



Questions and Answers about Oregon's Land Use Program:

Secondary Lands

Q: *What are secondary lands?*

A: *There are no lands in Oregon designated "secondary lands."*

The concept of secondary lands has been pushed unsuccessfully since the early years of the land use planning program by people who want to build houses on, or otherwise develop, farm and forest land. The "secondary lands" effort is a political campaign based on the argument that Oregon's "less productive" farm and forest lands should not be protected for resource use, and should instead be sacrificed for low-density sprawl.

This idea has repeatedly been rejected by the Legislature. In 1993, the Legislature passed HB 3661, which specifically rejected the idea of secondary lands while creating more opportunities to build houses in farm and forest zones based on a variety of factors, including soil quality and regional differences (see below). Most recently, Oregonians in Action failed to pass legislation in 1997 and 1999 designating millions of acres of productive farm and forest land as secondary.

Q: *What is wrong with the idea of secondary lands?*

A: *It ignores the productivity and potential of huge amounts of resource land in Oregon, and would lead to sprawling, inefficient rural development.*

Secondary lands proponents claim that farm and forest lands that do not qualify as "prime" or are otherwise inferior to the best land should be designated "secondary." But most of Oregon's leading crops are raised on soils that are neither "prime" nor "high value." Oregon's thriving wine industry also depends on land that would be designated as "secondary" under most secondary lands proposals.

Moreover, not all productive agricultural land is cropland. OIA's proposal would have designated all unirrigated pasture and rangeland—which probably constitutes well over half of Oregon's agricultural land—as "secondary," even though cattle and calves rank second in sales among Oregon's agricultural commodities.¹ In addition, OIA's proposed 1999 legislation would have designated as "secondary" about 2 million acres of highly productive forest land.

Secondary lands advocates also claim that unless land is currently being farmed, it should not be considered farmland. But there are many reasons for land to be out of production that have nothing to do with the capability of the land itself. Temporary

interruptions in production are a poor reason to allow good farmland to be permanently converted to development.

Finally, even beyond the need to protect the land base, allowing low-density development on these lands would lead to rural sprawl, which is costly for taxpayers and can create conflicts with remaining farm and forest activities.

Q: *Doesn't House Bill 2406, passed in 1999, direct the state to map secondary lands?*

A: *No. HB 2406 merely calls for the compilation of objective data about "the diversity of Oregon's rural lands," without any subjective definitions or designations of secondary lands.² 1000 Friends supported this provision in the Legislature.*

Unable to pass legislation to establish a biased definition of secondary lands,³ Oregonians In Action agreed to a program long advocated by 1000 Friends of Oregon requiring the state to compile "information on soil classifications, forest capabilities, irrigated lands, croplands, actual farm use, and plan and zone designations." 1000 Friends believes this neutral information will be extremely useful to policy makers as they make zoning and land use decisions.

Oregonians in Action contends this data will reveal "mis zoning" of millions of acres of rural land, which they consider the first step toward a secondary lands program. 1000 Friends disagrees. The Department of Land Conservation and Development should have the data compiled in the fall of 2001.

Q: *Some land is just so worthless that it shouldn't be considered farm and forest land. Why should that land be protected?*

A: *It doesn't have to be. Counties may designate truly unproductive farm and forest land as "nonresource" land.*

The statewide planning goals contain definitions of farm and forest land. When LCDC was reviewing counties' draft plans, some counties contended parts of their rural areas were so unproductive that they didn't meet those definitions. In Klamath County, LCDC approved zoning of 41,380 acres as "non-resource land." LCDC also approved non-resource zoning for 12,120 acres of land in

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Josephine County that contains serpentine soils, which the Commission believed precluded timber production.⁸ Other counties have since designated large areas of nonresource land as well.

Q: *If people own a parcel that is no good for farming or ranching, like a rocky outcrop, why can't they be allowed to build a house on it?*

A: *They can. Since 1973, state laws have allowed landowners to build a house on a parcel in an exclusive farm use (EFU) zone if the parcel is "generally unsuitable" for crops or livestock. Thousands of these houses have been built in EFU zones under this provision.*

In 1973, the Legislature passed Senate Bill 101 (a companion bill to Senate Bill 100), which enacted provisions allowing a "nonfarm dwelling" on any parcel that was "generally unsuitable" for the production of crops or livestock.⁴ In 1975, LCDC adopted Goal 3, which applied these provisions to all agricultural land. Between 1988 and 1993, counties approved 2,066 nonfarm dwellings in Exclusive Farm Use zones, including 281 in Deschutes County, 371 in Jackson County, and 174 in Marion County.⁵

In 1993, the Legislature passed HB 3661, which replaced these provisions with different standards for nonfarm dwellings inside and outside the Willamette Valley.⁶ HB 3661 was in part a response to a perceived need to better protect the best farmland while loosening restrictions on lower-quality soils.

Outside the Willamette Valley, it is now possible to divide off the unsuitable part of a preexisting farm parcel and create a new parcel for a nonfarm dwelling, subject to certain criteria. In the Willamette Valley, any existing parcel which is not primarily Natural Resources Conservation Service Class I, II, or III is eligible for a nonfarm dwelling even if it is being farmed.

HB 3661 also authorized other types of nonfarm dwellings on "less productive" farmland.⁷ Since the passage of HB 3661, more nonfarm houses have been approved outside the Willamette Valley, and fewer have been approved in the Valley.

HB 3661 also created a distinction between "high-value" farmland and all other farmland based on soil quality and other factors related to productivity. This distinction determines criteria for farm dwellings and so-called "lot of record" dwellings. Today, more houses are being approved on land that is not designated "high value," where rules are less restrictive, than on high-value land.

Q: *Wouldn't allowing more development on poor lands ease pressure on our best farmland?*

A: *There is little evidence to show this would work, and anecdotal evidence that it does not.*

It is questionable whether a company or individual wanting to locate in one area would move to a significantly different area simply because they could easily develop on agricultural lands.

Workforce demographics and amenities are stronger drivers of location decisions than simple zoning.

For example, even though over 3,000 acres were recently added to the eastern part of the Portland urban growth boundary, this land remains untouched, as developers want to build on prime farmland on the western edge of the Metro area instead.

Q: *There are a lot of parcels in rural areas that might have productive soils but they already have a house or two on them. There are other lots which have so much residential development nearby, and are so small, they really aren't good any more for farming or timber production. Why should land already developed or affected by development be zoned for farm or forest use?*

A: *It isn't. Since 1983, state law has allowed approximately 780,000 acres of such "developed" and "committed" lands to be "excepted" from the laws and Statewide Planning Goals protecting farm and forest land.*

Between 1978 and 1986, LCDC laboriously reviewed counties' information about areas the counties believed were too developed or affected by development to be used for farming and forestry. LCDC approved approximately 780,000 acres of developed and committed exceptions to the farmland and forest land preservation Goals. Statewide, the total acreage of built and committed exceptions is larger than Marion County, and more than three times the amount of land inside the Portland metropolitan urban growth boundary—in fact, more than all the land inside all of Oregon's urban growth boundaries combined.

Separate fact sheets on farmland protection and on the farm income standard, as well as other land use planning issues, are available from 1000 Friends.

For more information, visit www.friends.org.

Sources:

¹ "Oregon Agricultural Facts," Oregon Department of Agriculture fact sheet, 1999.

² Codified at ORS 215.209.

³ See 1999's Senate Bill 99 (as originally introduced).

⁴ These provisions were later codified at ORS 215.213(3)(1973) and 215.283(3)(1983).

⁵ Exclusive Farm Use Reports, Department of Land Conservation and Development.

⁶ ORS 215.284.

⁷ See ORS 215.700 to 215.705.

⁸ DLCD's "County Zoning Districts," October 16, 1990. 1000 Friends believes land not meeting state definitions of farm and forest land does not have to be protected for those uses under current law. However, it does not necessarily concur with the zoning of particular lands in Klamath and Josephine Counties.