

From: Carol Chesarek
To: [Raszka Shelley](#); [SENR Exhibits](#)
Subject: Testimony opposing SB 186
Date: Wednesday, April 12, 2017 12:45:27 PM

Dear Members of the Senate Committee on Environment and Natural Resources:

I will not be able to testify at Thursday's hearing on SB 186 due to a medical appointment. This is my personal testimony opposing this bill, and I ask that it be entered into the record.

I was a very active participant in the Metro region's urban and rural reserves processes, starting even before the first hearing for SB 1011, which authorized a new type of urban and rural reserves when it was enacted in 2007. I served on Multnomah County's Citizen Advisory Committee (CAC) for Urban and Rural Reserves, and I attended not only all of the Multnomah County advisory committee meetings, but also all of Washington County and Metro's advisory committee meetings. I testified at countless reserves hearings held by all three jurisdictions plus LCDC. My friend Cherry Amabisca and I hired an attorney to appeal part of Washington County's reserves decisions that we found to be particularly egregious (as you may remember, the Court of Appeals remanded all of Washington County's designations). My neighborhood borders both urban and rural Washington County, and development in nearby Washington County has a profound effect on our neighborhood.

Metro and Multnomah, Washington, and Clackamas Counties all had to agree on urban and rural reserves designations. In practice, the detailed analysis of suitability of different candidate areas for urban and rural reserves was largely left to the counties. Long lists of factors had to be evaluated and weighed for each candidate area, and the designations of urban and rural reserves across the region, in their entirety, were required by OAR 660-027-0005(2) to provide a balance that "best achieves livable communities, the viability and vitality of the agricultural and forest industries and protection of the important natural landscape features that define the region for its residents."

Urban Reserves are to provide sufficient land to accommodate 40 to 50 years of urban growth. Rural Reserves are protected from UGB expansion for the same period of time. In 2011, Metro and the counties designated urban and rural reserves in the Metro region. Later that year, Metro added about 2,000 acres to the UGB from urban reserves in Washington County. After the Court of Appeals remanded several reserves decisions in 2014, the Oregon legislature enacted House Bill 4078 (aka "the Grand Bargain"), which modified a number of the 2011 urban and rural reserve designations in Washington County and also added 1,178 acres of urban reserve land to the UGB immediately. There are now 23,031 acres of urban reserves in the Metro region. Metro recently estimated that there is a potential 50-year demand for 24,827 acres of urban reserves, and that 23,031 acres of urban reserves should be sufficient for 46 years.

SB 186 would convert more than 2,000 acres of rural reserves to urban reserves. Unlike HB 4078, it would not balance this change by converting some urban reserves to rural reserves, so the net effect would be almost a 10% increase in urban reserves, and the total urban reserves would then exceed the 50 year urban reserve land supply allowed by SB 1011. The region does not need 2,000 more acres of urban reserves.

I did not agree with all of the original reserves decisions, and felt strongly enough to appeal parts of the Washington County decisions at considerable personal expense. I celebrated the Court of Appeals remand of all the Washington County decisions in 2014. But I was completely shut out of the HB 4078 discussions, which seemed to be dominated by lobbyists, and had no opportunity to provide input, let alone participate. The resulting bill permanently affirmed the bad decision that my friend and I had appealed.

HB 4078 had (in my opinion) some good outcomes and some bad ones, and the associated process was deeply frustrating. But regardless of my personal feelings about the outcome, I accepted that outcome and I oppose any further legislative action that would change reserves designations agreed on by Metro and all three counties unless it is supported by all those jurisdictions – requiring regional support ensures an appropriate regional balance.

Why did I accept that outcome instead of asking the legislature to change the part of HB 4078 that I didn't like?

1. Because the core promise of SB 1011 was 40 to 50 years of certainty for both urban and rural reserve areas. Continued legislative proposals to change reserve designations badly undermine that certainty and the benefits it provides to urban service providers and urban planners, natural resource planners, farmers, private property owners and concerned citizens.
2. Because there is no perfect outcome. One property owner's gain is another's loss. Reallocating benefits alters who wins and who loses, but there are still losers.
3. If the legislature starts making changes to reserves designations, there is no end to it. This year's losers will come back next year and ask to be made whole, and growing numbers of property owners will feel entitled to ask the legislature for a change they would benefit them.
4. I've been told that at a hearing for HB 4078, representatives from all jurisdictions who testified in favor of the bill were asked by Committee Chair Rep. Val Hoyle if they promised to accept the compromises in the bill, and would not come back to the legislature to request changes, and that they all agreed. If the legislature modifies the compromises made in HB 4078, those commitments will no longer hold.

5. Legislative decisions are the usually the result of much shorter processes that can't include the kind of thorough research, analysis, and public input that the regional process invested years (roughly 2006 to 2011) in.
6. The legislature doesn't have detailed knowledge of local conditions (as counties and Metro do) to accurately evaluate claims about how well land meets the long lists of urban and rural factors, or to weigh one set of parcels' qualifications for reserves effectively against another. The Multnomah County Reserves CAC held 16 meetings of 2 to 4 hours, and we had many reports developed by experts to rely on. How well could the legislature evaluate whether modified urban and rural reserves met the regional "best achieves" balance standard?
7. Few citizens are able to actively participate in the legislative process at the same level that they are able to participate at Metro and in their county. Legislative hearings are seldom scheduled as far in advance, and they're usually held during working hours. A couple weeks ago I invested 5 hours in a trip to Salem to testify for 2 minutes about a bill – this is a difficult investment for most people to justify. Citizens were able to participate throughout the multi-year regional reserves process, and there was very strong turnout at hearings. I know that legislators do their best to facilitate citizen input, but it is still a much more daunting and time consuming process.

In 2007, when planning began for land added to the UGB in North Bethany, former farmland in that area was selling for \$500,000 an acre. Now that planning has completed, financing is in place, and the land can develop, I'm told that land is selling for something like \$1,000,000 (\$1M) an acre. Compare that with farmland outside urban reserves that might sell for \$30,000 an acre. Multiply that profit by 10, 20, 40, 80 acres or more -- it is easy to see why rural property owners hoping for a windfall profit would be highly motivated to work for legislation to shift their land into urban reserves unless they are committed to farming.

SB 186 is not a Grand Bargain – a bargain involves give and take between parties and a mutually agreed upon outcome. SB 186 would be a Grand Takeaway -- benefits taken from the community at large by the legislature and handed to a small number of private property owners.

Again, the core promise of SB 1011 was long term certainty. But it seems like there has been at least one bill that would modify reserves designations that has been considered every year since 2011, which means the community must keep re-fighting battles we thought were settled in 2011 and 2014. This results in people losing trust in the legislature – they don't understand why they need to send emails and why they're asked to drive to Salem to testify about the same issues year after year. Why should they invest time and effort to actively participate in a local land use planning process if the legislature can't resist considering changes to the local results? Why are they submitting testimony and driving to Salem to testifying about a bill that is dead?

I hope you will see SB 186 and future proposed legislative "fixes" for reserves

designations that are not supported by Metro and all three counties for what they are – potential windfalls for small numbers of property owners at the expense of a thoughtful and thorough local process, and that result in loss of citizen trust in the legislature, as well as loss of benefits and certainty that were promised to the community as a whole.

It is ironic that this bill is being considered just as the Metro region has finally been able to move forward to resolve the 2014 Court of Appeals remands. Metro and the counties are already well on their way to adopting new Findings explaining why the HB 4078's Grand Bargain did not undermine the required regional "best achieves" balance, and that urban reserves established by that bill do not exceed the estimated 50 year land supply. SB 186, if enacted, would result in urban reserves that exceed the 50 year land supply.

Please do not consider, support, enable, or otherwise encourage legislation about the Metro region's urban and rural reserves unless it is supported by Metro and all three counties. The region came together to support SB 1011, HB 4078, and this year HB 2095. That regional consensus needs to be the minimum standard for reserves legislation for our region. Decisions about urban and rural reserves designations are best left to local jurisdictions who know the land, and who can effectively engage their citizens in in-depth, long term decision making processes.

I am very grateful to you for helping to kill SB 186 – thank you. I hope I won't have to testify against a similar bill next year.

Thank you for your consideration.

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