunes, coastal headland and related areas; wild and scenic rivers and related lands; flood plains.
11. Section 9 places additional requirements on the cities and counties, but does not insure coordination with LCDC. It requires the adjustment of the "comprehensive plan or master program" within eighteen months as compared with SB 100's one year.
12. Section 10 permits the DSLW to step in and adopt the master plan upon the failure within six months of the city or county to send a letter setting forth their own program. Compare this with LCDC's previously-adopted goals giving a year's time to adjust plans to fit these. Also, at least one hearing is required before LCDC can make a finding.

What is the time-frame for developing the master program after the letter of intent to develop and the program is set? In SB 100 you must adjust your comprehensive plan within one year after the goals are established at the state level. If not, LCDC can step in after 90 days notice and public hearing and do the planning.

13. Section 13(1) -- LCDC may also delegate to OCCDC the preparation of goals.

(3) -- There is a presumption that all or some portions of Federal Coastal Zone Management Act would come to this agency. But this is the prerogative of the Governor under Federal guidelines and the Governor has already indicated he will give this to LCDC.

{ Under the provisions of this bill, OCCDC must have the approval of the DSLW to get funds; it would be the only Commission required to do this.

14. Section 16: Does the constitutional authority of the State Land Board allow the Board to acquire scenic easements?
15. Who will issue permits for these activities not now requiring permits from other state and local entities? In other words, who takes care of the gaps not covered by the existing permit system?

The State Land Board has the general power under Section 20(1) to issue permits, but there is no specific subject area set out over which the DSLW has permit authority. In other words, for what can it issue a permit that other agencies don't already cover.

16. Who has standing under Section 21? What is the scope anticipated by the language "any person who has been adversely affected...?"

SS:nm

LAND USE PACKAGE

SB 100 15
5/8/73
LOGAN
444
EXHIBIT 4

This package of consumer protection/community land use management bills is designed to create an environment where buyer-seller relationships in property dealings are fairly balanced, and the property transactions do not adversely affect either the community's control over the ultimate future of land use in the area, or the state's concerns about areas of statewide significance.

OREGON STATE ARCHIVES
H. ENV. & LAND USE COM.

SB 100

SB 100 - LAND USE GOALS, COMPREHENSIVE PLANS

Goals and Planning

- State Commission, Standing Joint Legislative Committee, and Department established.
 - Provides process for establishing statewide goals (priority activities and 10 listed areas).
- Involvement of People; Coordination
- Assures citizen involvement.
 - Cities, counties, special districts required to review and revise comprehensive plans, zoning and subdivision ordinances and regulations to conform to goals.

- State agency plans coordinated for consistency with goals and local comprehensive plans.
- Carrying Out Goals and Plans
- Commission authorized to issue permits for activities of statewide significance after goals for them are established.
 - Commission to prepare guidelines, model ordinances.
- Enforcement
- Commission required to prepare plans and ordinances if city or county fails to do so.

(Further Study)

SB 849 - LAND VALUE ADJUSTMENT ACT

- To fund this, state bond issue authorized up to one percent of the total assessed value of the state.
- Land Conservation & Development Commission administrators.
- Method of compensation may be granted where a zoning or similar ordinance results in a significant economic loss to the landowner. Compensation is corrective device implemented through either interest acquisition or the guarantee sale price.
- Temporary land reservation to contain urban sprawl and promote orderly growth. Landowner gets interest acquisition, guarantee sale price, or state may take lease of interest in land--retaining option to buy.
- Permanent land reservation to retain valuable areas for prime farm land, buffer zones, etc. Interest or fee simple acquisition from willing seller, or state may take lease with buy option or retain right of first refusal.

SB 2607 - CONSUMER PROTECTION IN LAND DEVELOPMENT SALES

- Requires a disclosure statement setting forth the condition of the property be provided to each prospective purchaser.
- Provides for warranties to arise from the disclosure statement.
- Provides a 3-day cooling off period.
- Requires registration of certain land developments with the Real Estate Commissioner.
- Deletes requirement that Commissioner prepare public reports.
- Provides for new remedies at law for the consumer.

HB 3113 - LAND DEVELOPMENT ACT

- Requires review of all land divisions (except agricultural, grazing and timber) condominiums and planned developments, etc.
- Requires each city and county to adopt a land development ordinance and approve development plans.
- Requires appointment of local designated official to review and coordinate with interested local and state agencies and approve minor divisions.
- Requires compliance with comprehensive plans.
- Urges inclusion of environmental and economic impact in comprehensive plans and requires E and E for all developments as interim measure until E and E is included in comprehensive plan.
- Provides for citations for violations or ordinance or statute.

SB 487 (Re E) AMENDS SUBDIVISION STATUTE

- Requires review of all land divisions.
- Requires each city and county to adopt a subdivision ordinance which may authorize the planning commission or an appointed official to exercise all of the responsibilities of the governing body if an appeal method is provided back to them, and ordinance must provide for coordination with state and local agencies.
- Requires compliance with comprehensive plan and that there will be an adequate supply of water and sewage system.
- Permits placement of internal monuments after recording plat and construction of subdivision is completed.
- Requires recording of deed or memo thereon.

PLANNING COMMISSIONS

COUNTIES - HB 2548 (Engrossed)

- Members of planning commission serve at pleasure of the governing body.
- More than one commission can be created for a county; joint commissions allowed.
- Five, seven, or nine members; residents of various geographic areas of county; broadly representative of community members.
- Governing body must designate planning director, who serves at its pleasure; may create department to assist him and commission.
- Governing body adopts comprehensive plan after hearings procedure.
- Conflicts of interest spelled out, prohibited.
- Advisory committees--mandatory; formula established.
- Hearings officer may be appointed to hear contested cases; procedures and appeal process set out.

CITIES--No bill number yet on composite bill which will probably be substantially similar to counties bill above.

STATEMENT

DIARMUID F. O'SCANNLAIN, Director
Department of Environmental Quality

House Environment & Land Use Committee

May 3, 1973

SB 100

DEQ STRONGLY SUPPORTS THE GOALS OF SB 100, AS EXPRESSED IN ITS PREAMBLE: THE ASSURANCE OF ORDERLY DEVELOPMENT, PROTECTION OF THE ENVIRONMENT, ASSURING LIVABILITY, AND COORDINATED ADMINISTRATION OF LAND USES, CONSISTENT WITH COMPREHENSIVE PLANS DEALING WITH SPECIFIED AREAS WHICH ARE OF CONCERN TO ALL OREGONIANS.

DECISIONS ARE MADE MANY TIMES EACH DAY WHICH HAVE BEARING ON LAND USE. DECISIONS ON WHERE TO PUT SEWERS OR SCHOOLS OR HIGHWAYS OR SHOPPING CENTERS OR SUBDIVISIONS OR POWER LINES OR TRANSPORTATION FACILITIES ARE ALL LAND USE DECISIONS.

MANY OF THESE ARE WITHIN DEQ'S AREA OF RESPONSIBILITY. EVERY ONE OF THESE DECISIONS, WHETHER MADE BY STATE AGENCIES SUCH AS DEQ OR BY PUBLIC UTILITIES OR LOCAL COMMUNITIES OR BY PRIVATE INTERESTS, AFFECTS DEMAND FOR ALL THESE RELATED FACILITIES. TAKEN TOGETHER, THEY ADD UP TO THE KIND OF PLANNING SB 100 CALLS FOR. THESE DECISIONS ARE EITHER MADE CONSCIOUSLY, WITH FULL RECOGNITION OF THEIR IMPLICATIONS, OR THEY ARE MADE DANGEROUSLY CARELESSLY.

THE ALTERNATIVE TO LAND USE PLANNING IS NOT FREEDOM TO USE ONE'S OWN LAND ACCORDING TO PERSONAL CHOICE; THE ALTERNATIVE IS UNPLANNED CHAOS.

HOW FREE IS THE INDIVIDUAL TO RAISE CHICKENS OR GROW GARDEN CROPS ON HIS OWN 40 ACRES IF SUBURBIA ENGULFS HIM AND THE NEIGHBORS COMPLAIN ABOUT THE ODORS, THE DUST AND THE NOISES? HOW FREE IS ANY OREGONIAN TO ENJOY THE SCENIC WONDERS OF HIS HOME STATE IF OTHERS ARE FREE TO SURROUND THEM WITH PENNY ARCADE JUNK? HOW FREE IS THE HOMEOWNER TO ENJOY HIS CASTLE IF A FREEWAY GOES RIGHT PAST HIS QUIET FRONT YARD?

-3-

AS PEOPLE COME CLOSER TOGETHER BECAUSE OF PRESENT-DAY TECHNOLOGY, TRANSPORTATION AND URBANIZATION, LAND USE PLANNING BECOMES CRUCIAL.

DEQ GETS MAIL CONSTANTLY FROM CONCERNED OREGONIANS, "ORDINARY FOLKS" TO WHOM ENVIRONMENTAL PROTECTION MEANS LEAVING THE LAND AND THE WATER UNSPOILED FOR EVERYONE TO ENJOY.

WE CAN'T STOP ALL DEVELOPMENT. PEOPLE EXIST. THEY HAVE TO LIVE SOMEWHERE, SHOP SOMEWHERE, HAVE JOBS, GET TO WORK SOMEHOW, SEND THEIR KIDS TO SCHOOL, DISPOSE OF THEIR WASTES, AND -- HOPEFULLY -- STILL HAVE ROOM TO ENJOY SOME OF THE BEAUTIES OF NATURE THAT OREGON OFFERS SO ABUNDANTLY. THIS IS WHAT THEY LOOK TO US TO PROTECT FOR THEM; YET WHAT THEY'RE ASKING GOES BEYOND THE SCOPE OF THE RESPONSIBILITIES THE LAW HAS GIVEN TO DEQ.

-4-

UNDER THE LAW, DEQ DEALS WITH AIR QUALITY, WATER QUALITY, SOLID WASTE AND NOISE. WE ISSUE PERMITS FOR ANY WASTE DISCHARGES INTO AIR OR WATER. THAT INCLUDES DECISIONS ON WHERE SEWERS ARE BUILT AND REVIEWS OF FREEWAYS AND PARKING STRUCTURES THAT AFFECT AIR QUALITY. WE ACCEPT THESE LAND USE DECISION-MAKING RESPONSIBILITIES AND WILL CONTINUE TO DO SO IN WHATEVER WAY THE LAW SPELLS OUT FOR US. WE KNOW HOW IMPORTANT THEY ARE AND WHAT FAR-REACHING CONSEQUENCES THEY CAN HAVE. BUT THE BROAD, BASIC PLANS, THAT THESE DECISIONS OUGHT TO TIE INTO, ARE NOT IN OUR HANDS.

UNDER THIS BILL, THESE PLANS WILL BE MADE AT THE LOCAL LEVEL, WITH STRONG PROVISIONS FOR CITIZEN PARTICIPATION. THE STATE'S ROLE WILL BE TO ASSURE COORDINATION AND TO SEE THAT NOBODY DRAGS HIS FEET.

-5-

MY JOB, AND MY DEPARTMENT'S JOB, IS TO PROTECT THE ENVIRONMENT -- THE AIR, THE WATER AND SOME ASPECTS OF THE LAND. I CAN DO THAT JOB AS IT SHOULD BE DONE -- AS THE PUBLIC ASKS ME TO DO IT -- ONLY WITH SOME FORM OF PLANNING, DONE WITH THE INTERESTS OF ALL OREGONIANS IN FOCUS. THIS BILL OFFERS AN APPROACH TO MEETING THAT NEED AND I SUPPORT IT. NEEDLESS TO SAY, SHOULD SUCH AN AGENCY BE CREATED, I AND MY DEPARTMENT STAND READY TO COOPERATE WITH IT, FULLY, IN WHATEVER WAY THE LEGISLATURE DETERMINES WE CAN SERVE MOST EFFECTIVELY.

#

STATEMENT ON SB 100

Prepared for House Committee on Environment and Land Use

May 8, 1973

By W. J. Kvarsten, Salem, Director
Mid Willamette Valley Council of Governments
Chairman, Oregon Chapter, American Institute of Planners

I appear today on behalf of the Oregon Chapter of the American Institute of Planners and the Mid Willamette Valley Council of Governments. In the former capacity, I am joined on the Chapter's Legislative Committee by the Chapter President, Mr. Richard Close, Associate of R. J. Frank and Associates, Portland; John Porter, Eugene, Planning Director; and Robert Baldwin, Multnomah County Planning Director.

We are in support of SB 100 as passed by the State Senate. The Mid Willamette Valley Council of Governments, representing 3 counties, 18 cities and 6 special districts, has endorsed both the original bill and the engrossed version. The AIP Legislative Committee acted unanimously on April 23 to endorse SB 100.

Both organizations have for the past several years supported the concept of a state role in land use planning as the only answer to urban sprawl and the continued weakening of the urban-rural structure of the State. We see a critical need for State leadership in defining goals and guidelines, setting standards and coordinating the efforts of local government.

We earnestly solicit your adoption of this landmark legislation.

Legislative Committee, Oregon Chapter
American Institute of Planners

W. J. Kvarsten, Chairman

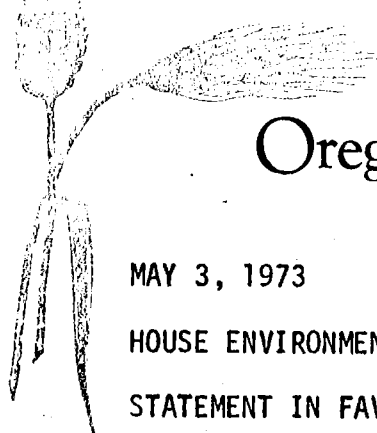
Richard Close, Chapter President

Robert Baldwin, Planning Director
Multnomah County

John Porter, Planning Director
City of Eugene

SB100
5/8/73
DEWEY
EXHIBIT 7 141

H. ENV. & LAND USE COM.
OREGON STATE ARCHIVES



Oregon Wheat Growers League

MAY 3, 1973

HOUSE ENVIRONMENT AND LAND USE COMMITTEE

STATEMENT IN FAVOR OF ENG. RE-ENGROSSED SENATE BILL 100

Nan Dewey, Legislative Representative, Oregon Wheat Growers League

The Oregon Wheat Growers League at the 1972 annual meeting passed a resolution in favor of the concept of the bill. The League also testified before the Senate Environment and Land Use Committee in favor of the bill, and then was appointed to the ad hoc committee that revised the bill.

The League feels strongly that land use zoning and planning is necessary to preserve the farm land of Oregon, and urge passage of Eng. Re-engrossed Senate Bill 100.

**

Affiliated with Western Wheat Associates, U.S.A., Inc.

503 276-7330

PENDLETON, OREGON 97801

P. O. Box 400

May 3, 1973. House Environment and Land Use Committee

Testimony in favor of enactment of Senate Bill 100.
Presented by Joyce Cohen, 2680 S.W. Glen Eagles Rd. Lake Oswego.
Representing, Tri County New Politics; Land Use Task Force.

Tri County (Multnomah, Clackamas, Washington) New Politics, a non-partisan citizen organization, is in support of land use planning at the State as well as local levels of government. We believe that orderly growth is necessary for preservation of a liveable environment. The legislature must act now, to insure adequate land use planning. This planning should be on the local level, with broadly representative citizen input, and coordinated by an overall state plan. We feel that this bill must be passed so that the land use planning process can be well established before uncontrolled urban growth puts irreversable pressures on our environment that would leave little or no room for parks, green space or productive agricultural land. We realize land use planning requirements add just one more economic pressure to an already inflation plagued building industry. However, uncontrolled and irresponsible development puts an even greater financial burden on the community that must face the consequences of it.

SB100 can and should address itself to orderly growth and the preservation of Oregon's natural beauty and resources. This can be achieved by development of criteria with which to designate and recommend areas of critical state concern, referred to in Section 11, Subsection 9 and Section 26, Subsection 2. We are especially concerned with the Mt. Hood Corridor, which provides recreation area and water supplies for a large percentage of Oregonians.

Meaningful citizen involvement is essential to effective land use planning. TCNP strongly endorses the procedures outlined in Sections 11, 35, 36, and 37 of SB100. The procedures provide for citizen participation through out the planning process. We believe these sections are essential and will increase acceptance of SB100 throughout the state, strengthen democratic participation in local government, and lead to increased public awareness and understanding of the land use planning process.

We support the listing of activities of state-wide significance in Section 25, page 12. It is hoped that ultimately those activities might also include (d) major industrial siting (e) regional shopping center siting. The evidence is ample that there is a need for the Commission to grant permits in this regard. In the Hubbard area, for example, an airport facility was built directly adjacent to an elementary school. Surely good land use planning guidelines would have avoided this. It is also generally felt that the siting of schools has a direct impact on surrounding land use development patterns--much the same as the planning and siting of public transportation facilities, sewerage systems, and energy generation and transmission facilities.

TCNP would encourage the committee, when considering the appeals section, (51) page 24, Subsection (d), to consider language which would allow person or persons within a county or jurisdiction to be considered as affected, rather than any further limiting as to injured person. A narrow interpretation is an effective way to

continued, testimony of Joyce Cohen

limit the actions of average citizens who do not have funds with which to pay attorney's fees.

With reference to Section 43, Subsection (3), page 19 ; to conserve natural resources of the state, any land use plan shall take into consideration lands that are, can or should be utilized for sources or processing of mineral aggregates, we would submit that soil suitable for agricultural use is also a natural resource.

Finally, TCNP would strongly urge that the committee re-instate the Emergency clause to SB100. The legislature must take a stand with regard to land use planning, and time is critical. The bill provides for extensive public input in developing of statewide goals and guidelines. The people of the State of Oregon are assured of a chance to help in establishing the direction which the Commission should follow in preparing those goals. The Commission must be given adequate time before January 1975 to avail itself of those procedures. Further, there is no reason to delay, as SB100 does not change any provisions until 1975. The counties are looking to the state to provide direction. Clackamas County Proposed Comprehensive Plan states on page 50, "A concerted, realistic effort to preserve Class I and II agricultural land needs to be developed. The primary direction needs to be provided by the State Legislature. The county also needs to explore and then implement proper agricultural zoning on not only the class I and II lands but other crop producing lands."

We believe postponing the beginning is not the way to begin a constructive program of planning for rational development of the State of Oregon.

I AM MARGARET COLLINS, 3037 NE 18th, PORTLAND; I AM HERE AS

A REPRESENTATIVE FOR CITIZENS FOR STATE PLANNING, A GROUP OF OREGONIANS CONCERNED WITH EFFECTIVE LAND-USE PLANNING IN THIS STATE.

CITIZENS FOR STATE PLANNING FINDS IT APPARENT THAT THERE EXISTS IN OREGON NO EFFECTIVE COASTAL PROTECTION MECHANISM. OREGON NEEDS STRONG LEGISLATION WHICH EFFECTIVELY ELIMINATES THE INHERENT HARM IN UNCOORDINATED AND PEICEMEAL DEVELOPMENT OF OREGON'S COASTLINE AND OTHER SHORELINES.

CITIZENS FOR STATE PLANNING SEES THE COASTAL LAND USE QUESTION AS EXTREMELY CRITICAL: AND WE NOTE THE INCREASING NEED FOR LONG-RANGE PLANNING FOR THE "SHORELINES OF STATE-WIDE SIGNIFICANCE" AS DEFINED IN SECTION 2 OF HB 3210. CITIZENS FOR STATE PLANNING URGES THE PASSAGE OF HB 3210 FOR THE ABOVE-STATED REASONS. HB 3210 WOULD ENABLE FORMULATION OF LONG-RANGE COASTAL ZONE MANAGEMENT AND PROTECTION PLANS, A CRUCIAL NEED IN THIS STATE. THIS BILL WOULD ALSO PROVIDE THE MECHANISM FOR LONG-RANGE PLANNING FOR THE OTHER IMPORTANT SHORELINES IN OREGON.

WITH THE PASSAGE OF HB 3210, CITIZENS FOR STATE PLANNING WOULD ALSO URGE PASSAGE OF HB 2642 AS AN INTERIM PERMIT AUTHORITY IN THE STATE. THE SHORELINES MANAGEMENT MECHANISM OF HB 3210 WILL TAKE TWO YEARS OR MORE TO ACTIVATE: IN THE MEANTIME, REALIZING THE PRESSURES UPON SHORELINE RESOURCES FOR VARIOUS TYPES OF RECREATIONAL AND INDUSTRIAL DEVELOPMENT, A STRONG PERMIT SYSTEM WILL REDUCE OR ELIMINATE LOSS OF SHORELINE RESOURCES.

HB 3210 AND HB 2642 WOULD HARMONIZE WELL IN CREATING SHORT-TERM PROTECTION AND LONG-TERM PLANNING FOR THE RESOURCES ALONG OREGON'S SHORELINES, AND WE URGE YOUR SUPPORT OF BOTH BILLS.

RESPECTFULLY, *Margaret Collins*

Xerox for
Comm -

western union
Telegrams

WU TXA PTL +
ORSTATELEG SAM
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PMS REPRESENTATIVE NANCY FADELY
SALEM OR
NEHALEM VALLEY HOME OWNERS SEE STRONG NEED FOR PASSAGE OF REDDENS
SHORELINE MANAGEMENT BILL, AMENDED TO INCLUDE STRONG INTEREM
PERMIT AUTHORITY TO PROTECT COASTAL ZONE NOW
MRS CHRISTINE AINSLIE BOX 351D McDONALD ROAD NEHALEM OR
146P PST MAY 7 1973+
ORSTATELEG SAM

western union
Telegrams

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ORSTATELEG SAM
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PMS REPRESENTATIVE NANCY SFADELEY CHAIRMAN
ENVIROMENT AND LAND USE COMMITTEE
HOUSE OF REPRESENTATIVES STATE CAPITOL
SALEM OR 97310
OUR CITIZENS GROUP CALLED COMMUNITY OF ATOMIC STUDY STRONGLY
ENDORSE THE REDDEN SHORELINE MANAGEMENT BILL, BUT URGES IT BE
AMENDED TO INCLUDE INTURINGS PERMIT AUTHORITY WE NEED THIS TO
PROTECT OUR COAST FOR THE NEXT TWO CRUCIL YEARS
GOODWIN W HARDING CHAIRMAN COAST
ST RT BOX 84 NESKOWIN OREGON 97149
233P PST MAY 7 1973+
ORSTATELEG SAM

Xerox
for
Comm

Dept prepares proposed guidelines (to be used until master programs developed and approved) - §5 (1)

120 th day
(4 mos.)

(1) city or county may request changes in guidelines or submit comments to department - §5 (2)

(2) city or county must declare its intention to prepare master program its shorelines and prepare inventory of shorelines - § 10. (1)

180th day
(6 mos.)

final version of proposed guidelines prepared by department - §5 (3)

9 months

Board holds public hearings on proposed guidelines - §5 (4)

11 months

Board adopts final guidelines - §5 (5)

14 months

cities and counties complete inventory of shorelines - §9 (1)

18 months

cities and counties complete master programs for their shorelines - §9 (2)

32 months

(2 2/3 yrs.)

State Master program results from culmination of all city and county master programs and programs adopted by board where city or county fails or refuses to act - §2 (9)

28
SB100
EXHIBIT 12 147
H. ENV. + LAND USE
OREGON STATE ARCHIVES

WILLAMETTE RIVER FRONTAGE OWNERS ASSOCIATION

President
William Croman

Vice President
Ray Holmes

Secretary
Marjorie Whitlatch

Treasurer
Marilyn Miller

P.O. BOX 53
WILSONVILLE, OREGON 97070

NEWS BULLETIN

Jan. 22, 1973

Senate Bill 100 could STEAL your LAND!!!!

This bill is in reference to land use planning and could bankrupt anyone hoping for appreciation on their land. Write or call your Senator or Representative to get a free copy for your perusal. Then contact your Legislators and let them know your feelings. (Contact Sec. Marjorie Whitlatch for names of Legislators in your District.)

Information and Referral for WRFO members.

Our Secretary has graciously agreed to answer all your questions or refer you to someone who will.

Marjorie Whitlatch, Sec.
449 Churchdale Avenue, North
Salem, Oregon 97303
Telephone - 364-9932

FAIR VALUE for your LAND?????

To compete with unfair appraisal and purchase by Federal and State agencies, it is important to record with our WRFO secretary the amount of the appraisal or land sale and names.

NOISE on RIVER driving you OUT?????

Specializing on this problem in cooperation with Walt Schuler, WRFO Marine Chairman, is Mr. and Mrs. Jim Lawrence. Call or write them your problem so they can solidify a solid case to present to proper authorities.

Mr. and Mrs. Jim Lawrence
18830 S. Hwy 99E
Oregon City, Oregon 97045

NOISE CALL 656-7047 (telephone)

PROBLEM????? Don't know where to GO?????

Thanks to Ray Holmes for compiling and Norm Kneisel for printing. Your WRFO can offer members a booklet telling you where to seek answers for your problems. Members may send \$2 to your WRFO Secretary for a copy of AAIFSLORWR (Title: Authorities, Activities, and Interests of Federal, State, and Local Organizations Related to the Willamette River).

P.S. There are only a limited number available, so order now. Cost to non-members is \$7.

NEWS BULLETIN

Page 2

Jan. 22, 1973

KEEP OUT!!!! KEEP OUT!!!!

To be sure Federal, State, or local agencies do not take unfair advantage, do not allow anyone on your property without your permission and advice from the knowledgeable person listed below on this matter.

Doug Ward
385 River Road, North
Salem, Oregon 97303
Phone - 588-0500

You are DEAD without your neighbors!!!!

Volunteers are needed to call on homes of River Front owners of the Willamette and its tributaries, so we can reach our objective of 100% membership, creating an effective lobby for fair consideration on issues that involve us. Call Bob Williams, Membership Chairman - 638-6033 - and help save the value of your land. Do not procrastinate -- do it now! CALL 638-6033!!!!

KNOW your fellow MEMBER!

A free list of members may be had by sending a stamped, self-addressed envelope to the WRFO Secretary.

What is the GREENWAY doing now????

Keep advised of activities that could affect your land. Mail your name and money to:

Willamette River Greenway Association
P. O. Box 02034
Portland, Oregon 97202

Dues: Basic Membership - \$1.00
 Supporting Member - \$5.00
 Sustaining Member - \$10.00

EXECUTIVE MEETING scheduled.

The next Executive Meeting will be Saturday, Feb. 10th at the WRFO Secretary's home (Marjorie Whitlatch). The meeting will start promptly at 9:30 a.m. Please be prompt!!! All officers and committee chairmen are expected to come. Any other members may have input by calling one of the above.

GENERAL MEETING

The Annual General Meeting has been postponed until early spring due to bad weather conditions and time conflicts.

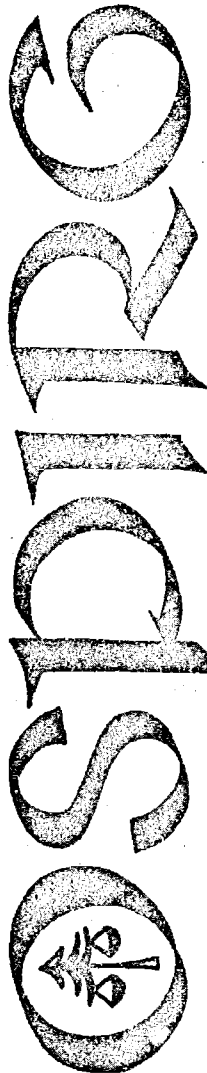
OREGON STUDENT PUBLIC INTEREST RESEARCH GROUP

"a balance for the public interest"

411 GOVERNOR BUILDING • 408 SW 2ND AVENUE
PORTLAND, OREGON 97204 (503) 222-9641

SB 100
OSPIRG
EXHIBIT B 1A3

OREGON STATE ARCHIVES



FOR IMMEDIATE RELEASE:
Friday, March 2, 1973, 10:00 A.M.

For further information contact:
Henry R. Richmond, III, Staff Attorney
OSPIRG, 408 S. W. Second Avenue
Portland, Oregon 97204
Telephone: 222-9641

David Aamodt, OSPIRG
408 S. W. Second Avenue
Portland, Oregon 97204
Telephone: 222-9641

OSPIRG: SAVE PRIME FARM LAND

The Oregon Student Public Interest Research Group (OSPIRG) today released a study recommending that Oregon's best agricultural lands--about 16% of all farm lands--be designated an "area of critical state concern" and zoned by the proposed Land Conservation and Development Commission for exclusive farm use.

Under Senate Bill 100, the MacPherson Land Use Bill, an "area of critical state concern" is "a carefully defined land area which, because of long-range economic and environmental considerations affecting the entire state of Oregon, should not be regulated exclusively by local bodies of government," according to OSPIRG.

The reports key findings were:

--- Agriculture is the state's second most important industry, contributing over \$531 million annually to Oregon's economy.

--- more ---

Oregon Student Public Interest Research Group: Clackamas Community College/ Clatsop Community College/ Eastern Oregon College/ Lane Community College/ Oregon College of Education/ Oregon State University/ Oregon Technical Institute/ Pacific University/ Portland Community College/ Portland State University/ Southern Oregon College/ Southwestern Oregon Community College/ University of Oregon/ University of Portland/ Willamette University.

FOR IMMEDIATE RELEASE

March 2, 1973

Page 2

- Short-sighted land use planning by cities and counties each year allows 8,000 acres of highly productive Willamette Valley farm land to be indiscriminately paved over for highways and built over for houses.
- 80% to 85% of Oregon's agricultural produce is sold out of state.
- The soil of farm lands is classified by the United States Soil Conservation Service on a scale of I - VIII.
- Most of the lands being taken out of agricultural production each year is the best land: Class I, II and III.
- High Crop yields on the Class I, II, and III lands result in lower per-unit-of-production costs, and are the basis of Oregon's crucial ability to sell in out of state markets.

As an example, the report cited Oregon's \$30-\$40 annual bush bean crop growing on Class I soils along the North Santiam River.

Because of the good soils, bush bean yeilds of 5 - 7 tons per acre are twice the national average, allowing Oregon to control 25% of the national market, according to OSPIRG.

"Oregon simply cannot economically afford to continue to subject itself to the risks posed by speculative real estate forces that such highly valuable agricultural lands will be permanently taken out of production," OSPIRG said.

--- more ---

The report indicated Portland, Salem, Corvallis, and Eugene are surrounded in a 20-mile radius by Class IV, VI, VII and VIII lands as well as Class I, II and III lands.

"Why should not the state, by reasonable regulation, see to it that necessary development go where the least valuable agricultural lands are located instead of the best?", the report asked.

The report said flexible zoning techniques should be used and it recognized that at some future point non-agricultural uses of these lands may be in the best interest of both the owner and the public.

In the meantime, productive agricultural use of these lands should be prolonged as long as possible for environmental as well as basic economic reasons.

OSPIRG also recommended that property and inheritance taxes on farm lands be assessed at farm use value instead of development value.

The report was written by David A. Aamodt, a first year law student at Northwestern College of Law and a graduate of Oregon State University with a degree in Animal Science:

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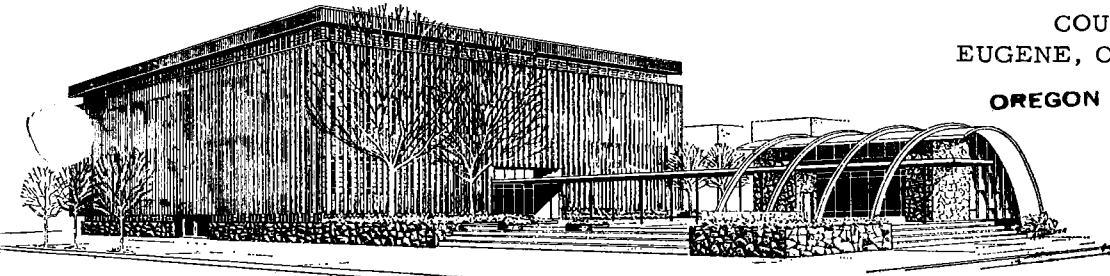
LANE COUNTY

COURTHOUSE
EUGENE, OREGON 97401

5/10/73
EXHIBIT # 111
H. EW. TAVUSK

OREGON STATE ARCHIVES
BOARD OF
COUNTY COMMISSIONERS

NANCY M. HAYWARD
KEN E. OMLID
FRANK A. ELLIOTT



May 10, 1973

Representative Nancie Fadeley, Chairperson,
State House of Representatives,
Salem, Oregon 97310

Ms. Chairperson and Members:

First my apologies if A. O. C. staff led you to believe that I had an argument to present in support of S. B. 100. Had staff arrived before I was called on I may have addressed the issues concerning the League of Oregon Cities' proposed amendments, especially city participation. These issues certainly were addressed and argued many times in course of eliminating COG's as the vehicle to insure local governments addressing their regional problems. The next logical sized vehicle that covers the total state is an existing unit of government -- the only existing local general purpose unit of government -- counties. Planning must be addressed locally, regionally and comprehensively, statewide.

In order to be successful it must first involve the public; secondly, the communities; and thirdly, have a regional responsibility designated to coordinate the community efforts with the regional needs.

In order for the effort to be successful, counties must bring the cities into the effort on a truly full partnership basis. Given this responsibility as S. B. 100 does to counties, they must fulfill this partnership need in order to be successful and they will.

As president of the A. O. C., I will put every effort into having the League and A. O. C. along with their staffs to develop a recommended model of organization and procedure that can be followed to insure this partnership need.

Very truly yours,

Ken E. Omlid, President,
Association of Oregon Counties

KEO:eh

SB 100

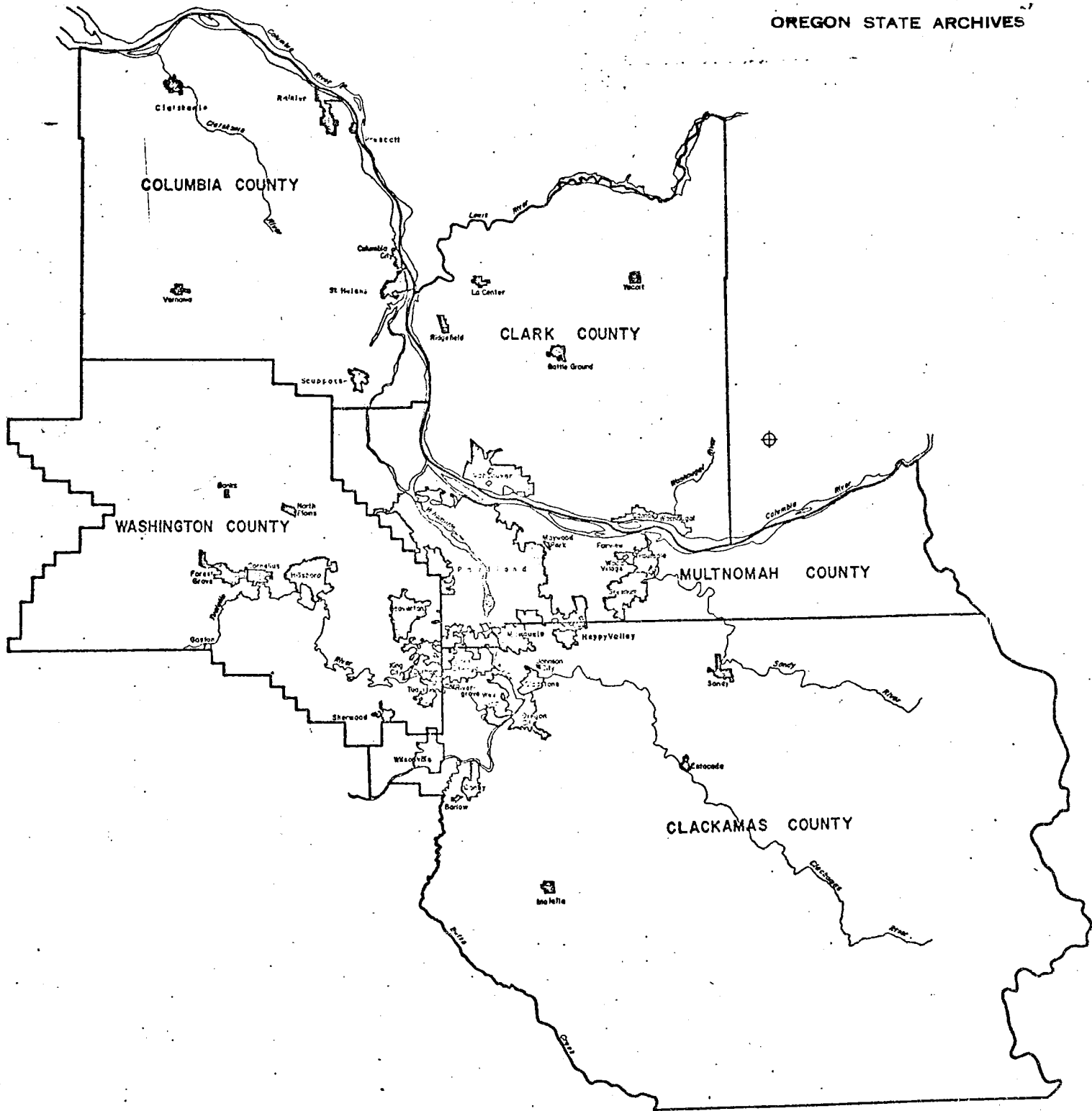
Lloyd Anderson

5/10/73

EXHIBIT 101

H. ENV. + LAND USE

OREGON STATE ARCHIVES



Columbia Region of Association of Governments

RE: SB 100

House Environment and Land Use Committee
Oregon State Capitol
Salem, Oregon

Madam Chairman and Members of the Committee:

My name is Craig Markham; I represent the 2000 Oregon affiliates of the Pacific NW Chapter of the Sierra Club. I am an ecosystems biologist currently employed as a Regional Environmentalist for a state agency. I am responsible for the coordination and preparation of environmental impact statements on projects originated by that agency.

I wish to register with this committee the Sierra Club's continuing support for SB100. We recognize that the engrossed bill is a seriously loop-holed one and is not as potentially effective in some ways as a state land use planning act should be. But we also recognize that political climate is not always ready to serve perfectly the needs of the state and its people; we regret the loss of the "areas of critical state concern" section and regional planning district requirements. I firmly believe these shortcomings will be felt as we attempt to coordinate land use planning in the state. At this point I can only hope that the counties will among themselves develop the responsible planning procedures which so obviously have failed to surface in the past.

While the bill has sustained these and other losses, we do laud the improvements which have been made in other sections. Engrossed SB 100 remains a distinctive step in the right direction; we hope to see that direction maintained during the ensuing years. The Sierra Club urges that the strongest and most equitable bill possible be passed by this committee. It has "been through the war", so to speak, and I follow the recommendation of the bill's sponsors that it should now have to sustain a minimum of tinkering.

Respectfully yours,
A. STAMM

SB 100
5/10/73
YOST
EXHIBIT 17 1A5
H. ENV. & LAND USE

SENATE BILL 100

PORTLAND CHAMBER OF COMMERCE RECOMMENDATIONS OREGON STATE ARCHIVES

SUMMARY

CREATES DEPARTMENT OF RESOURCE CONSERVATION AND DEVELOPMENT, COMPOSED OF RESOURCE CONSERVATION AND DEVELOPMENT COMMISSION, DIRECTOR AND EMPLOYEES. ESTABLISHES JOINT LEGISLATIVE COMMITTEE ON RESOURCE UTILIZATION, AS STANDING COMMITTEE, TO ADVISE AND ASSIST DEPARTMENT IN CARRYING OUT ITS DUTIES.

ESTABLISHES PLANNING DISTRICTS IN THE STATE TO FUNCTION AS REGIONAL OFFICES OF THE DEPARTMENT OF RESOURCE CONSERVATION AND DEVELOPMENT. DESIGNATES AREAS AND ACTIVITIES OF INITIAL STATE CONCERN AND PROVIDES FOR ADDITIONAL DESIGNATIONS AS REQUIRED TO CARRY OUT THE DUTIES OF THE DEPARTMENT.

REQUIRES THE DEPARTMENT TO DEVELOP, PUBLISH AND COORDINATE STATE-WIDE POLICY STATEMENTS AND PLANNING GUIDELINES DEALING WITH RESOURCE CONSERVATION AND DEVELOPMENT IN THE STATE. REQUIRES STATE AGENCIES, PLANNING DISTRICTS, CITIES, COUNTIES, AND SPECIAL DISTRICTS TO COOPERATE AND ASSIST IN THE DEVELOPMENT OF THESE POLICY STATEMENTS AND PLANNING GUIDELINES.

REQUIRES THE DEPARTMENT TO PREPARE POLICY STATEMENTS AND PLANNING GUIDELINES WITHIN ONE YEAR AFTER ADOPTION OF THE LEGISLATION. REQUIRES THE DEPARTMENT TO PUBLISH, CIRCULATE AND TEST THESE POLICY STATEMENTS AND GUIDELINES. REQUIRES THE DEPARTMENT TO PREPARE AMENDED POLICY STATEMENTS AND GUIDELINES RESPONDING TO THE ABOVE TESTING.

REQUIRES THE COMMISSION TO PREPARE A REPORT FOR THE 1975 LEGISLATURE THAT WOULD ENABLE THE LEGISLATURE TO EVALUATE THE PERFORMANCE OF THE DEPARTMENT AND DETERMINE THE APPROPRIATE AUTHORITY AND FINAL ORGANIZATION OF THE DEPARTMENT.

LIMITS THE AUTHORITY OF THE DEPARTMENT OF RESOURCE CONSERVATION AND DEVELOPMENT FOR THESE FIRST TWO YEARS TO COORDINATING AND ADVISING.

ESTABLISHES A RESOURCE CONSERVATION AND DEVELOPMENT ACCOUNT IN THE GENERAL FUND FOR USE BY THE DEPARTMENT.

SENATE BILL 100

PORTLAND CHAMBER OF COMMERCE RECOMMENDATIONS

STATEMENT OF ROGER YOST MEMBER, LAND USE TASK FORCE

WE LIVE IN A STATE WITH ABUNDANT NATURAL RESOURCES.

THERE IS A LEGITIMATE AND GROWING CONCERN THAT WE ARE NOT MAKING THE BEST USE OF THESE RESOURCES.

WE ARE BECOMING INCREASINGLY DISENCHANTED WITH OUR MADE-MADE ENVIRONMENT.

IT IS IMPORTANT TO UNDERSTAND THAT THESE PROBLEMS WILL BE COMPOUNDED BY THE FACT THAT THE POPULATION OF THE STATE OF OREGON WILL CONTINUE TO INCREASE. THE CENSUS BUREAU PROJECTS POPULATION INCREASES OF 60 TO 80 MILLION PEOPLE IN THE U.S.A. BETWEEN THE YEARS 1970 AND 2000. AS WE IMPROVE THE LIVEABILITY OF OUR STATE FOR OURSELVES, WE WILL ATTRACT AN INCREASING NUMBER OF PEOPLE FROM LESS DESIRABLE ENVIRONMENTS. THEREFORE, WE ARE FACED WITH BUILDING FOR THE FUTURE AS WELL AS CORRECTING THE MISTAKES OF THE PAST.

AS OUR PROBLEMS INCREASE IN SCOPE AND COMPLEXITY, OUR GOVERNMENTAL STRUCTURES BECOME MORE OBSOLETE. CITIES HAVE GOWN TOGETHER TO FORM METROPOLITAN MASSES THAT CROSS NOT ONLY COUNTY BUT STATE LINES.

WE HAVE TRIED TO SOLVE OUR PROBLEMS BY ADDING SPECIAL DISTRICTS AND AGENCIES TO THE STATE, REGIONAL, AND LOCAL LEVELS OF GOVERNMENT.

WE HAVE EVOLVED A SYSTEM WITH HUNDREDS OF UNCOORDINATED, OVERLAPPING AND SOMETIMES CONFLICTING GOVERNMENTS, DISTRICTS AND AGENCIES.

AT EVERY LEVEL OF INSTITUTIONAL AND PRIVATE LIFE WE ENCOUNTER FRUSTRATIONS, ANGER AND IN SOME CASES, NEAR PARALYSIS.

ON THE BRIGHTER SIDE, WE ENCOUNTER A HEALTHY NEW AWARENESS OF THE RESPONSIBILITIES THAT WE HAVE TO EACH OTHER AND TO OUR ENVIRONMENT. THEREFORE, WE MUST EVOLVE A PLANNING AND ORGANIZING SYSTEM THAT CAN CONQUER THE SCALE AND COMPLEXITY OF OUR TIMES SO THAT WE CAN UNDERTAKE THE TASK OF BUILDING THE HEALTHY NEW ENVIRONMENT WHICH WE ARE NOW CAPABLE OF VISUALIZING.

IT IS FOR THESE REASONS THAT SB 100 HAS THE POTENTIAL OF EVOLVING INTO THE MOST IMPORTANT LEGISLATION OF OUR TIME.

IT CAN INSTITUTE THE BEGINNING OF AN ERA OF UNITED EFFORT THAT EXTENDS FROM THE CITIZEN, TO THE CITY, TO THE COUNTY, TO THE REGION AND TO THE STATE.

FEBRUARY 12, 1973

THE PORTLAND CHAMBER OF COMMERCE IS IN SUBSTANTIAL AGREEMENT WITH SB100.

1. THE CHAMBER IS IN AGREEMENT:
 - A. THAT THE UNCOORDINATED UTILIZATION OF LAND AND OTHER RESOURCES WITHIN THIS STATE THREATEN THE ORDERLY DEVELOPMENT, THE ENVIRONMENT OF THE STATE, AND THE HEALTH, SAFETY, ORDER, CONVENIENCE, PROSPERITY AND WELFARE OF THE PEOPLE OF OREGON.
 - B. THAT THE PROBLEM IS URGENT AND THAT LEGISLATION SHOULD BE ENACTED AS SOON AS POSSIBLE.
 - C. THAT A DEPARTMENT OF CONSERVATION AND DEVELOPMENT SHOULD BE ESTABLISHED.
 - D. THAT THE DEPARTMENT SHOULD BE COMPOSED OF A COMMISSION, DIRECTOR AND STAFF.
 - E. THAT AREAS AND ACTIVITIES OF INITIAL CONCERN SHOULD BE DESIGNATED.
 - F. THAT A JOINT LEGISLATIVE COMMITTEE SHOULD BE ESTABLISHED TO ADVISE AND ASSIST THE DEPARTMENT.
 - G. THAT AN ACCOUNT SHOULD BE ESTABLISHED IN THE GENERAL FUND FOR THE DEPARTMENT.

2. HOWEVER, THE CHAMBER RECOMMENDS EXPANDING SB100 TO INSTITUTE MORE EFFECTIVE COORDINATION OF ALL OF OREGON'S RESOURCES AND ACTIVITIES.
 - A. OUR ULTIMATE GOAL MUST BE OPTIMUM UTILIZATION OF ALL HUMAN AND NATURAL RESOURCES.
 - B. LAND, WHILE A CRITICAL RESOURCE, CANNOT BE CONSIDERED INDEPENDENTLY FROM OTHER RESOURCES AND ACTIVITIES.
 - C. THE NEED IS FOR A STATE-WIDE SYSTEM THAT WILL PROMOTE OPTIMUM UTILIZATION OF ALL RESOURCES BY FACILITATING COORDINATION OF STATE, REGIONAL AND LOCAL ACTIVITIES, INCLUDING DATA GATHERING, POLICY SETTING, PLANNING, UP-DATING AND IMPLEMENTATION.
 - D. THEREFORE, IT IS RECOMMENDED THAT SB100 ESTABLISH A DEPARTMENT OF RESOURCE CONSERVATION AND DEVELOPMENT. COMPREHENSIVE PLANS AND POLICY STATEMENTS PREPARED BY THE DEPARTMENT SHOULD TAKE INTO CONSIDERATION NATURAL FEATURES SUCH AS FORESTED LAND, AGRICULTURAL LAND, RIVERS, FLOOD PLAINS, SOIL TYPES, ETC. AND MAN-MADE

FEBRUARY 12, 1973

-3-

FEATURES AND ACTIVITIES, SUCH AS LAND DEVELOPMENT, HIGHWAYS AND TRANSPORTATION SYSTEMS, PUBLIC AND PRIVATE UTILITIES, EDUCATION AND RECREATION FACILITIES, BUSINESS AND INDUSTRIAL DEVELOPMENT, POLICE AND FIRE PROTECTION SYSTEMS, AS WELL AS HEALTH AND WELFARE SYSTEMS.

- E. MEMBERSHIP ON COMMISSIONS AND PLANNING COMMITTEES SHOULD TAKE INTO CONSIDERATION THESE DIVERSE ACTIVITIES THAT INFLUENCE CONSERVATION AND DEVELOPMENT OPPORTUNITIES.
- F. IT IS RECOMMENDED THAT AREAS AND ACTIVITIES OF CONCERN BE EXPANDED TO INCLUDE METROPOLITAN AREAS WITH POPULATIONS IN EXCESS OF 5,000, HOSPITALS, SCHOOLS AND MAJOR INDUSTRIES AND THAT THE COMMISSION DURING THE 2 FORMATIVE YEARS BE DIRECTED TO ADD AREAS AND ACTIVITIES AS REQUIRED TO ACCOMPLISH ITS OBJECTIVES.
- G. IT IS FURTHER RECOMMENDED THAT THE COUNCILS OF GOVERNMENT BE CONVERTED TO REGIONAL OFFICES OF THE DEPARTMENT OF RESOURCE CONSERVATION AND DEVELOPMENT, THEREBY SIMPLIFYING THE LEVELS OF GOVERNMENT TO CITY, COUNTY AND STATE.

3. IN ADDITION, WE RECOMMEND THAT SB 100:

- A. DIRECT THE DEPARTMENT TO PREPARE POLICY STATEMENTS AND PLANNING GUIDELINES WITHIN ONE YEAR AFTER ADOPTION OF LEGISLATION.
- B. REQUIRE STATE AGENCIES, PLANNING DISTRICTS, CITIES, COUNTIES, AND SPECIAL DISTRICTS TO COOPERATE AND ASSIST IN THE DEVELOPMENT OF THESE POLICY STATEMENTS AND PLANNING GUIDELINES.
- C. DIRECT THE DEPARTMENT TO PUBLISH AND COORDINATE THESE POLICY STATEMENTS AND GUIDELINES AT THE REGIONAL, COUNTY AND CITY LEVELS.
- D. DIRECT THE DEPARTMENT TO PREPARE AMENDED POLICY STATEMENTS AND PLANNING GUIDELINES, RESPONDING TO THE ABOVE COORDINATION, PRIOR TO THE CONVENING OF THE 1975 LEGISLATURE.
- E. DIRECT THE COMMISSION TO PREPARE A REPORT FOR THE 1975 LEGISLATURE THAT WOULD ENABLE THE LEGISLATURE TO EVALUATE THE PERFORMANCE OF THE DEPARTMENT AND DETERMINE THE APPROPRIATE AUTHORITY AND FINAL ORGANIZATION OF THE DEPARTMENT.
- F. LIMIT THE AUTHORITY OF THE DEPARTMENT OF RESOURCE CONSERVATION AND DEVELOPMENT TO COORDINATING AND ADVISING FOR THESE FIRST TWO FORMATIVE YEARS.

FEBRUARY 12, 1973

IN PREPARING THIS LEGISLATION, IT IS IMPORTANT TO KEEP IN MIND THAT IT TOOK OVER 100 YEARS TO; BUILD THE MAN-MADE ENVIRONMENT THAT WE ARE NOW DISASISFIED WITH; AND TO EVOLVE THE UNCOORDINATED LAYERS OF GOVERNMENT THAT WE NOW FIND INADEQUATE TO SERVE OUR NEEDS.

LET US NOT BECOME PREOCCUPIED WITH OUR IMMEDIATE PROBLEMS AND FAIL TO INVEST SUFFICIENT TIME AND RESOURCES TO SOLVE THE LARGER PROBLEM OF EVOLVING AN EFFECTIVE SYSTEM OF COORDINATING AND UNITING THE PEOPLE AND THE GOVERNMENTS OF THE STATE OF OREGON.

THE PROPOSED DEPARTMENT OF RESOURCE CONSERVATION AND DEVELOPMENT WILL UNDERTAKE THE MOST COMPLEX AND IMPORTANT DATA GATHERING, POLICY SETTING, AND PLANNING ACTIVITY IN THE HISTORY OF OUR STATE. THEREFORE, WE RECOMMEND THAT SUBSTANTIAL FUNDING BE PROVIDED FOR THE ORGANIZATION, STAFFING AND EQUIPPING OF THIS NEW DEPARTMENT.

IN CONCLUSION, THE PORTLAND CHAMBER OF COMMERCE COMMENDS THE SPIRIT AND THE WORK THAT HAS GONE INTO INITIATING SB 100 AND WE URGE THIS COMMITTEE AND THIS LEGISLATURE TO CONTINUE THIS GOOD WORK AND EXPAND THIS BILL INTO LEGISLATION THAT CAN TRULY UNITE THE PEOPLES AND GOVERNMENTS OF OREGON AND THEIR EFFORTS TO PRESERVE AND ENHANCE THEIR ENVIRONMENT.

FEBRUARY 12, 1973

5/8/73

TO THE HOUSE LAND USE COMMITTEE
ON SB 100

1 THIS BILL SHOULD BE REFERRED TO A VOTE OF THE PEOPLE AT THE NEXT GENERAL ELECTION.

2 SECTION 5 PARAGRAPH 1

THE LAND CONSERVATION COMMISSION SHOULD BE ELECTED BY THE VOTE OF THE PEOPLE IN EACH CONGRESSIONAL DISTRICT, AND THE COMMISSIONER AT LARGE BY ALL THE DISTRICTS. COMMISSIONERS SHOULD NOT SERVE OVER 2 YEARS TERMS AND NOT MORE THAN 2 TERMS. WE HAVE TOO MANY APPOINTED COMMISSIONS NOW, THESE LEAD TO A ABSOLUTE DICTATORSHIP BY THE GOVERNOR AND A BIG GRAFT. THIS GRAFT IS GETTING STARTED AT THE LOCAL LEVEL NOW BECAUSE OF THE FACT THAT THEY CANNOT BE FIRED. 2 TERMS OF 4 YEARS IS TOO LONG FOR ANY COMMISSIONER. THE COMMISSIONERS SHOULD BE BONDED FOR AT LEAST A MILLION DOLLARS EACH AS THEY ARE MAKING DECISIONS ON PRIVATE PROPERTY THAT IS WORTH BILLIONS OF DOLLARS BELONGING TO THE LAND OWNERS AND TAX PAYERS. IF THEY MAKE DECISIONS THAT COST THE LAND OWNERS MONEY THE LAND OWNERS ARE ENTITLED TO DAMAGES.

THE CLIFF HOLMES CASE JUST DECIDED BY THE SUPREME COURT OF OREGON IS A GOOD EXAMPLE OF BUREAUCRACY IN PRIVATE BUSINESS WHICH COST THIS MAN \$400,000.00 BY A PLANNING COMMISSION USING POOR JUDGEMENT IN THEIR DECISION. THIS CASE WAS DECIDED IN FAVOR OF MR. HOLMES, HE CAN NOW BUILD HIS PLANT, NOW WHO IS GOING TO STAND MR. HOLMES LOSS?

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3 SECTION PARAGRAPH 6, 7, 8 & 9

THE STATE WILL BE ABSOLUTE DICTATOR OVER COUNTY OR CITY GOVERNMENT AS THEY WILL BE FORCED TO FOLLOW STATE PLANNING GOALS AND GUIDELINES. THERE ARE MANY PARAGRAPHS IN THIS BILL WHICH DICTATES THE SAME IDEA.

4 SECTION 4B SUB SECTION 4 D

THIS SECTION SHOULD BE DELETED AS THERE IS NO POSITIVE DEFINITION FOR PRIME FARM LAND. ALL FARM LAND IN THE WILLAMETTE VALEYS DOES NOT GROW ALL FARM CROPS. A GOOD SHARE OF THE LAND IS ALSO PRIME HOUSING PROPERTY AND IS WORTH 5 TO 6 TIMES AS MUCH FOR HOUSING AS FOR FARM LAND.

THE GENERAL PUBLIC DOES NOT WANT TO PAY A FAIR PRICE FOR FARM PRODUCTS SO FARMERS CAN MAKE A PROFIT ON THEIR INVESTMENT SO THERE IS NO ALTERNATIVE FOR THE FARMER BUT TO SELL HIS LAND & RETIRE.

SB 100 IS STILL THE SAME OLD LEOPARD THE SPOTS HAVE NOW BEEN PAINTED BROWN INSTEAD OF BLACK. IT DOES NOT PROTECT PRIVATE CITIZENS RIGHTS AS PROVIDED FOR BY THE CONSTITUTION OF THE UNITED STATES UNDER THE BILL OF RIGHTS AND THEREFORE SHOULD BE TABLED UNTILL 1975 FOR FURTHER STUDY.

JOHN C WEBBER

SB 100 42
5/10/73
BALSIGER
EXHIBIT 19 1A1
OREGON STATE ARCHIVES

H. ENV. & LAND USE COM.

CITY OF



P.O. Box 155 / Wilsonville, Oregon 97070

TO MEMBERS OF HOUSE ENVIRONMENT AND LAND USE COMMITTEE

Dear Representative:

I respectfully urge you to modify Senate Bill 100 to the following extent (revision in quotation marks).

PART V COMPREHENSIVE PLANS

Section 40 Page 18 Lines 11-13 Comprehensive plans and zoning, subdivision, and other ordinances and regulations adopted prior to the effective date of this Act shall remain in effect until revised under this Act.

"No such ~~action~~ ^{revision} shall be deemed necessary unless the Commission has publically demonstrated conclusive evidence of it's need."

This modification would not take away from the needed authority of the State Commission, but it would give the city or county who is doing a competent job of planning some assurance that their efforts are justified.

Sincerely,

Phillip R. Balsiger, Mayor

SB 100 4B
5/10/73
ENVIRONMENTAL
+ LAND USE

5/10/73

Testimony in favor of SB 3210

OREGON STATE ARCHIVES

My name is Barbara Brown, from Lake Oswego. I am the Vice Chairman of the Clackamas County Democratic Central Committee.

In Clackamas County we are right on the cutting edge of the outward thrust of urbanizing forces from Portland southward, and the tragic lack of proper planning is evident every day in the loss of green spaces that will be needed for better purposes in years to come than for urban sprawl.

SB 100, weakened as it was, is a step in the right direction, but the state power to help preserve areas of critical concern was taken out of the bill, as you know. House Bill 3210 will help to fill a much needed gap. I speak both in support of the general purpose of protection of the shorelines of the state, and the specific vehicle. ~~is~~ The bill is comprehensive, it is not piecemeal, and it is absolutely necessary.

In Clackamas County ~~we have~~ a Natural Rivers initiative ~~which~~ was passed at the last election, which provides a Clackamas Natural River Area, a 25-mile river corridor from Carver to Estacada, but even with this measure the pressures are constant to grant exceptions to the provision only for single-family residential building and outdoor recreational use. It is not being enforced vigorously by the Board of County Commissioners, except when closely monitored by citizens on a case-by-case basis.

~~It is~~ In Lake Oswego, the lake for which the city is named cannot be driven to and viewed from an overlook or a park. The general public cannot even walk to the lake except along a rocky railroad right-of-way which is private property anyway but used by people who want to fish along the railroad. There was an indication by the Corps of Engineers that it is a public ~~and navigable~~ waterway, but the lake is at present a wholly privately controlled body of water, and if the Corps of Engineers is right, the only way the general public could get a canoe into it would be by dropping it from a helicopter. The shorelines are all gone. It is a private lake.

All the views are privately owned and jealously guarded. Despite the fact that a public river, the Tualatin, flows into it and feeds it, the shorelines are gone, the views are gone, and it is too late for Lake Oswego, but it is not too late for the rest of Oregon. We are at the moment of truth, we have our opportunity to do this for the future generations, just as California ~~did~~ 20 or 30 years ago. They blew it. Let's not blow it here. Although it is late in the session, I urge your ~~most earnest~~ favorable consideration of this bill.

Thank you.

Barbara Brown

Barbara Brown
2104 Wembley Park Road
Lake Oswego, Ore. 97034

To the House Environment and Land Use Committee

Re: SB 100

BROWN

Honorable Representatives,

I wish to strongly urge you to exercise your independent judgment on considering possible changes needed in SB 100

I deeply resent my representatives in the House being told by the Senate, their "big brothers", that they must not function.

The Senate Committee on Environment and Land Use was very free in throwing in all sorts of last-minute weakening ploys which remove the effectiveness of various portions of SB 100. A much stronger SB 100 (originally) was ^{then} rewritten by an Ad Hoc Committee of essentially conservative-minded lobbyists, so the Senate had its chance.

As a hard-working member of the Clatsamas County Democratic Central Committee who worked far and wide to register a few more Democrats to vote and elect a few more Democratic representatives, I believe in the democratic process and in the absolute need for you to make whatever changes will strengthen SB 100, and let the chips fall where they may.

Barbara Bram

2104 Wembley Park Rd, Lake Oswego

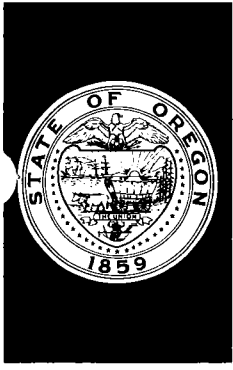
Vice Chairman

Democratic Central Committee of
Clatsamas County

Janet

SB 100
5/10/73
EXHIBIT 20 1.1
H. ENV. + LAND USE

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**DEPARTMENT OF
GEOLOGY AND MINERAL INDUSTRIES**

OREGON STATE ARCHIVES

ADMINISTRATIVE OFFICE

1069 STATE OFFICE BLDG. • PORTLAND, OREGON • 97201 • Ph. (503) 229-5580

TOM McCALL
GOVERNOR

May 7, 1973

*WOM for
Comm*

The Honorable Nancy Fadeley
Room 410-F
State Capitol
Salem, Oregon

Dear Mrs. Fadeley:

We regret that due to prior commitments we will be unable to participate in the hearing on SB 100 scheduled for Tuesday morning. We would like, however, to offer the following brief comments for your consideration.

We are in general agreement with SB 100 and its various provisions. We are in complete agreement with the concept of the bill since we have long been saying that land use planning is vital to the orderly development of our state.

Land use planning necessarily involves much more than a consideration of just the surface. Land is a three-dimensional thing, and often that third dimension, depth, is equally as important as those dimensions which define the surface boundaries.

A geologic study provides information not only of the surface and its capabilities and liabilities but of the subsurface as well. A geologic investigation reveals the location of the various geologic hazards such as landsliding, subsidence, high water tables, and unstable ground. It also identifies areas where mineral resources occur, where faults in the earth's crust lie, the depth to bedrock, and the nature of the rock and soil that will be encountered in deep excavations and well drilling.

Land use planning is only as good as the information about the land is. A geologic report with detailed maps goes a long way toward providing this vital information.

Sincerely yours,

Ralph S. Mason
Deputy State Geologist

RSM:lk

Janet FYI & return

29 January 1973

H. ENV. & LAND USE COM.

The Honorable Nancie Fadeley
Chairman, Environment & Land Use Committee
Capitol Building
Salem, Oregon

*(F) SB/100
& Land Use*

Re: S.B. 100

Dear Representative Fadeley:

It was my intention to personally testify at the 25 January hearing on S.B. 100, but flu problems caused a change of plans so I hope this letter will be given equal consideration.

I am absolutely in favor of S.B. 100 in its present draft form with minor comments as follows:

With regard to Section 16 of the Bill, as a member of the OCCDC I have no personal hang-ups about the L.C.D.C. giving prior approval to any actions of the OCCDC, but I really don't think it necessary. True, OCCDC got off to a slow start, but once we selected our Director we have been making good headway, I feel. I would hope that review by the L.C.D.C. would be adequate and would not cause unnecessary hard feelings among coastal residents.

I particularly like the designation of areas and activities to be designated for State concern (Sections 31 and 32) and hope that you will not back off of these provisions.

Section 34, Paragraph (7) could perhaps be a bit stronger, so as to provide a uniform and composite application and impact form. On behalf of our clients, we often have to fill out two or more environmental impact statements when it seems that one uniform type of statement really could suffice.

Section 58 should contain a separate paragraph on the preservation of wildlife and wildlife habitat, including animals, birds and fish.

I am sorry that I was unable to give this testimony personally, but I will be willing to testify at future hearings if given the opportunity.

Respectfully yours,

John W Broome
John W. Broome

Partners:
John W. Broome
Charles E. Selig
Robert E. Oringdulph
John L. Henslee
Dennis J. O'Toole

Associates:
Richard L. Belcher
Heinz R. Rudolf
Donald T. Ross
Richard K. Spies
Charles G. Petersen

cc: Members of the House Environment & Land Use Committee

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SB 100
5/10/73

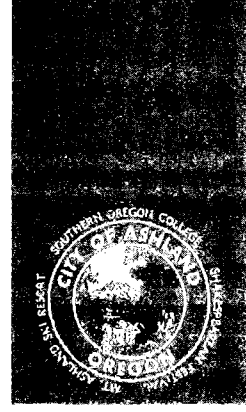
SB 100
Kenon for
Comm.

James
Moore
Beaverton

ARCHIE C. FRIES	Mayor
GERALD R. ALLEN	Councilman
FRANK O. BRANTLEY	Councilman
JAMES R. MOORE	Councilman
ROLAND McCANNON	Councilman
WILLIAM P. ROBLE	Councilman
AUDREY H. SODERBERG	Councilwoman
BRIAN L. ALMQUIST	City Administrator

EXHIBIT 112

CITY OF ASHLAND



CITY HALL

ASHLAND, OREGON 97520
telephone (Code 503) 482-3211

H. ENV. & LAND USE COM.

May 4, 1973

Ms. Nancie Fadeley
 Chairman, House Environment
 & Land-use Committee
 State Capital
 Salem, OR 97310

RE: SB 100

Dear Ms. Nancie Fadeley:

The Ashland City Council, at a meeting on April 10, 1973, voted unanimously to go on record opposing Engrossed Senate Bill 100. The Council fully supports the position taken by the League of Oregon Cities, as expressed in a statement prepared by Mayor James R. Moore of Beaverton of the League Legislative Committee, dated April 3, 1973 (copy attached).

Although the League suggested several amendments which would have made the bill workable, the amendments failed, and the bill passed by the Senate, leaves three major problem areas for cities:

1. It gives counties the power to review and change city comprehensive plans subject only to appeal by the state commission.
2. The terms statewide planning "goals" and "guidelines" are not defined, allowing the commission to interpret them as anything from advisory statements to strict regulations and standards.
3. It does not require the state to adopt a statewide plan, leading to "spot zoning" by the state for certain areas and activities listed in the bill.

We believe that the original amendments proposed by the League of Oregon Cities are entirely reasonable, and should be incorporated into the final bill. As stated in the League position paper, cities have never taken a "do nothing" attitude towards statewide planning.

SB100
277

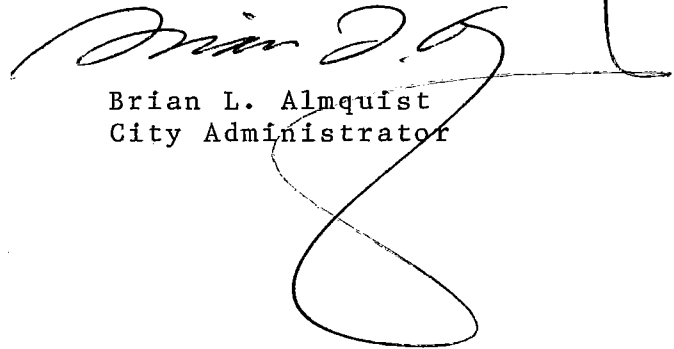
Ms. Nancie Fadeley
State of Oregon

May 4, 1973
Page 2

On the contrary, the League has sponsored legislation aimed at establishing a state planning act.

Our City stands ready to support and work with state agencies in implementing a reasonable bill which recognizes the role of cities in land-use planning. Please remember that the "foot-dragging" has been at the County level, not only on long range planning, but even on rudimentary zoning.

Cordially,



Brian L. Almquist
City Administrator

BLA/jb

STATEMENT ON ENGROSSED SB 100

Prepared for Senate Committee on Environment and Land Use
April 3, 1973

by James R. Moore, Beaverton
Legislative Committee Chairman, League of Oregon Cities

The League of Oregon Cities strongly opposes Engrossed Senate Bill 100.

We have, since the introduction of the original SB 100, supported the concept of a state role in land use planning. However, we have felt that SB 100 has been plagued with both conceptual and technical problems. The League has offered what we believed were constructive suggestions for resolving these problems, including the drafting of an alternate bill, but we do not believe that our suggestions have been seriously considered. In weighing the balance between Engrossed Senate Bill 100 and the elements which are crucial to a meaningful state role in land use planning, the League finds the bill to be seriously deficient and opposes it.

Let me review briefly the reasons for this decision. Engrossed SB 100 fails to provide at the state level what it demands at the local level--a coordinated, carefully-developed land use plan. There is no requirement for the Land Conservation and Development Commission to develop a state land use plan although one is referred to in the policy statement of the bill. Without a state plan, the task of adopting goals and guidelines for planning with emphasis on areas and activities specified in the bill will result in nothing more than spot zoning at the state level. Having the state merely superimpose the judgment of a state commission over the actions of local governments on local plans, without having a statewide plan as a basis for state action, cannot produce anything else.

The League has encouraged collection of basic data as the first step before adopting state goals and guidelines--a normal course in development of a comprehensive land use plan. The League has urged careful definition of such key terms as "goals" and "guidelines" since much of the confusion about the bill results from those interested in the bill defining these important terms in their own differing ways. The League has urged that the state follow a procedure that would be used in developing a comprehensive plan by any level of local government--collection of information, development of goals, adoption of a plan based on these goals, and development of implementing guidelines. The League feels that these recommendations have been flatly rejected.

The League has never been interested in a "do nothing" approach in developing a state role in land use planning. On the contrary, we feel that the bill does not go far enough in having the state assume such a role while it goes much too far in needlessly and inappropriately interfering with and reorganizing local planning that has been going on for many years. The bill does not require the state to develop a comprehensive state land use plan or to coordinate the land use activities of many state agencies with such a plan, but it does restructure local planning and downgrade city planning activities by making the cities subservient to counties in the planning process. A companion bill proposes to reimburse counties for the extra expense they will incur in coordinating local planning efforts, but recognizes no responsibility to cities for costs cities would incur in revising plans to meet state regulations or in appealing county planning decisions to the state level. Despite the stated intentions of many who have worked on the bill, we feel that the bill for all practical purposes dis-enfranchises cities from the planning process and drops them out of any treatment as partners in the state-local planning

Based on city experience in planning, we don't see how the Land Conservation and Development Commission can carry out all of its assignments in the bill under the time schedule proposed if a meaningful and effective job is to be done. The Commission, after it is appointed and staffed, must prepare goals and guidelines (but not based on any comprehensive planning effort), inventory land uses, review local government plans for compliance with goals and guidelines, coordinate state agency plans, insure citizen involvement in the process by holding hearings, prepare model ordinances and regulations and consider areas of critical concern for recommendation to the 1975 legislature. We doubt that all these assignments can be carried out effectively in the 18 months available to the commission for this purpose, and think the effort would be better spent at developing a comprehensive state plan that would be ratified by the 1975 legislature. True, such an approach does not provide regulation during the 18 month interim but Engrossed SB 100 does not promise regulation during this period either. We submit that rather than "doing nothing" under this approach, the commission would be productively occupied during the interim by establishing a comprehensive state policy on land use that could be implemented as soon as approved by the 1975 legislature.

The many other suggestions that the League has made regarding the technical and conceptual problems in the bill have been consistently rejected, and we think the final product demonstrates a lack of understanding about the process of planning and plan implementation as well as a lack of understanding about where and how planning has been done at the local level long before the state became seriously interested in problems of development and land use planning.

The League stands ready to assist in defining a useful and constructive state role in land use planning that will acknowledge the experience and efforts of cities in land use planning. We don't think Engrossed Senate Bill 100 accomplishes this objective, and we strongly oppose it.

Respectfully submitted,

James R. Moore, Beaverton
Chairman, Legislative Committee

League of Oregon Cities
Local Government Center
1201 Court Street N.E.
Salem, Oregon 97301