Trant Lindsay

From: Richard & Michele van Pelt <r_m_vanpelt@comcast.net>
Sent: Tuesday, April 14, 2015 6:32 PM
To: Trant Lindsay
Cc: Sen Courtney; Rep Clem
Subject: Testimony In Opposition: HB 2666

14 April, 2015

These comments are offered in opposition to HB 2666

The dictionary defines "deviant" as an adjective "departing from usual or accepted standards, especially in social or sexual behavior." There is nothing sexy about HB 2666; however, it is a deviant bill in what it does with respect to exploiting farmland, the people who farm the land, and the people of Oregon.

Perhaps the aggregate industry finds the bill sexy, which in a way does make the deviancy apparent.

The kernel of this deviancy is found at line 28, beginning with section (2)(b) of Section 2.:

(b) If the applicant demonstrates that the proposed surface mining, processing and associated uses comply with applicable federal, state and local air quality, noise, water quality and other environmental standards, the proposed use meets the standards for approval. . .

There is an explicit contradiction in the Bill that illustrates how the scales are tipped in favor of the proponents of this bill. Section 2. (1)(d) defines a critical term:

"Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use" means that a direct result of a use is to cause a increase in the cost of a farm or forest practice that renders the farm or forest practice economically infeasible.

When something is no longer economically feasible, to define that as the standard for significantly increase the cost of doing business on the surrounding land is ludicrous. Where you were once prosperous and now you have trouble making ends meet does not constitute a significant increase in cost.

Acknowledging that mining may force significant changes, "significant change" is defined as such as to cause a "farm or forest practice to be abandoned."

In other words, the bill provides for the permanent alteration of otherwise farmable land by means of the extraction of the underlying aggregate and the impoverishment of the surrounding land. As long as the owners of the surrounding land are not bankrupt or beggared, everything is fine within the spirit of Oregon's land use policies.

This is a travesty. Objecting parties may present evidence of the significant change in accepted practices as well as the increased costs. Since the objection is prospective it is also inherently uncertain. The estimates could be less; they could also be gravely underestimated.

How do you resolve this? The bill permits the applicant to present evidence to the contrary.

As long as the diminishment is not zero, the applicant wins.

Metaphorically, this places a thumb on the scales. It grants to the applying party the ability to make a defense that is not available to citizens, which implicitly violates the primary goal of Oregon's land use system.

Richard van Pelt
4492 Hayesville DR NE
Salem, Oregon 97305