



Save Helvetia
13260 N.W. Bishop Road
Hillsboro, Oregon 97124
www.SaveHelvetia.org

*Advancing policies, leaders and actions
that protect Helvetia's treasured resources*

February 4, 2018

Opposition to HB 4075 - What is a “pseudo” factor and why is it germane to HB 4075?

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

The proponents of HB 4075 assert that “their urban reserve designation was taken away from them” and that they just want it “restored to urban reserves”. The 1,700 acres in northwest Hillsboro never had legal status as urban reserves because the designation of “urban reserves” was unlawfully applied by Washington County.

Background History and the WCCC

Washington County nominated thousands of acres of Foundation Agricultural Land south of US-26 and in Helvetia, north of US-26, as urban reserves as early as 2009, at the beginning of the reserves process, including the 1,700 acres in question. The recommendation to nominate the county’s non-irrigated farmland as urban reserves and the irrigated farmland as rural reserves was made by the Washington County Coordinating Committee. The WCCC was comprised of 15 representatives of the urban areas (cities and county) and 2 representatives of the rural areas, who were given one vote only.

Cities’ Aspirations Prevail

The two farmers were outvoted in every meeting when they objected to the unfair characterization of non-irrigated farmland as being less valuable than irrigated farmland. The urban interests of the cities won out - they wanted as many urban reserves as possible, even going as far north as the foothills of the Tualatin Mountains in Helvetia. And so the non-irrigated farmland remained on the maps as proposed urban reserves for the next three years, including the 1,700 acres in question.

Farmers Know Soils

The mayors of the cities were happy; the farming community was not. The farmers knew that non-irrigated farmland was as productive as irrigated farmland - they each used different crops to achieve that productivity. In addition, non-irrigated farmland, they argued, was a carbon-sequestering, sustainable natural resource that did not require energy and added water to produce high-value traded sector crops. It didn't matter.

Factors Required for Reserves

Washington County had to find a way to justify the nomination of non-irrigated farmland as poor and ill-suited for farming. If they used the criteria, called "factors", in SB 1011, the non-irrigated land would have qualified as rural reserves. The "factors" said that irrigation could not be used as a rationale for ranking non-irrigated land as less productive as they are both equally productive; they use different crops to achieve that productivity.

County Seeks Another Track

So, Washington County found a long-discredited report from the 1930's, called the "Huddleston Survey", that said exactly what they wanted: non-irrigated farmland was not as productive. Bingo - that is what they based their analysis on - no matter that ***it did not follow the statutory factors in SB 1011.*** The county was hellbent on getting as many urban reserves for their cities as possible and this scheme would accomplish that goal.

Warnings Repeated Over Three Years

Throughout the years 2009 through 2012, the area's farmers and the Oregon Department of Agriculture (ODA) testified at multiple reserves hearings that Washington County was incorrect in its assessment of the county's farmland. They testified that Washington County was not following the statutory factors required by SB 1011, including the statutory factor for parcelization. The other counties, they pointed out, were using the correct statutory factors for their farmland analysis.

Approval Train Leaves the Station

Metro and LCDC approved Washington County's bogus nominations of urban reserves in 2011. The farmers and citizens appealed the decision based on the county's disregard for the statutory factors for irrigation, parcelization and suitability.

Emergency - Train Crash

The Oregon Court of Appeals issued their ruling on February 20, 2014: Washington County "predicated its assessment on narrow circumscribed pseudo factors that did not meaningfully engage with the content of the statutorily prescribed factors..." The Court of Appeals concluded 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. Thus, LCDC's order is unlawful in substance in that regard and must be reversed and remanded."

“Pseudo-factors” Caused Derailment

So, the nomination of urban reserves for the 1,700 acres in northwest Hillsboro, was unlawful from the beginning. The urban reserves designation was based on “pseudo” factors.

Crash Clean-up in 2014

The reserves reassessment required by the remand could well have taken another three or four years, in a climate of substantial mistrust. At the time that Washington County came to a legislative settlement in support of HB 4078 (the “Grand Bargain”) in early 2014, there was no reserves plan for Washington County.

Recycling Effort: Wrong Track Again

Now, HB 4075 asks for that very farmland, unlawfully nominated by the country as urban reserve, then corrected to rural reserves by HB 4078, to be designated as urban reserves by HB 4075. There’s no reasonable fairness argument for the proponents here.

Fairness Claim Bogus

The 1,700 acres in northwest Hillsboro did not have legal status as urban reserves. Nothing was taken away from the stakeholders. The urban reserves nomination for the 1,700 acres never legally existed. The Court of Appeals took the unlawful reserves plan and quashed it.

It’s the Law

HB 4078 designated the 1,700 acres as rural reserves, according to the statutory factors in SB 1011. The way it should have been. By the law.

PLEASE OPPOSE HB 4075

Cherry Amabisca, President

Robert Bailey, Secretary

Faun Hosey, Vice President

Allen Amabisca, Treasurer