

SENATE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES Subcommittee on  
Land Use

March 3, 1993                      Hearing Room 137 4:30 p.m.                      Tapes 5 - 6  
MEMBERS PRESENT: Sen. Ron Cease, Chair Sen. Bob Shoemaker Sen. Gordon  
Smith MEMBERS EXCUSED: None STAFF PRESENT:              Chris Warner,  
Administrator Pamella Andersen, Committee Clerk MEASURES  
CONSIDERED:              Informational Meeting: Secondary Land Overview  
WITNESSES:              Richard Benner, Director, Department of Land Conservation  
and Development Anne Squier, Natural Resource Advisor, Governor's Office

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TAPE 5, SIDE A

004 CHAIR CEASE: Calls the meeting to order at 4:38 p.m. - Dick Benner will conclude his presentation on the Commission's view of secondary lands. - Anne Squier will give her sense of how the Commission operates and the relationship between the Commission and the Department. - The Association of Counties will review what they are recommending if there is time, with a continuation next week. - Eventually, there will be a discussion on the issue of the role of the courts and the appeals process. - The tax-side relationship will be reviewed. - Seven or eight legislators who have indicated a strong interest in particular proposals will be invited to speak. 035 RICHARD BENNER: (introduces EXHIBITS A and B) Offers testimony on criteria for high value farmland and a summary of land use changes. - High-value farmland was an effort to identify the state's most important land, primarily commercial cropland. - Classifications were chosen from the Soil Conservation Service inventory. - Computer printouts with a list of soils can be requested of the Soil Conservation Service. 074 Offers example of unique soil in Marion County. - Certain soils are only classified as prime if irrigated. Senate Committee on Agriculture and Natural Resources Land Use Subcommittee March 3, 1993 - Page 2

- There are only eleven counties that are required to protect their high-value farmland. Rules provide for a second step in the identification of high-value farmland.

SEN. SHOEMAKER: Is prime land of at least 160 acres in eastern Oregon that is not irrigated still considered high-value?

096 BENNER: It would be high-value, but it isn't designated as high-value until the county elects to do small-scale.

SEN. SHOEMAKER: Irrigated or unirrigated, if it is prime or class I or II, it is considered high-value if they went ahead with small-scale?

BENNER: Yes. - There are some counties that must protect their high-value farmland whether or not they do small-scale. - The first step is whether the soil is good, irrigated or not. - The second step is value as affected by irrigation and only pertains to those eleven counties required to protect their high-value farmland.

CHAIR CEASE: Leaves the meeting.

124 BENNER: On the east of the Cascades, only Deschutes County is experiencing significant growth and it has little high-value farmland.

SEN. SHOEMAKER: That isn't being threatened by development?

BENNER: Not so much as other areas. - The third bullet indicates soils types that would be prime if irrigated. Gives example of grass seed lands of the upper Willamette Valley. - Gives example for the fourth bullet under block 3 of cropland recently put in pasture and dairy cattle. - Reviews what is not included under high-value farmland.

177 SEN. SHOEMAKER: What about land in the Federal Conservation Reserve Program? Would some of that be prime land if it were not in the program? BENNER: Probably some of it, before it got in the program, was devoted to commercial cropland. SEN. SHOEMAKER: If it is not included because of its legal category without regard to its quality, does that make it vulnerable? BENNER: If land is in the Federal Conservation Reserve Program, it would not be high-value farmland. SEN. SHOEMAKER: If it were not in the reserve program, it could well be high quality. It may not be in that program forever. Would that mean that land could be vulnerable? \~ ~ .

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BENNER: If 100 acres were taken out of the reserve and it was prime, the county should shift it to high-value. Otherwise, it would remain in the important farmland category.

202 SEN. SHOEMAKER: Would contiguous land be available as small-resource land?

BENNER: No. Surrounding land would have to qualify. It would not be affected by this tract's connection with the Federal Reserve Program.

SEN. SHOEMAKER: Isn't part of that test how close the small-scale land is to high-value land?

BENNER: No, there is not a proximity criteria. -Lands qualifying as high-value can still be designated high-value by the county as long as it meets the tests. - Gives illustration in the Valley.

228 - References and reviews Exhibit A. - The rules incorporate the statutory list by reference. - Exhibit A lists the changes the Commission would make to the kinds of uses for high-value farmland. - Reviews changes on the list. - Reviews side 2, covering changes to important farmland which do not change the list of uses. 290 - Gives example of a test of a non-farm dwelling.

- Reviews specific court case: Rutherford vs. Yamhill County. The language from this holding was brought forward into the rule. -

317 - Moves to discussion of land divisions. -No changes were made on the forest side of the existing rule. - On the farm side, the test for appropriate lot size has not changed, but counties are now required to use a minimum lot size. 348 - Notes when a county would have to justify its choice of minimum lot size.

- Determinations for small scale resource land are complicated.

- Lists departments that would have to be contacted to determine whether a chosen lot size was viable. 390 - Gives example of land adjacent to BLM land designed for harvest and the resulting impact.

- Small-scale resource land is voluntary with all counties. - In February 1994, all counties must have made changes consistent with the Goal 4 rule.

CHAIR CEASE: Rejoins the meeting.

TAPE 6, SIDE A

BENNER: These rules are not effective yet if you wish them changed. - The rules will solve a lot of the record problems for land designated small-resource land. - There is much concern about the cost of implementing these rules. 023 - Costs can be reduced at the local level if tests are applied selectively. - Gives example of Marion County's use of the tests. - There are up-front costs, but long term savings. - Gives example of minimum lot size which requires a lot of work by many different parties. \, , .

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- Recommends substituting minimum lot size use, which is simpler. - Over the long run there will be a substantial cost savings.

048 CHAIR CEASE: We will ask Representative Baum to come in later and tell us what they are doing on the House side. 055 ANNE SQUIER: The Governor strongly supports the State's land use program. - Overall strategies for managing expansion pressures are needed. - Oregon's identity continues to be dependent upon agriculture, forest and other resource uses. - The need for a statewide view of land use matters is a trigger for focusing on additional coordination of land use matters and facilities planning. - The Commission has dual or triple functions in refining, clarification, review of plans and implementation. - The Commission takes this charge seriously. They spent a tremendous amount of time reviewing drafts that began with simplicity. 116 CHAIR CEASE: Based on the Commission's recent decision, how much land will end up in the small-scale category?

SQUIER: That was a difficult process for the Commission with many days of hearings. - There are many places from which the rules could be critiqued. - If the process the Commission went through were reviewed, one would determine they should be given a chance to see how the rules work. - While not perfect, the rules probably reach a reasonable level of accommodation to many different interests. 152 - There is room for refinement in the application of those rules.

CHAIR CEASE: I heard the Commission was moving in the right direction but their proposal was far too complicated. What do you think?

174 SQUIER: Dealing with the secondary lands issue alone results in a greater level of complexity. - Landowners and others believe it is wrong to sweep so broadly, that agricultural and forest lands should be viewed in a more refined fashion. This approach requires greater complexity. - Much of the existing complexity results from the public process that took place. - Complexity by itself is neither good nor bad.

207 SEN. SMITH: I am concerned that we not spend time here on

something the Governor will ultimately veto. - Those of us who can influence the budget of LCDC wish it demonstrated that there is some local autonomy. - If we ultimately settle on a formula that gives greater protection to prime lands and greater autonomy to local areas, will the Governor veto that? SQUIER: I can't answer with a "yes" or "no." 240 - If a package came forward that lessened existing protections, we would have grave concerns.

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- If there were a proposal that reached the goal of identifying the lands truly less important to the resource base and that can be utilized in a smaller scale development without taking away those protections, it would be worthy of consideration. 261 CHAIR CEASE: We would not develop something final without the Governor's awareness. SEN. SMITH: Politically, the Governor would be wise to realize this issue would do her enormous political damage in eastern Oregon. We need to take an expanded view of prime and forest lands and a local view of the remaining land. CHAIR CEASE: Have you gotten any clear legislative direction on this? SQUIER: I wasn't present in the past and can't answer that. CHAIR CEASE: The only reason staff remains out in this difficult arena is they don't have anywhere else to go. There is no clear direction. 335 SQUIER: It would be valuable to review with Senator Smith the perception of his constituents on the secondary lands package that has been adopted. There is a great deal of room within the areas allowed for counties to make secondary designations on the small scale resources, a fact that would fulfill much of what he is describing. CHAIR CEASE: (To Mr. Benner) How do you respond to the question of legislative directive? - How do you deal with that issue? 340 BENNER: The Legislature began to give the department direction in 1985 to consider the designation of secondary lands or develop criteria for the identification of secondary lands. SEN. SMITH: Leaves the meeting. 370 BENNER: In 1989, the Legislature funded a study by the agency on farm and forest land. - Almost every session the legislature has added one or more uses to the exclusive farm use statute. 393 SEN. SHOEMAKER: Questions the position paper from the governing board of the Department of Geology and Mineral Industries. ADMIN. WARNER: That was received by FAX today, and is for your information. BENNER: The concerns they brought to the Commission were that designation of land as small scale would mean more housing than exists today. They want the Commission to be mindful to the possible conflicts in designating that land as small-scale. 414 - Our response was that Goal 5 is intended to protect aggregate. - If there is an important aggregate resource and land is designated small-scale, the county may protect it by limiting residential development on the perimeter of these sites.

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433 CHAIR CEASE: As you allow more development, you will have more conflict with respect to the interface of the varying values of different developments. BENNER: I think that is probably the case. - The rules speak of establishing new parcels in small-scale resource lands. Most of that section is devoted to avoiding conflict.

TAPE 5, SIDE B

016 CHAIR CEASE: Adjourns the meeting at 5:40 p.m.

Submitted by, Reviewed by,

Pamella Andersen Chris Warner Clerk Administrator

EXHIBIT LOG:

A High-Value Farmland Summary of Rule Changes, Richard Benner, 2 pages  
B Criteria for High-Value Farmland, Richard Benner, 1 page  
C State Planning Programs, Mitch Rohse, 64 pages  
D Position Paper on Goals 111, IV & V Resource Use, Dennis Olmstead, 1 page

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