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Opposition to HB 4075

HB 4075 thumbs its nose at the Oregon Court of Appeal's Ruling

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Honorable Members of the House Committee on Agriculture and Natural Resources:

HB 4075 is a direct attack on Oregon's Land Use laws and processes, and the 2014 Oregon Court of Appeals ruling that struck down Washington County's Reserves plan.

The Sponsors and supporters, including the City of Hillsboro, (of HB 4075) are seeking the re-designation of 1,700 acres of rural reserves land, (containing identified high value farmland,) in Washington County to urban reserves. The Sponsors contend that throughout Washington County's suitability assessments, their land was identified as urban reserves. However, this urban reserves identification (which the Sponsors have based HB 4075 on), was based solely upon Washington County's use of "...*pseudo*" factors" (Oregon Court of Appeals; Feb. 20, 2014; Barker Five, LLC; pg. 75, line 1), which the Oregon Court of Appeals found to be "...*legally flawed application of ORS 195.141 (3)(c) and ORS 195.141(3)(d).*" (Oregon Court of Appeals; Feb. 20, 2014; Barker Five, LLC; pg. 81, lines 7-8) The City of Hillsboro has not undertaken any suitability analysis on the 1,700 acres.

A key issue for HB 4075 is that the 1,700 acres in question are indeed identified as "high value farmland" by the Oregon Department of Agriculture, as stipulated by SB 1011. The 1,700 acres identified in HB 4075 contain soils "...*classified by NRCS (Natural Resources Conservation Service) as "Prime, Unique, Capability Class 1, or Capability Class 2 not irrigated..."*" (Oregon Court of Appeals; Feb. 20, 2014; Barker Five, LLC; pg. 84, lines 4-5) soils, the most productive soils in the world. It is important to note that the Oregon Court of Appeals found that Washington County's discrimination against lands outside of the local irrigation district was among the "...*pseudo-factors*"." (Oregon Court of Appeals; Feb. 20, 2014; Barker Five, LLC; pg. 75, line 1)

The Oregon Court of Appeals concluded, in its 2014 ruling, "...*that, because Washington County's analysis of the rural reserve factors was legally impermissible, it necessarily misapplied the rural reserve factors and LCDC erred in concluding otherwise.*" (Oregon Court of Appeals; Feb. 20, 2014; Barker Five, LLC; pg. 88, lines 14-16) The Oregon Court of Appeals ruled "...*LCDC must, in turn, remand Washington County's reserves designation as a whole for reconsideration.*" (Oregon Court of Appeals; Feb. 20, 2014; Barker Five, LLC; pg. 89, lines 4-5)

HB 4075 evades the need for both Washington County and the City of Hillsboro to reassess the 1,700 acres in question to determine its suitability for either urban or rural reserves under SB 1011 as required by the Oregon Court of Appeals finding.

Based upon the ruling of the Oregon Court of Appeals in 2014 that Washington County did not follow Oregon's Land Use laws, HB 4075 must be rejected. To do otherwise is to directly attack Oregon's Land Use laws and overturn the 2014 Oregon Court of Appeals ruling regarding Washington County's Reserves plan.

Please vote "No" on HB 4075.
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