

SENATE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES Subcommittee on
Land Use

March 10, 1993 Hearing Room 137 4:30 p.m. Tapes 7 - 8
MEMBERS PRESENT: Sen. Gordon Smith, Chair Sen. Bob Shoemaker MEMBERS
EXCUSED: Sen. Ron Cease STAFF PRESENT: Chris Warner, Administrator
Debi Garrigues, Committee Coordinator Pamella Andersen, Committee Clerk
MEASURES CONSIDERED: Informational Meeting: Overview of Secondary
Land Issues WITNESSES: George Reed, Deschutes County Planning
Director Henley Jenkins, Union County Planner Jim Hope, Benton County
Advance Planner Terry Curry, Clackamas County Land Use Planner

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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.

TAPE 7, SIDE A

004 CHAIR SMITH: Calls the meeting to order at 4:42 p.m. - George Reed
of Bend will be the first witness by teleconference.

010 GEORGE REED: What do you want to hear?

CHAIR SMITH: The biggest issue in land use is how the new rules proposed
by LCDC will affect your county. What experience have you had to date
with them and what solutions do you have for land use planning in
Oregon?

SEN. SHOEMAKER: You could also provide us with your position and
background. REED: I am the Planning Director for Deschutes County. -
Notes his personal experience and background specifically with this
issue. - We were one of the original pilot counties three years ago. 034
- As a pilot county we formed a technical committee to determine what
our rangeland could produce. - Range test data productivity is compiled
in an unusable way. - We have a good assessors database. - We just
completed a farm study and had Oregon State University put it on a data
base. - We are ahead of a lot of counties in determining what the rules
mean to us. Senate Committee on Agriculture and Natural Resources Land
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- We believe LCDC listened to most of what we recommended to them.
Eighty percent of what we wanted was adopted by LCDC. - I argued against
some of what other planners wanted because, of the 205,000 acres of
privately owned EFU property in Deschutes County, 50 to 75 percent will
be small scale. - It is the county's option to designate it as such.

CHAIR SMITH: You have not had significant problems? It has not been
terribly complicated to use the rules? You support the rules?

SEN. SHOEMAKER: I am interested in how you determined what lands qualify
as small scale resource lands. - It appears it won't be the overwhelming
task some thought. - The rules were apparently fairly understandable and
easy to apply.

REED: We were following the rule development as it went along. I don't
know that we are speaking for everyone. - These numbers are kind of
scary. - Local control is back. We will have to face significant issues
because of that.

SEN. SHOEMAKER: By definition, that amount of land does not impose a threat to rangeland that is important to protect against intrusion. 115
REED: I think it works. If you want to separate the farmland from land that is less productive, this will do that. - Other things are involved there such as open space and some of the other values. - If we are talking as much as 70 percent of the EFU land being small scale, we will have to rethink some of these things. - - I don't know whether that will be very popular with the public in terms of managing growth. - I think in terms of Goal 3 it works well. - Isolated pockets of non-farmland will exist. 133 - There will continue to be minor problems with rock outcroppings of 60 to 80 acres that are worthless and can't have non-farm dwellings. -The blocking test doesn't really matter in our case because of the large percentage of small scale land we have. - The four-acres-per-animal test for rangeland follows soil boundaries. Soils appear to be consistent and block up that way. That designates a lot of small scale resource land. 145 - We tested 50,000 acres in the pilot program with that exact number and came out with 45 percent of the dry land as small scale. 160
CHAIR SMITH: We have heard the rules are too complicated and expensive to pursue. Do you disagree? REED: That is correct. It can be done. The technical committees can be formed, the data is there. Some counties will have difficulty if they don't have the sophisticated data we have.

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182 HENLEY JENKINS: I am Planning Director for Union County. - Union County has been involved in development of a small-scale resource lands program since 1985. - We were one of the pilot test counties funded by the 1989 Legislature. - We are currently involved in developing a pilot test program to see if the administrative rule is something Union County would like to pursue. - Five townships in the county are being selected for testing. 222 - Lists townships selected. - The target date for the draft proposal is the end of April. - A local technical advisory committee will help finalize the product for the end of June. 253 - Reviews the rule requirements. -The eleven western Oregon counties that must implement the high value test have the opportunity to pursue the small-scale resource lands test. - Union County is one of the remaining 25 for which this is an option. -The pilot test will allow us to weigh those trade-offs. 276 - Notes two categories of small-scale resource land. - Reviews outline on flip chart. - The best rangeland soils in Union County have an EFU rating of 1/2 acre per AUM. - If you look at the poorest soils, you will be looking at areas of 6.5 acres in size to qualify as small-scale. - Our best soils will result in less than 12 acres in size to qualify as small-scale. - Forest rangeland soils will be less than 162.5 acres to qualify. - We used wheat as the indicator crop, determining the poorest production. - The results will fluctuate based on the productivity of the soils.

365 CHAIR SMITH: Is that a permanent fixed amount or is it subject to modification later?

HENLEY: We will be using the technical advisory committee to address the

four criteria that must be satisfied under the agricultural lands test.
- The local technical advisory committee has opportunities to justify to the Commission inclusion of certain areas if they believe they should be designated as small-scale.

387 RICHARD BENNER: Dollar figures in the rules are adjusted for inflation and other factors.

HENLEY: Offers figures of what 3000 cubic feet per year would mean for a tract under the forest land test. - Most productive areas result in a 25 acre tract. - Least productive areas result in 150 acres in size.

436 BENNER: The intention of the Commission was that the 1992 dollars mentioned in the rule be adjusted over time. CHAIR SMITH: Do you anticipate an increase or decrease in those figures? BENNER: Between today and 1983 when the marginal lands law was passed, there has been little difference in the value of agricultural crops. . . These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker - exact words. For complete contents of the proceedings, please refer to the tapes. Senate Committee on Agriculture and Natural Resources Land Use Subcommittee March 10, 1993 - Page 4

- TAPE 8, SIDE A

CHAIR SMITH: During the course of a decade, there will be wide swings up and down, and any effort to change those should be done on the basis of a ten-year average.

HENLEY: Shows slides of the appearance of their testing area. - Notes three land forms: timbered slopes, rangeland slopes, valley bottom land.

034 CHAIR SMITH: Do you believe the bottom land will be high value or important?

HENLEY: There will be about 5000 acres that will be high value. The remaining portion will likely be designated important farmland and will not qualify as small scale. 043 - Reviews maps he brought.
- Looks at soil test areas and their capability to produce. - A quick estimate of total acreage is less than 50% is qualifying as potential small scale under the 4 acre per AUM test. - Reviews second map showing valley cropland soils. - There is an annual precipitation difference between the two maps. - Reviews third map which offers another opportunity under the rangeland test for determining small scale resource land that is tract driven. - By having the opportunity to use two different standards, we will identify what we believe should be small scale resource lands. 103 - This area has access and wildlife range habitat problems and it has an inability to provide services, which are appropriately, local considerations. - We have not applied the agriculture or forest tests. - We look forward to doing that under the pilot test process. - We will take the results to the people in the county through public hearings. - We will then exercise our option to decide whether to pursue using a small resource lands program. 122 SEN. SHOEMAKER: Did you find the rules workable? Was there ease of use?

HENLEY: We were very involved in the initial process, and that made it less difficult.

141 CHAIR SMITH: What is your sense of public perception of the new

rules?

HENLEY: We gave a presentation to the county Board of Realtors. - We sensed a lot of lights came on. - There was a fair amount of understanding regarding the process and what it would mean to the end product. - Until they understand how it will impact them, they won't be able to determine if they want to implement the program.

166 JIM HOPE: (introduces EXHIBIT A) Gives personal background and offers testimony on the proposed rules. - The county is highly dependent on timber and agriculture sales. - Major crops are Christmas trees and rye grass. Senate Committee on Agriculture and Natural Resources Land Use Subcommittee March 10, 1993 - Page S

- In 1983, the county approach was to try and foresee secondary lands. -Reviews Exhibit A, page 1, "Rural zoning patterns in Benton County." - Reviews information on his map that coincides with Exhibit A. - Notes two diverse types of agricultural zoning. 270 - Reviews second page of Exhibit A, "Potential Small Scale Resource Lands in Benton County." - We were not a pilot county but received a small grant to apply the proposed criteria then before the Commission. - Reviews the specific area near Alpine which they chose for testing. 320- Notes results of their testing. 342 - They determined the appropriate threshold would be \$20,000. - \$20,000 would insure we would have at least some small scale lands that would qualify. 377 - We feel confident that we will identify at least some small scale land. - At a minimum, 10 percent of the area will probably qualify to meet the Commission's standards. 390 CHAIR SMITH: How might you change the rules?

HOPE: Reviews map showing where they will be doing their large scale testing. - We will be applying the current rules between now and the end of April. - I may return to let you know how that turns out. - There is a level of complexity, but the rules are understandable, and to protect productive commercial and farm/forest operations and address the issue of parcelization, you can't have one easy test. 428 - The extent to which we can implement the rules depends on outside funding.

CHAIR SMITH: How well understood and accepted are the rules by the population in your area?

HOPE: We sent letters to all property owners in our forest zones. We received responses from about 100 of those. - They appreciated the information. - In general, there is a high level of unfamiliarity with the rules.

TAPE 7, SIDE B

SEN. SHOEMAKER: You say the rules work and are applicable, but they are expensive. You hope to cover the cost through grants. There will be frustration with the expense required to apply the rules. Do you see a feasible alternative that will still adequately protect what is important to the State?

015 HOPE: I see two options. - Two elements are very costly: county-wide development of soils information and detailed mapping of individual or multiple parcels. - Under the rules, Benton County would have to approach the Commission with a county-wide map rather than doing only a portion of the county. - Segmenting the work might allow the capital cost to be spread over a longer period.

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050 TERRY CURRY: Offers testimony on the proposed rules. - The focus here seems to be on small scale agricultural lands, whereas there are other parts to the package. - The cost and complexity needs to be viewed in that light. - The people are trying to understand the entire package all at one time. - If you take individual issues and try to understand them, it would be no more difficult than any other administrative rule.

063 CHAIR SMITH: Planning seems to violate people's sense of independence. This is a huge emotional issue that violates their sense of Americanism. CURRY: It does raise tempers just a shake. - If each issue had been adopted as a separate rule, the complexity wouldn't have been viewed so highly. - Clackamas County was part of the pilot program. - It was the only pilot county without secondary lands until a parcelization factor was included. - We won't get secondary lands based on poor soil quality. - These rules will not work in every county. 102 - The parcelization factor makes the small scale resource program work in our forest zones. - Some commissioners will say this doesn't work in their jurisdiction. Don't doubt them; it probably doesn't. - Most of our forest land evaluation was done in an attempt to comply with the 1990 rule. - We have identified 90 percent of the small scale resource lands, or about 32,000 acres, already. - That figure is about 10 percent of our designated forest lands outside the national forest and is higher than I anticipated. - The program may work too well. - Some areas that qualify or meet the designation probably should not be so designated because of the proximity to industrial forest lands. 136 - If the technical advisory committee does their job, they will eliminate those parcels from the recommendation, anyway. - Most lands that qualify do so on the basis of the 160 acre block requirement. - We have looked at farmlands very little, so far. - February, 1994, is when we are required to comply with the forest section of the rules. Agriculture compliance is required by May, 1995. 164 - Most of our agricultural land will be designated high value. - Most of our areas that are qualifying as small scale resource lands have pre-existing subdivisions with some undeveloped parcels. - We have two concerns: - The loss of ability to get approval of a non-farm use permit in a high-value designation. 187 - The loss of non-forest usability upon the designation of small scale resource land.

SEN. SHOEMAKER: Requests staff produce the concerns mentioned by Mr. Curry.

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CURRY: LCDC appears to assume that just because you designate some areas small scale resource, there are no other parcels that didn't qualify as small scale resource that might qualify as a non-forest residence. This is just not reality. - We have blocks that meet all small scale resource requirements that are only 140 acres. - There will be parcels within those blocks that should be as "developable."

218 CHAIR SMITH: Could that be given away to local control?

CURRY: No. It has to be carved out of the rule.

SEN. SHOEMAKER: Why is that so?

CURRY: The rule sets up standards where the ability to review and approve non-forest uses ceases to exist. That standard is the adoption of a small scale resource program. - On the other hand, once designated high value farmland, the non-farm dwelling is not an option. 232 - The local jurisdiction should be capable of determining whether or not an application for nonfarm use meets very restricted standards.

SEN. SHOEMAKER: Will an exceptions process be developed to allow those to be addressed?

CURRY: Exceptions in terms of designation of land other than agriculture and forest, or an exception within the rule?

SEN. SHOEMAKER: Delineates the type of exception.

CURRY: I think you could, but you would be adding a very serious level of complexity.

SEN. SHOEMAKER: If you don't, you are leaving it totally to local discretion.

263 CURRY: Our review of those types of applications are initially done by our staff. If an appeal is filed, our hearings officer will then review the application and he is the final decisionmaker. - There is really no reason for either group to have any concerns about the rules being followed as they are not elected officials. They have no reason to bypass rules. SEN. SHOEMAKER: Rules would not permit a 140 acre block to meet the criteria, even though common sense tells you it should be acceptable. Can we find a way for common sense to prevail without being abused? CURRY: I'm sure there is a way to do that. - As of January 3, interim rules for non-forest dwellings have been in effect. - Those have superseded what local jurisdictions currently have in their zoning ordinances. 297 - It is easier under those standards to get approval of a non-forest dwelling. - One main standard for review is whether the parcel is capable of producing 5000 cubic feet of wood fiber. In our county, you need at least 27 acres to produce that amount. - We appreciate the objective standards in the rule. .

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- - The portion of the rule that delineates what constitutes non-forest land is a little weak. - Reiterates it works in his county because of the level of partialization they have. 342 CHAIR SMITH:

Adjourns the meeting at 6:03 p.m.

Submitted by, Reviewed by, Pamella Andersen Chris Warner
Clerk Administrator

EXHIBIT LOG:

A Rural Zoning Patterns In Benton County, Jim Hope, 3 pages

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