

HOUSE COMMITTEE ON NATURAL RESOURCES ENVIRONMENT AND ENERGY SUBCOMMITTEE

May 18, 1993 Hearing Room D 1:30 p.m. Tapes 113 - 116

MEMBERS PRESENT: Rep. Bob Repine, Chair Rep. Marilyn Dell, Vice-Chair
Rep. Sam Dominy Rep. Bill Fisher Rep. Carl Hosticka Rep. Dennis Luke
Rep. Bill Markham Rep. Nancy Peterson Rep. Ray Baum

VISITING MEMBER: Rep. Tim Josi Rep. Chuck Norris Rep. Liz VanLeeuwen

STAFF PRESENT: Kathryn Van Natta, Committee Administrator Sue
Nichol, Committee Clerk

MEASURES CONSIDERED: Work Session - HB 3661

WITNESSES: Dale Riddle, Attorney Mike Evans, Planning
Consultant Kent Howe, Planner, Lane County George Reed, Planning
Director, Deschutes County Don Schellenberg, Oregon Farm Bureau Larry
Trosi, Oregon Farm Bureau Quincy Sugarman, OSPIRG Terry Witt, Oregonians
for Food and Shelter William Cox, Attorney

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These minutes contain materials which paraphrase and/or summarize
statements made during this session. Only text enclosed in
quotation marks report a speaker's exact words. For complete contents
of the proceedings, please refer to the tapes. [--- Unable To Translate
Graphic ---]

TAPE 113, SIDE A

005 CHAIR REPINE: Calls meeting to order at 1:17.

WORK SESSION ON HB 3661

011 KATHRYN VAN NATTA: Hand engrossed amendments have been
submitted, HB 3661-13 (Exhibit A). Also submitted -15, -16, -18, and -19
(Exhibit B); Testimony in support of HB 3661 from the following: Marilyn
Weaver, Willamette West Real Estate (Exhibit C) Joan Jansen, Brunner and
White Realtors (Exhibit D) Dan Varcoe (Exhibit E) Juno Long, Blackaby
Real Estate (Exhibit F) John Hershawe (Exhibit G) John Archer (Exhibit
H) Pam Zielinski, Lutz Snyder Realtors (Exhibit I) Adelle Jenike, Re/Max
Associations, Inc. (Exhibit J) Donald Rist, Lorber Real Estate
Corporation (Exhibit K) Blake Hastings, Blake Hastings Real Estate
(Exhibit L) Kenneth Fader, North Lincoln County Board of Realtors
(Exhibit M) Sara Walker (Exhibit N) Alan Kaufman (Exhibit O) Pam
Zielinski, The Lutz Snyder Co. (Exhibit P) Joan Jansen, Brunner and
White Realtors (Exhibit Q) Edwin McCurry (Exhibit R) Frederic Young,
Frederic Young Company (Exhibit S) Mark Simmons, Northwest Timber
Workers Resource Council (Exhibit T).

118 DALE RIDDLE, Attorney: Gives background of his work with land use legislation. Kent and Mike will go over the maps which show what HB

3661 actually does.

190 MIKE EVANS, Planning Consultant: Gives an overview of the bill. The intent of the bill was not to promote or prevent development, but was to look at what was wrong with the system and come up with a new bill that would preserve our land use system for future generations.

200 HB 3661 is a framework that takes all aspects of land use planning relative to goals 3 and 4 and tries to create a system that works with

today's situation. We believe the entire state can't be planned with one process.

220 It's the intent of the bill to provide options for the counties.

272 This bill doesn't answer the question, how much development should there be in rural Oregon? It says if there is going to be development, this

is where it should be.

295 KENT HOWE, Planner, Lane County: Explains the maps of counties that show what HB 3661 actually does.

341 In land use planning, the pattern is the key.

TAPE 114, SIDE A

016 HOWE: Continues to explain the maps.

024 CHAIR REPINE: On the Clackamas map, there's not too many pieces over 20 acres for additional homesites?

030 HOWE: Points out vacant lots on Clackamas map. That's the potential build-out in this area.

029 REP. PETERSON: All the small parcels are being farmed?

030 HOWE: I don't know. There are in the exclusive farm use zone though.

032 REP. PETERSON: If they're in the exclusive farm use zone, if they're not farming, doesn't it have to be something related?

035 HOWE: I don't know what the uses of the land are.

041 RIDDLE: There's no guarantee that if you are in an EFU zone that that is your use.

046 REP. PETERSON: So much of the EFU land could become secondary?

050 HOWE: If it's in this type of a pattern, where you have one and five-acre parcels all developed with a dwelling, that would

probably not be considered prime farm ground.

052 REP. PETERSON: Could these be actual tracts where people are farming and making money, but under the HB 3661 plan, they could easily become

secondary?

055 HOWE: Yes.

060 In response to a question from Rep. VanLeeuwen, explains the patterns and scales of the maps.

094 CHAIR REPINE: Asks further clarification of the maps.

102 HOWE: Explains the tracts qualify for the secondary lands designation. They would remain in small scale prime forestland.

109 REP. LUKE: You said counties could lower the \$50,000 threshold?

114 EVANS: That's correct. They can modify the state criteria.

123 REP. LUKE: On the Deschutes County map, if the standard was lowered, more land would qualify as prime farmland. Would that be permissible

under this bill?

130 EVANS: Absolutely.

133 REP. PETERSON: Why do we have the guidelines if the counties can still choose what they want to do?

142 EVANS: These are provided as an objective standard for the counties to use. Explains the process to circumvent these standards.

160 REP. PETERSON: If LCDC doesn't agree that the county has protected the land, then what happens.

164 RIDDLE: Then the county's plan gets disapproved.

172 REP. JOSI: Is HB 3661 sort of a base plan?

174 RIDDLE: It would be a cost savings over the LCDC approach.

188 REP. JOSI: If this is a base plan, would LCDC look at a proposed plan on the basis of its protection of the economic resource base of a county or would it look upon the plan as being less stringent than the plan

detailed in HB 3661?

199 RIDDLE: I think a more stringent plan would have the least problems.

205 REP. JOSI: Does LCDC have the authority to say the base plan is not stringent enough?

208 RIDDLE: Yes.

210 Gives testimony answering concerns of others.

247 Because of the subjectivity of the LCDC rules, not one county has tested their lands according to LCDC rules.

328 LCDC rules for designating agricultural primary lands do not take into account productivity.

396 Maps cannot be prepared through LCDC rules.

424 Distributes and reviews information from studies (Exhibit U). People with a house on their land plant more trees on their land than

non-resident owners.

TAPE 113, SIDE B

063 REP. PETERSON: How do you answer the farmer's complaints about nearby residents?

072 RIDDLE: He was taking a look at the report and what the report said. People take advantage of everything the courts allow. If they allow

complaints, people will complain. The issue is, where do we draw the line.

112 The study noted remarkable bias against small farmers.

121 The study never determined whether the land that was partitioned was being managed at all prior to the partition.

143 It is not the intent of the bill to convert the land. We want to increase the production on those small lands.

156 As a general rule, the partition sizes of the forested areas in the bill would be larger than most of the counties current partition sizes.

183 REP. HOSTICKA: I don't understand why you have to partition land in order to sell trees.

188 RIDDLE: Many times you have to partition in order to have a legal lot so you can sell the land. Many times it makes sense to sell the land.

200 EVANS: There are two reasons the timber industry may want to sell the land as opposed to just the trees. A company may not to own land in

this location for management purposes. Another reason is to block-up their land for better management. If they do make a substandard lot, they can't build on it.

212 REP. LUKE: Can the counties also reduce the cubic foot requirement in the forest zones?

224 RIDDLE: Yes.

230 Continues testimony.

325 Submits proposed amendments (Exhibit V).

346 REP. LUKE: Where does it say in the bill that counties don't have to go by 50,000 and the cubic foot requirement?

354 RIDDLE: Page 4, line 32.

371 HOWE: The resulting land use pattern on the eight counties that we've tested results in creating a realistic pattern segregating prime lands

from the secondary lands. If that pattern is in a county that we haven't tested yet, and that pattern is not something that the county feels is representative, then they do have the option to modify the criteria. The state maintains a role in terms of oversight and review.

The current system is a very strongly state dominated system that makes a farce out of local planning.

397 RIDDLE: We need a freeze in time provision on the contiguous lands issue.

TAPE 114, SIDE B

010 REP. NORRIS: Do you feel your job would be more effective in the county that are treated under HB 3661 than under what we are dealing with

today?

013 HOWE: Yes.

015 REP. NORRIS: Do you feel the landowners in your county would be better served by this change, if we should make it?

017 HOWE: Yes.

040 GEORGE REED, Planning Director, Deschutes County: Summarizes concerns of Deschutes County Board of Commissioners contained in a letter

(Exhibit W).

131 REP. BAUM: What could the secondary lands rules do now, in comparison?

135 REED: If you use \$10,000, our indicator of alfalfa would require 26 to 28 acres. This is about 129 acres at \$50,000. There is a big

difference. We do have a lot of small parcels. The difference is about 10,000 to 12,000 acres between the \$10,000 test and the \$50,000 test.

143 REP. BAUM: Further explains the difference between current rules and HB 3661.

152 REED: Eventually, more land would qualify.

200 CHAIR REPINE: The rangeland test is similar to what is there currently?

215 REED: The difference is that the \$50,000 allows considerably more irrigated land.

230 Explains the Profile of County Agriculture (Exhibit W).

235 REP. BAUM: Where's the growth in agriculture in Deschutes County coming from?

238 REED: We're seeing a lot of innovative farming being done, such as exotics, horses, and intensive farming.

263 REP. BAUM: What is the minimum parcel size?

269 REED: Twenty-three irrigated acres.

288 REP. NORRIS: Would it require 60,221 acres to raise 480 cow-calf pairs?

290 REED: Correct. On the unimproved ranges, it's 80 acres per animal unit.

317 REP. BAUM: The tract has to be capable of supporting 25 A.U.M.'s to be small scale. You'd have to have 60,000 acres to produce that?

333 REED: No, that's how much you'd need to produce \$50,000.

342 REP. NORRIS: Your commissioners do not approve HB 3661, do they?

351 REED: I will go over that later.

394 Deschutes County cannot support the current income thresholds in the bill. Suggests a \$10,000 income threshold for farmland in eastern

Oregon.

TAPE 115, SIDE A

019 I don't think 20 acre planning is valuable.

021 REP. BAUM: The 20 acres are minimums. Counties can do what they want. They just can't go below that.

035 REED: We are concerned about the pressure that will be put on us to go to those minimums.

055 REP. LUKE: What were the things about the bill that you liked.

061 REED: The court cases that are fixed, enhancement dwellings make a lot of sense to fix the lot-of-record problem in marginal farm areas.

073 REP. NORRIS: Do you consider the availability of water in zoning considerations now?

074 REED: We try to stay out of that debate but we're being brought in.

090 REP. NORRIS: Is it something you're being forced to do but you're not comfortable with it?

093 REED: No, I think that's the only way to go.

103 REP. LUKE: How did the land for Mr. Gardner's proposed destination resort come out in this?

107 REED: It is the large scale primary, which would not allow destination resorts.

110 REP. DELL: What would you change from the current plan?

123 REED: The biggest problem I see is the lack of clear and objective standards.

144 REP. DELL: Do you have any opinion on allowing replacement dwellings?

148 REED: My opinion is that I don't know where it says you can't replace a dwelling.

155 REP. DELL: How about the section that would allow broader commercial activity on farmlands?

157 REED: Those things should go on secondary lands.

173 VAN NATTA: Gives summary of -2 amendments. They deal with the limited lot provisions of the bill.

214 REP. BAUM: There are a lot of less controversial amendments that could be adopted easier.

234 VAN NATTA: The -12 amendments deal with the right to farm and forest provisions of the bill. The reference to "sprays not subject to

regulation" would be deleted.

269 REP. HOSTICKA: There is another huge change, the addition of the words "includes, but is not limited to". I think that changes a lot. Why are

these being added and what does that mean?

293 DON SCHELLENBERG, Oregon Farm Bureau: Is unfamiliar with this section of the bill. Doesn't respond.

304 REP. HOSTICKA: The -18 amendments make the same change except for the addition of "but is not limited to."

No action is taken on the -18 amendments.

332 MOTION: REP. BAUM: Moves that the -16 amendments be adopted.

335 REP. BAUM: That's the amendment that allows in Eastern Oregon, the soil classifications are not only I - IV, but I - VI. It improves the bill

as far as protection of primary lands.

336 REP. DELL: The -16 amendments alter the soil classifications of Eastern Oregon from I to IV to I to VI.

340 VAN NATTA: The -16 amendments amend page 7 of the proposed engrossed bill on line 26.

369 REP. PETERSON: Is that just a technical correction?

370 REP. BAUM: Yes.

380 REP. PETERSON: I want to make it clear that I will vote for amendments that make sense to me but that does not mean I will support the bill.

390 VOTE: REP. DELL: Hearing no objection, the amendments are adopted.

TAPE 116, SIDE A

032 REP. DELL: Asks representatives from Farm Bureau to explain the difference between the -12 and -18 amendments.

046 LARRY TROSI, Farm Bureau: We inserted "but not limited to" because we did not want to limit the concerns to just nuisance and trespass.

080 REP. PETERSON: This opens it up so that pesticides could be a problem.

086 TROSI: We felt that it was adequate that it is currently against federal and state law.

102 REP. BAUM: My concern is that the reason the language that was originally in there for sprays not limited to federal regulation is the fact that it would eliminate some liquid fertilizer that is not

regulated. 125 REP. DELL: I thought it was worthwhile to get input on this.

134 REP. VanLEEuwEN: Section 17 may be better as it was originally written, than with either of the two amendments.

141 QUINCY SUGARMAN, OSPIRG: The -18 amendments address pesticides more completely. We would be more favorable to that amendment.

161 REP. LUKE: You favor protection of farmland, but you don't favor the right of the farmer to farm that land without interference from his

neighb or?

165 SUGARMAN: Our concern is in limiting the ability of citizens to

go to court when they are harmed.

181 TERRY WITT, Oregonians for Food and Shelter: Summarizes testimony in opposition to -18 amendments (Exhibit X).

No action is taken on the -18 or -12 amendments.

240 VAN NATTA: The -9 amendments deals with the uses in conditional uses of farmland in large-scale primary farmland zones. It adds correctional

and training institutions to the conditional uses for farmland.

257 WILLIAM COX, Attorney: Amendments were proposed to get the growth pressure off of the valley and back into the eastern part of the state.

341 REP. PETERSON: Is the land being looked at in eastern Oregon for a correctional facility that which would be designated as secondary land?

343 COX: The land is a wheat farm that is part of a much larger parcel.

380 REP. DELL: Some communities start seeking this type of use because of their bad economic situation.

393 What might have been done to make this a more reasonable process for your situation?

399 COX: We are proposing amendments to local ordinances which would allow the county to take an exception to its EFU land.

TAPE 115, SIDE B

025 DON SCHELLENBERG, Oregon Farm Bureau: We are opposed to the -9 amendments. We are opposed to other uses on primary farm lands.

042 Meeting is adjourned by Chair Dell. Members present are Reps. Dell and Peterson.

Submitted by:

Reviewed by:

Sue Nichol
Administrator

Kathryn Van Natta Clerk

EXHIBIT LOG:

A - HB 3661 - Proposed 3661-13 amendments - Staff - 6 pages B - HB 3661 - Proposed 3661-15, -16, -18, -19 amendments - Staff - 4 pages total C - HB 3661 - Testimony - Marilyn Weaver - 1 page D - HB 3661 - Testimony - Joan Jansen - 1 page E - HB 3661 - Testimony - Dan Varcoe - 1 page F - HB 3661 - Testimony - Juno Long - 1 page G - HB 3661 - Testimony - John Hershaw - 1 page H - HB 3661 - Testimony -

John Archer - 1 page I - HB 3661 - Testimony - Pam Zielinski - 1 page
J - HB 3661 - Testimony - Adelle Jenike - 1 page K - HB 3661 -
Testimony - Donald Rist - 1 page L - HB 3661 - Testimony - Blake
Hastings - 1 page M - HB 3661 - Testimony - Kenneth Fader - 1 page N
- HB 3661 - Testimony - Sara Walker - 1 page O - HB 3661 - Testimony
- Alan Kaufman - 1 page P - HB 3661 - Testimony - Pam Zielinski - 1
page Q - HB 3661 - Testimony - Joan Jansen - 1 page R - HB 3661 -
Testimony - Edwin McCurry - 1 page S - HB 3661 - Testimony - Frederic
Young - 3 pages T - HB 3661 - Testimony - Mark Simmons - 1 page U -
HB 3661 - Information - Dale Riddle - 33 pages V - HB 3661 - Proposed
amendments - Dale Riddle - 1 page W - HB 3661 - Testimony - George
Reed - 6 pages X - HB 3661 - Testimony - Terry Witt - 3 pages