

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.

HOUSE COMMITTEE ON ENVIRONMENT AND ENERGY

April 19, 1991Hearing Room E 1:00 p.m.Tapes 127 - 128

MEMBERS PRESENT:Rep. Parkinson, Chair Rep. Burton Rep. Courtney Rep. Naito Rep. Norris Rep. Repine Rep. Van Leeuwen Rep. Watt

MEMBER EXCUSED: Rep. Whitty

VISITING MEMBER:Rep. Schoon

PRESENT: Kathryn VanNatta, Committee Administrator Guadalupe C. Ramirez, Committee Clerk Holly Blanchard, Transcriber

MEASURES CONSIDERED: HB 3570 (PUB) SB 93 (PUB)

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TAPE 127, SIDE A

006 CHAIR PARKINSON: Calls the meeting to order at 1:50 p.m. and asks committee members to read Pages 4-10 of a book entitled, "Shaping Oregon's Future" by the Department of Land Conservation and Development.

010 KATHRYN VAN NATTA, COMMITTEE ADMINISTRATOR (EXHIBITS A, B, C & D): Discusses binder containing all secondary lands legislation. Reviews EXHIBITS A, B, C & D concerning HB 3570 and HB 3560.

HB 3570 - WORK SESSION Witnesses:Rep. John Schoon Bill Moshofsky, Oregonians In Action Lois Kenagy, Agriculture For Oregon Kelly Ross, Oregon Association of Realtors Roy Burns, Lane County Planning Director James Bushou, Multnomah County Farmer

072 VAN NATTA: Refers to EXHIBIT B and discusses concepts for identification of land classifications in HB 3560 and HB 3570.

120 CHAIR PARKINSON: Notes the significance of identifying commercial land as primary or secondary.

125 REP. WATT: Wants clarification on which terminology to use--commercial or primary.

135 REPRESENTATIVE JOHN SCHOON, DISTRICT 34: The reason "commercial" appears in HB 3560 is to provide a clearer definition for land use planning purposes.

171 CHAIR PARKINSON: Started out defining primary land; everything left over would be secondary and administered by the county. Realized probably couldn't get support for that approach so attempted to define secondary. Secondary means the county would administer it. Moving away from term "commercial" in HB 3570 and back to "primary."

202 BILL MOSHOFSKY, LEGAL COUNSEL, OREGONIANS IN ACTION: Prefer the term "primary" because it relates to secondary and carries out the original intent of HB 3570. Should be very specific as to what is being defined. Ought to be defining the primary; otherwise, very little secondary land will be identified. LCDC's approach has been to limit secondary.

235 CHAIR PARKINSON: You like the word primary. What do you mean by specific?

252 MOSHOFSKY: Refers to SB 91 and LC 150-4. Those pieces of legislation were very specific in defining land and specificity was based on productivity standards from the ultimate use criteria.

266 REP. WATT: Wants clarification on land soil classifications.

272 MOSHOFSKY: The classes range from 1-8. Class 1 or 2 is generally considered primary land, etc.

274 REP. WATT: Understand that but do the classes have certain scientific soil/moisture content?

275 MOSHOFSKY: There are criteria the USDA has mapped for every county. A lot of work has been done through the Soil and Conservation Service to apply these productivity criterias to the land.

305 REP. COURTNEY: Suggests substituting the word "commercial" with "primary." Discusses how "primary" is defined.

325 CHAIR PARKINSON: That's part of the ongoing discussion. Isn't the word "primary" used by the USDA?

335 MOSHOFSKY: Yes. The word "prime" means "primary." It's defined by soil types: irrigation, availability of water, terrain, etc. which determine its productivity and adaptability to farming.

355 Discussion continues concerning "primary" and "secondary" term use.

370 MOSHOFSKY: Could use USDA's or modification for definition of "primary." As long as "primary" is defined then anything not fitting that description that's now in EFU or forest zones would automatically be "secondary." We recommend "secondary" wouldn't have to be redefined.

380 REP. COURTNEY: Surprised you buy into that given your position concerning secondary lands. If you defined secondary lands, you might stop certain lands from becoming primary land. Find it interesting that

you're willing to leave the definition of "secondary lands" alone.

387 MARSHOVSKY: We think the state went overboard in mapping the state. We feel "primary" should be defined and everything else should be "secondary."

389 REP. COURTNEY: Raises concern that primary and secondary lands both need to be defined.

390 CHAIR PARKINSON: How many acres of farmland are in Oregon?

396 MOSHOFSKY: Sixteen million acres of exclusive farm use and 9 million forest. Under 2 million acres out of 16 million is actually prime, according to the USDA.

404 REP. NAITO: Concerned that if "primary" is defined and everything else is "secondary," the counties might deter use of those lands.

TAPE 128, SIDE A

005 MOSHOFSKY: Owners will decide what's best for the land. Would like tax deferral status to remain intact to encourage land use for farming purposes. Expect some land productivity. Recommend controls at county level with oversight by LCDC. Reluctant for the Legislature to spell out allowed uses on "secondary."

030 REP. COURTNEY: Why have the phrase "secondary land"?

035 MOSHOFSKY: It evolved through a need to differentiate between what is and is not "primary." Personally feel it should be a neutral zone allowing for flexibility.

042 REP. COURTNEY: Raises issue of having "secondary lands" phrase if it's not defined in the law.

049 CHAIR PARKINSON: "Secondary" is a newer term that used to be called "marginal lands." Recognize there should be a definition of lands that are not primary--a subclassification. Suggests that not all secondary lands are secondary lands.

066 REP. SCHOON: Wanted commercial farm and forest and everything to be called "other rural lands." Settled on "commercial" and "other rural lands" but phrase wouldn't work so wound up with "secondary." There could be EFU zones in secondary lands.

081 CHAIR PARKINSON: HB 3570 attempts to define "secondary lands" done by a technical and citizen committee.

089 REP. BURTON: Points out there are no primary and secondary lands. There's EFU, agricultural zones and Goals 3 and 4. Nothing being discussed exists.

109 LOIS KENAGY, AGRICULTURE FOR OREGON: Understands the Oregonians at Action use of "prime" land is narrowly defined and comes from the USDA. Suggests invited testimony from the Department of Agriculture on the definition of "prime." Discusses Benton County's involvement in defining soil classifications. Thinks the issue of "primary" or "commercial" is a matter of semantics.

149 REP. BURTON: Whatever this is called it's zoning the state. The question is which is the most narrowing aspect--a narrow definition of "primary" which expands the other end--or just the opposite?

169 KENAGY: Differ with Representative Schoon's bill. It's better to define the secondary and protect resource land except those defined as secondary. Think secondary lands should be defined first and allow remainder to be commercial resource (primary) land.

200 REP. SCHOON: Agrees that Class 1 and 2 soils are good farm land. Do you agree that Class 3 and 4 are generally not?

204 KENAGY: Suggests Department of Agriculture provide an analysis concerning dollars from agriculture production in Oregon. There's a lot from Class 1 and 2 but also a lot from Class 3, 4 and lower.

217 REP. SCHOON: Class 4 is not good farm land in western Oregon. Argument is really over Class 3 which is pretty narrow.

243 REP. NORRIS: Land could be seen as worthless and now it is worth more. Thinks the committee is hung up on definitions and needs to be more flexible.

263 CHAIR PARKINSON: Prefer the use of "primary" or "commercial"?

264 KENAGY: That's a minor point--don't care. The bill should define "secondary." Want to affirm community and citizen involvement and statewide criteria. Concerned about local technical committees in relation to political process. Wants statewide consistency.

308 CHAIR PARKINSON: Then why wouldn't it be better to have the state do the planning?

314 KENAGY: The local people know where those guidelines fit on the land.

326 CHAIR PARKINSON: But you mentioned political concerns about them making the decisions.

336 KENAGY: They can make the decisions if the guidelines are clear and have state criteria.

346 CHAIR PARKINSON: Directs committee to address state criteria developed by LCDC or in land use bill that would be used statewide to determine what plans are secondary.

369 REP. COURTNEY: Want clarification of discussion.

395 VAN NATTA: Reviews HB 3570, Section 3, which deals with subjective criteria that the local panel would use.

TAPE 127, SIDE B

007 KELLY ROSS, OREGON ASSOCIATION OF REALTORS: A lot of people in rural areas are in limbo status concerning land use. Driving force in discussion should be bringing accuracy to the system. Thinks commercial land should be identified first and extra flexibility be given for all other land. That would protect the state's interest.

031 CHAIR PARKINSON: You want the word "commercial" used and not "primary." Do you think the committee should try to identify land as secondary first--and everything else is primary?

036 ROSS: No, I think it should be approached from identifying what's commercial and everything else is secondary.

039 CHAIR PARKINSON: Should the committee use strict state criteria or approach it from the local angle using very subjective criteria?

042 ROSS: Problem was created from trying to define on a statewide basis what is farmland. Only way to correct this is to localize it.

050 REP. VAN LEEUWEN: Discusses classifications of lands found in Goal 3 of

agricultural lands. Would you throw those classifications out?

057 ROSS: Wouldn't throw them out but wouldn't make them the sole definition. Need to consider other factors than just the soil.

070 REP. SCHOON: Maybe the problem could be solved by calling them "primary" but requiring that they be zoned "commercial farm or commercial forest."

073 MOSHOFSKY: We would be happy with general designations but it wouldn't work. We fear whatever the local committee did would be undone. Discusses LCDC and LUBA concerning the process and possible arbitration.

087 REP. WATT: What about criteria?

089 MOSHOFSKY: It should be as specific as possible.

092 REP. WATT: It should be defined at the state level and have the local people select on it?

095 MOSHOFSKY: Yes. The idea of a local committee is a good one to help apply those criteria. Should start with specific criteria that could be used as a yard stick for the reviewing bodies to apply.

121 CHAIR PARKINSON: Would you support a strict state criteria if identifying secondary lands?

123 MOSHOFSKY: Could do it on the basis that it's the reverse of it.

127 ROY BURNS, PLANNING DIRECTOR, LANE COUNTY: Concerned about adding the definition of "commercial" into an already complex process. Likes Representative Schoon's recommendation. It will be difficult for the state to identify statewide standards. Should use what's been promulgated by LCDC for precise standards.

150 CHAIR PARKINSON: What's been promulgated by LCDC?

152 BURNS: The elements that were adopted in March on LCDC's secondary lands which set the framework.

153 CHAIR PARKINSON: They've adopted the framework but not the strict criteria yet?

155 BURNS: The criteria is there but they're awaiting the outcome of the legislative debate before proceeding.

172 Discussion follows concerning partialization and land identification in Lane County.

183 CHAIR PARKINSON: If the Legislature passed a secondary lands bill or something that did away with the old marginal land laws, how would that affect Lane County?

191 BURNS: Lane County consists of 2.9 million acres of which about 1,200 acres is marginal lands. It wouldn't have a significant impact on Lane County.

196 REP. NORRIS: Concerned about too much specificity in terms of actual production of a resource.

220 REP. VAN LEEUWEN: Discusses marginal lands in Lane County. How many acres of 2.9 million would be classed as secondary lands in Lane County?

231 BURNS: That would depend on LCDC and legislative parameters placed on defining lands. I project between 85,000-110,000 acres of land in a secondary designation.

259 JAMES BUSHOU, FARMER, MULTNOMAH COUNTY: Commercial farmland depends on the farmer that's farming it. Discusses cost of farming--land isn't used for some crops due to production costs. Think it's insurmountable to try to identify what is a commercial or prime piece of farmland. Need to make concessions on the ability of the land to produce and for its residents.

323 CHAIR PARKINSON: What if a home is built and new residents object to the smell and noise of the farm?

333 BUSHOU: Those conditions existed before the purchase was made.

385 CHAIR PARKINSON: Closes public hearing on HB 3570.

SB 93 - PUBLIC HEARING Witnesses: Michael Graine, Oregon Department of Energy Tom Berry, Northwest Natural Gas George Richardson, Northwest Natural Gas Bob Garabrant, Public Utilities Commission

411 MICHAEL W. GRAINEY, DEPUTY DIRECTOR, OREGON DEPARTMENT OF ENERGY (EXHIBIT I): Testifies in support of SB 93. This bill makes a number of changes in the jurisdiction of the Energy Facility Siting Council and has their strong support. Describes duties of the Council.

TAPE 128, SIDE B

009 CHAIR PARKINSON: Is the Council exempt from land use planning?

010 GRAINEY: Yes, the Siting Council must make findings that the proposal is consistent with the land use laws. Reviews what SB 93 does (EXHIBIT I) and explains amendments in the bill.

069 REP. NORRIS: Would SB 93 only apply to wind geothermal solar?

075 GRAINEY: Under the term "Energy Generation," it only applies to individual units that are less than 25 megawatts. Continues discussion of amendments (EXHIBIT I). Refers to the dash B8 amendments at the request of Northwest Natural Gas (EXHIBIT J).

126 TOM BERRY, NORTHWEST NATURAL GAS (EXHIBIT K): Testifies in support of SB 93 and the dash B8 amendments offered by the Oregon Department of Energy.

144 GRAINEY: The dash B8 amendment would be the only amendment to the bill.

151 BERRY: Discusses reasoning behind the dash B8 amendment which follows the federal laws, the State Fire Marshal Code, and the Department of Transportation Code. Anything above 70,000 gallons would have siting requirements. Urges adoption of the amendment.

168 REP. VAN LEEUWEN: Would this be included in gas tanks being considered for fee assessment by the City of Portland and the Fire Marshal because they hold hazardous substances?

177 BERRY: We have one tank that would come under that provision.

178 REP. VAN LEEUWEN: Their proposal would include a small tank.

188 BERRY: We don't have a lot of liquified natural gas tanks out there--only one tank in Portland.

193 GEORGE RICHARDSON, NORTHWEST NATURAL GAS: HB 2087, a Fire Marshal's bill, has an exemption for natural gas stored in quantities in excess of 200 cubic feet for non-vehicular use only.

210 BOB GARABRANT, SENIOR GAS PIPELINE SAFETY ENGINEER, PUBLIC UTILITIES COMMISSION (PUC): Explains how the PUC fits into the LNG situation concerning siting tanks. We have no problem with the Department of Energy approving sites as long as those sites meet the federal requirement. Like the idea of one site being evaluated against another.

287 CHAIR PARKINSON: The Siting Council is not excused from the PUC regulations entirely but they always take your requirements into consideration?

293 GARABRANT: They do. But once a site is located, the actual construction and design have to meet certain standards. Don't foresee any problems working with the Siting Council in the future on this.

304 GRAINEY: The Siting Council requires compliance with all federal requirements.

CHAIR PARKINSON: Closes the public hearing on SB 93.

Adjourns the meeting at 3:30 p.m.

Submitted by, Reviewed by,

Holly Blanchard
Committee Administrator

Kathryn Van Natta Transcriber

EXHIBIT LOG:

A - Comparison of Secondary Lands Bills, HB 3570 and HB 3560, Committee Staff, 2 pages B - Comparison of Secondary Lands Concepts, HB 3570 and HB 3560, Committee Staff 1 page C - Section Analysis, HB 3570, Committee Staff, 7 pages D - Secondary Lands Designation and Appeal Process, HB 3570, Committee Staff, 2 pages E - Section Analysis, HB 3560, Committee Staff, 8 pages F - "How to Identify Secondary Lands Bills," Committee Staff, 1 page G - Staff Measure Summary, SB 93-B, Committee Counsel, 1 page H - Revenue Impact Analysis and Fiscal Impact Assessment, SB 93B, dated 4/3/91, 1 page I - Written testimony, Michael Grainey, Oregon Dept. of Energy, SB 93, 6 pages J - Proposed Amendments, SB 93-B8, Michael Grainey, Oregon Dept. of Energy, dated 4/19/91, 1 page K - Written testimony, Tom Berry, Northwest Natural Gas Company, SB 93, 1 page