



Item 5 - Public Comment  
October 6-7, 2011 LCDC Meeting  
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October 6, 2011

Land Conservation and Development Commission  
635 Capitol St. NE, Suite 150  
Salem 97301-2540

Dear Commissioners,

Thank you for this opportunity to comment on Agenda Item 5, Proposed Amendments to Rules Regarding Department Facilitation of Soils Assessments on Farmland. 1000 Friends of Oregon is a statewide charitable nonprofit organization that works with Oregonians to enhance our quality of life by building livable urban and rural communities, protecting family farms and forests, and conserving natural and scenic areas.

We fully support the proposed rule amendments to implement HB 3647(2010) facilitating soil assessments on farmland. The proposed rule amendments are the fruit of the labor of DLCD staff and the members of the rulemaking advisory committee. We feel that the proposed rule amendments properly implement the statute and reflect the consensus of the rulemaking advisory committee. We urge you to pass them without alteration.

We would like to thank DLCD staff and the other members of the rulemaking advisory committee for their diligent and collegial work on this issue.

Thank you for your attention to these views.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven D. McCoy".

Steven D. McCoy  
Farm and Forest Staff Attorney

A large, stylized blue number "35" with a slight shadow effect, positioned above the anniversary text.

Celebrating Thirty-five Years of Innovation

2110 Mission St. SE #310  
P.O. Box 351  
Salem, Oregon 97308



October 5, 2011 (via e-mail)

John Van Landingham, Chair  
Land Conservation and Development Commission  
635 Capitol St. NE, Suite 150  
Salem, OR 97301

Chair Van Landingham and Commission Members:

Thank you for the opportunity to comment on the proposed amendments to OAR 660-033-0030 in the implementation of HB 3647 (2010). Our Association is certainly supportive of ensuring that accurate data is used when an individual landowner wishes to challenge the soil capability ratings on their particular property. Furthermore, our Association supports the legislative intent of HB 3647 in ensuring that consultants who assess agricultural soils have the necessary field and mapping experience.

I apologize for being unable to attend your meeting in Grants Pass, but would respectfully ask that the proposed new and amended rules be further refined to ensure that confusion does not arise when implemented. Our Association has significant concerns with the seemingly synonymous use of the term "landowner," "property owner" and "person" as used in the proposed rules, which is not explicitly laid out in the proposed rules. We feel the terms should definitively be synonymous.

Under a plain reading of the language, one could make the assumption that ANY person could request an assessment of the capability of a particular parcel of land, with or without the knowledge and consent of the property owner. This would present the situation where a particular landowner could be faced with an assessment that they have absolutely zero knowledge of being withheld from them until years later. We do not feel this was the intent of the legislature, and feel additional clarification is necessary.

Furthermore, it should be clearly delineated that the "person" or "property owner" challenging the soil capability ratings is the same "person" or "landowner" that sought and paid for the assessment. We feel that clarification would eliminate the possibility of a landowner seeking to challenge the soil capability ratings being caught completely off guard by a previously unknown assessment (that would not have become public record) that may be in conflict with an assessment that the actual landowner procured through the HB 3647 process.

In addition, we feel that explicit recognition that an assessment procured through the process is the property of the landowner is necessary in the rulemaking, until such time as it becomes public record under the language of the bill.

Again, thank you for the opportunity to provide these comments.

Sincerely,

*Shaun Jillions*

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EXHIBIT: 4 AGENDA ITEM: 5  
LAND CONSERVATION & DEVELOPMENT  
COMMISSION  
DATE: 10-6-11  
SUBMITTED BY: OR Assoc of Realtors



**Bob Hart**  
**Consulting LLC**

Land Use Planning and Development

October 6, 2011

Land Conservation and Development Commission  
635 Capital Street NE Suite 150  
Salem, OR 97301-2540

RE Draft Rules to implement HB 3647

Dear Commissioners,

I am strongly opposed to the draft rules for a number of reasons. Let me start out by expressing my utter disappointment with the timing of these rules. The legislation of HB3647 was signed into law on March 10, 2010 as an emergency with implementation to take place on October 1, 2011. The issue did not even make the LCDC agenda to initiate the rules until June 22, 2011, over a year after the adoption of the Bill. The public hearing on these rules is being conducted five days after the bill became effective. Proposed rules appear to be overreaching in the proposed administration of the Bill that were not part of the legislation.

I am a land use consultant and have worked as a county planner for 17 years and a private consultant for 16 years. I have both written and evaluated land use applications from non farm dwellings to zone changes based on non resource conditions. I have also recommended and worked closely with certified soil classifiers to evaluate land for compliance with farm and forest goals. I was also the staff liaison to a consulting firm that developed the forest evaluation system using an economic model to identify forest land in Josephine County that was acknowledged by the state as meeting the criteria for identification of forest land.

Following are issues that I think are critical to have a quality program for soil assessments.

**Issue 1. Who is authorized to request soils information? Section 660-033-0030 (5)(b)**

The first issue begins with who is authorized to request a soil report be done on private property. The new rules state that a "person" who concludes that more detailed soil information is needed may initiate a request for a soils report. This is in line with the ORS to define persons to include individuals, partnerships, corporations, association, governmental subdivision or agency or public or private organization of any kind in the phrase "person." This in itself is not a problem as all of these "persons" own property. What is not stated is that the request for a soils report should be clearly limited to the person that is the property owner. As the proposed rule now stands, any person could request a soil report, it is not limited to the property owner. This would lead to trespass onto

private property or over use of police powers to allow anyone to cause a soil examination of property. The only part of this rule that mentions a property owner is for a non farm dwelling on high value farm land. And this section is ambiguous in that there is no limitation that only the property owner may request a soil report. Such a limitation should be applied to all land use applications.

**Issue 2. What applications require a soils report? 660-033-0030 (5)(c)(B)**

The proposed rule exceeds the mandate in the Bill to determine if land qualifies as agricultural land. The identification of agricultural land is implemented by zoning of the property. If zoning is to be changed and the NRCS data is suspected to be inaccurate, a soil report is needed. Requests for non farm dwelling are for property that is already determined to qualify as agricultural land. If a request for a non farm dwelling is made, the zoning is not changed. Any approval is a determination that a portion of a parcel is unsuitable for farm use together with a number of other required findings that protect farm uses in the area. There is no need for this rule to apply to non farm dwellings as it exceeds the scope of the original Bill. As this rule is proposed, any land use decision using more detailed information than the NRCS soil survey would be subject to a soil report requirement through the state. The NRCS information is detailed down to only a five-acre area. Any inclusions such as a rock outcrop would not necessarily show on the NRCS data. A non farm dwelling is on an area of less than 10,000 square feet. I do not believe that every request for a non farm dwelling is of such a state interest that these rules should be applied.

Change to the zone of agricultural lands is an amendment to the Comprehensive Plan. Existing land use laws require that DLCD be notified of all such changes. The review of soil information is understandable for this type of application. Any use that does not require a change in the comprehensive plan should not be included in this rule.

**Issue 3. Provisions for state recognition of qualified soil scientists 660-033-0030(10)(a)**

The law states that soil reports must be prepared by a certified soil classifier. At the Soil Committee meeting in August, staff discovered that the Soil Science Society of America (SSSA) is revising the certification program and they will not be separately certifying soil classifiers beginning in 2012. The proposed rule provides for a new review process and Oregon certification by creating a review Board separate from the SSSA. A staff comment is that they were advised by legal counsel that they may do the things proposed in the rules before you. The law is very specific on lines 10 and 11 that the required report be done by a “professional soil classifier (emphasis added) who is certified by and in good standing with the Soil Science Society of America.” I see no provision that gives the rule making authority the flexibility to add the approval of an independent panel as proposed in Section (14) (b) or the inclusion of soil scientists that are not soil classifiers. While I think this proposed addition is a good idea, it is not authorized in the law. There appears to be a need for a change in state law to authorize this part of the program. If this is not done, I see an opportunity to challenge any soil report that is not produced by a soil classifier as a violation of the statute. The land use system is complex enough without adding another layer of uncertainty.

#### **Item 4 List of Qualified Professionals 660-033-0030(10)(b)**

The rule limits persons that are qualified to perform soil assessments to a list that is updated quarterly and is limited to only those soils professionals that have signed a pre-qualification agreement to perform soil assessments under the rule. The Bill authorizes any certified soil classifier that is in good standing with the SSSA and is chosen by the person that requests the assessment. This appears to be a restraint of trade to only those persons that are pre-qualified. No where in the Bill is such a restriction stated. This provision would preclude qualified soil scientists from out of the immediate area from performing work because they are not pre-qualified. I also find it questionable that a local audit committee would have the authority to reevaluate qualified contractors by evaluating soil reports. It is assumed on my part that persons could be removed from the pre-qualified list by the local committee. If concerns are raised about a qualified professional, the concerns should be forwarded to the SSSA instead of having a local review. This entire section should be held until there is revised legislation to address qualified professionals. The best and most simple way to implement the law is by the Department posting a list on their website of soils professional that have provided a copy of their SSSA certification. The Department can then establish a line of communication with the SSSA to be notified if any soil classifier has been removed from the list.

#### **Item 5 Department Procedures 660-033-0030(10)(c)**

The proposal in Section (5)(c) requires that the qualified professional soil classifiers enter into a contract with the State to perform soil assessments. There are no provisions in the legislation that requires that the state become a party to the soils report in the form of a contract for the development of a soil's report. The bill requires that the Department arrange for an assessment report. This can simply be done with an authorization letter after the property owner selects a soil scientist as mandated by the bill and notifies the Department of the intent to hire a soil classifier. The requirement to enter into a contract with the state is most disturbing and an intrusion into conduct of free trade. At the very least, this requirement will increase costs and extend the time needed to perform a soil's assessment. The requirement for a contract is further addressed in section 5(c) (A) (iv) to require the property owner to pay the Department for the amount of a bid for a soil report plus the cost of review of the report by the Department. The soil scientist is no longer working for the property owner and now becomes an agent of the state at the property owner's expense. This appears to be a conflict of interest. The interest of the property owner who pays for the study is not the same interest of the state that sets the standards for the report and holds the contract with the soil classifier. It has been confirmed that the state will require various insurance coverages to protect state interests and liability that will also increase costs. I find that the requirement for a contract with the state is excessive and does nothing toward making the soils reports a document that can be relied upon to make an informed decision on a land use matter. This is deteriorating into administrative overreach.

The requirement for a contract before work begins will also complicate matters when field work reveals that additional work is needed to adequately evaluate the property. An example is in the

evaluation of site for non farm dwellings. Initially a site is selected and a series of test pits is preselected. As field work progresses it may be necessary to add additional test areas and move the dwelling location. This would require modification to the original contract. Would this need to have prior approval and would the additional field work need to be rescheduled pending modification approval? This delay would also add costs to reschedule a backhoe and travel time for the people conducting the soil evaluation. All of these questions can be avoided with the state not being a party to the agreement between the property owner and the soil scientist.

What appears to be the concern is that the state suspects that soil scientists will not provide accurate information in return for payment for a job. This shows a complete distrust of the ethics of the soil scientist. If this is truly a concern then the Department staff should make a complaint to the SSSA to question the good standing of the individual instead of adding this onerous requirement. The ethics requirements and certification process by the SSSA are currently in place to assure accurate and truthful reports are produced. This is the proper organization to address concerns about the accuracy and ethics of soil scientists. In my opinion, a letter to proceed is all that is necessary in the agreement to perform the required soil evaluation and report preparation.

#### **Item 6 Report Review Requirements 660-033-0030(10)(d)(A),(e)**

I do not find any standard for the creation or review of soils reports. The only report requirement is that the Department shall establish reporting requirements and describe the terms in the contract. The review is to be consistent with "reporting requirements" and in accordance with the terms of the contract. I find no reference to an established professional report content guide. The proposed rule does not require any expertise on the part of DLCDC staff to establish the scope in the creation of the report nor any review standards for proper techniques and conclusions. We find that this omission on the part of the proposed rule is unacceptable. A review of the report to the Commission reveals there is a concern that local planners do not have expertise to review the required reports. I find no requirement for any soils background and expertise on behalf of Department staff to review the reports.

Recent changes to the OAR regarding forest reports require that the report be sent to the Oregon Department of Forestry to evaluate the report for consistency with the methodology for performing forest land evaluations. The rule states that the forestry department is not to report on the conclusions of the report but strictly limit comments to the methods used in the preparation of the report. I find no such equivalent limitation for the farm soils report. I also find that critical comments by staff persons with no technical soils background requirement, is inappropriate for review of professional reports. This could lead to an open path toward bias and inaccurate conclusions.

I would support the review of the report for proper methods in accordance with standards from the SSSA and the Department of Agriculture. I am opposed to a review and critique on the part of the Department with no expertise in the standards and practices of soil science.

## **Item 7 Reports not public records 660-033-0030(10)(f)**

The rule states in section (10)(f) that the soil report is not a public record until such time as the person paying for the report utilizes the assessment in a land use action. At such time the Department is notified and a certified copy of all (emphasis added) the assessments produced under the rule are provided to the local jurisdiction. Under the proposed rules, persons not owning the property can request soils reports. A property owner may not be aware of previous reports that were done that were not released and then find that a different report with difference conclusions could be released at the time the owner asks for a release of the report he paid for under the rule. This could lead to some difficult issues to deal with before the local government. This could also lead to frustration and anger toward the Department with this “discovery” of inconsistent reports that would not be able to be found during purchase of property. Imagine the shock if a person requests an assessment for a non farm dwelling for a portion of a property and the department releases a prior report that was done for the purpose of a rezone but was not released because the conclusion was that a majority of the soils were suitable for farm use and not suitable for a rezone. The previous report may not provide the very detailed requirement for a portion of the property for a non farm dwelling location. The new owner would then need to figure out how to explain that a previous report that was not available suddenly shows up and states that the land is indeed farm land. This section needs serious reconsideration.

### **Conclusion**

The proposed rules are excessive and go well beyond the provision of the adopted Bill. The scope of the rules exceeds the mandate to assist a county to determine whether land qualifies as agricultural land. Such a determination is made during the establishment of zoning on property. This rule should not apply in such actions as non farm dwellings or any other application on land where zoning is not proposed to be changed. The rule should be specific to only apply to zone changes where the proposed change is to a non resource designation.

The proposal for a contract between the state and the soil classifier is not necessary nor required. A notice to proceed much like a land use compatibility statement is all that is necessary. Anything further will drive up costs, extend the time to complete the action and appears to be a serious intrusion into trade practices of the free market. It may in fact constitute an illegal restraint of trade.

The proposed rule does not establish any expertise on the part of the Department to create the elements to be in a soils report contract or to review the work of a soils professional. This does not improve the quality of the land use program over the current practice of local planners reviewing soils information. In fact it would likely diminish the quality as someone in Salem would have less knowledge of conditions in the counties than the local planners. The recently adopted forest rules would serve well as a better example for the report creation and review.

The proposed rule exceeds the adopted bill by establishing a new review board to allow soil scientists that are not soil classifiers to perform soils assessments. While I support this new

provision, this should be first part of an amendment to the original bill. This addition could be challenged by appeal because the required report was not done by a certified soil classifier as required by the adopted law.

This rule as written is an excessive intrusion into business practices, will not result in a better land use program and exceeds the requirements of the adopted law. This rule needs to be rewritten or seriously amended.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bob Hart', with a long horizontal flourish extending to the right.

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Land Conservation and Development Commission  
635 Capital Street NE Suite 150  
Salem, OR 97301

October 6, 2011

RE: Draft Administrative Rules (HB 3647)

Honorable Commissioners:

Our firm, Richard Stevens and Associates, Inc., has worked as Land Use Consultants in Southern Oregon representing numerous private property owners for over 25 years. We have seen numerous changes in the Administrative Rules over the years and have worked within those standards to satisfy the approval criteria. However, this proposed Rule amendment does nothing to improve the process or enhance the end product, particularly for individual homesites on separate legal parcels.

The proposed language within OAR 660-033-0030(5)(c)(B) needs to be deleted, or in the alternative, significantly modified to reflect site specific conditions existing on a property. This would be applicable for Non-Farm Dwellings, Non-Farm Partitions and Ownership of Record Dwellings. These applications are not intended to change the zoning or the potential uses on lands zoned EFU. It is important to note that many parcels in Southern Oregon do not qualify for a dwelling, even with additional soils data.

In many instances, in Southern Oregon, a dwelling approved or established on EFU zoned land enhances the farm uses. The presence of a dwelling allows the property owner to live on the property to properly manage the site with supervision of the irrigation, monitoring the crop, harvesting activities, etc. This provides an owner a place to live and saves commuting from the city to the farm. In order to enhance sustainable farms and organic farms, a greatly growing farm practice in Southern Oregon, it is most desirable to live on the farm and deliver the products to local markets or restaurants. These types of small farms produce fresh market products that have more intensive farm practices and requires on site supervision.

An example of why this process should not be used for individual homesites is to use the Jackson County SCS soils survey, now Natural Resources Conservation Service (NRCS). Within Jackson County there are several soil series that are composed of complex units; these include Agate Winlo (6B), Debenger Brader (44C & 44E), Langellain Brader (102B & 102D) that are found on lands zoned EFU. These soil complexes are rated as Class IV agricultural soils by the NRCS.

However, the NRCS data also identifies that these complexes are composed of isolated Class VI "Non"-Agricultural soils that inclusions are "*intricately intermingled that mapping them separately was not practical at the scale used*". In addition, numerous statements within the NRCS "data" already identifies that there are additional **inclusions** of soils within a Class I-IV soil series, such as Brader or Rock Outcrops. The NRCS has already identified that inclusions exist within many soil series and therefore do not need to be "reclassified". Typically, when a soil scientist evaluates a property, they are attempting to locate these potential inclusions already identified by the NRCS. All they are attempting to do is confirm the NRCS data already provided with specific data by conducting an Order 1 site visit with test pits and soil sampling.

With the Non-Farm Dwelling standards and criteria for approval OAR 660-033-0130(4)(c)(B) provides a review/analysis of surrounding land, including the subject property, if it can be managed for farm use. Typically, Non-Farm Dwellings are identified and located on "*a portion of the property, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species...*" This then provides the remainder of the property available for farm uses. The Rule then states that the "*portion of a lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm use in conjunction with other land*".

It does not make any sense to the common man that providing additional data from a certified soil scientist to locate and isolate an inclusion of soil already identified by the NRCS, requires further review by DLCD. Again, the attempt is not to reclassify the land with more detailed soils information for an individual homesite. It appears that these proposed provisions add additional time and significant costs to the property owner with no real change in the outcome for a quasi-judicial or administrative decision. This new process just adds more grief and undue hardship to any applicant or property owner to process an application with the local jurisdiction.

Subsection (7) provides Ownership of Record applications with new data to be reviewed by the Oregon Department of Agriculture (ODA), who are qualified to review soils reports. Why does DLCD need to get involved and what expertise does DLCD have to review these reports. If this rule is amended as proposed, does this require the property owner to submit to both DLCD and ODA?

Subsection (7) could be modified to include any new soils data under ORS 215.263 and ORS 215.284, to allow the ODA to review the report and the science to meet industry standards. Once the soil scientist receives a statement from the ODA that the report and analysis are sound the applicant may then proceed with an application for an individual homesite on lands zoned EFU.

It appears, that the State is taking some of the discretion from the local jurisdictions on making land use decisions that involve a soils report. The local planning departments are more familiar with their lands and have the ability to make discretionary decisions based on local circumstances.

In conclusion, the proposed amendments to the Administrative Rules are unwarranted, particularly for individual homesites on individual separate parcels. Subsection (5)(c)(B) needs to be eliminated or significantly modified to explicitly exclude these provisions for individual homesites on EFU zoned lands. The standards within Subsection (7) can be amended or expanded to include the provisions of ORS 215.263 and ORS 215.284. We appreciate your consideration in these matters.

Respectfully submitted,

RICHARD STEVENS & ASSOCIATES, INC.  
Clark Stevens, President

October 6, 2011

TO: Land Conservation and Development Commission

RE: Agenda Item 5, October 6-7, 2011 LCDC Meeting  
Amendments to Soils Assessment of Agricultural Land

As a Douglas County farmer concerned about the practice of remapping soils in identifying agricultural land, I would like to offer the following comments.

I understand the lack of enthusiasm from those providing the service of analyzing soils. No one likes to deal with new regulations. It is in my belief that many of the soil scientists involved in the land use process take their work seriously and provide unquestionable accuracy in their field findings. Unfortunately, I believe that there are a few soil scientists that are providing questionable work and have created the need for these new regulations to provide a fair, balanced, and accurate process for remapping soils.

I support the proposed amendments to the administrative rules presented by DLCD. 660-033-0030(10)((b)(B) (Page 3 of the draft rules, line 41) could be improved by replacing may with shall.

The legislation in HB3647 provides that DLCD shall review soils assessments. The applicable definition of "review" as defined in the Encarta Dictionary is: look at something critically; to examine something to make sure that it is adequate, accurate, or correct. Since DLCD does not have a soils scientist on staff, I support the establishment of an auditing committee to review these soil assessments.

It is important that the auditing committee reviewing these assessments have the ability to randomly view the soil test sites on the subject property. Such a provision would ensure accuracy and promote a higher level of transparency in the soils analysis.

In the last few years in Douglas County, there have been soils reports used to redesignate agricultural land to nonresource uses that appeared to be unbelievable from a farmer's perspective given the past history of the property.

For example, one soils report found that one-third of an acre in the middle of a parcel that had been a three acre vineyard for over thirty three years was not suitable for the production of crops. This was despite the testimony from the past owner that the property had always produced grapes uniformly.

Another report, found a 590-acre property that had verified farm production for at least the previous 70 years, remapping of the soils aided in finding the property unsuitable for farm use even after a former ranch manager explained that hay cut off the ranch was used to feed 300+ cows and calves during the fall, winter, and spring. The cattle were removed in the spring until the hay was cut and stored in the five barns which existed on the ranch. After the hay was harvested 150+ spring pairs were

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COMMISSION  
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SUBMITTED BY: Snitley Wuthrell

returned to the ranch for summer grazing, and in September the fall calving cows were returned to the ranch.

Yet another soils report on a property directly across the road from one of my vineyards established that two one-acre parcels were generally unsuitable for production of crops or livestock because the Class II and III soils contained rock fragments. This was despite the fact the soils were the same as those on my property successfully growing grapes and that the property had produced wheat and pasture for decades. Fortunately before the final decision was made in that case, the application was withdrawn and the owner sold the property to Duck Pond Cellars which has since planted the property in a vineyard.

In all these examples the process lacked any checks and balances for the soils analysis. No one other than the owner's hired soils scientist were allowed on the subject properties to view the soils or make an independent analysis, therefore the owner hired soil scientist was the only expert that could be considered. The possibility that the experts from the DLCDC auditing committee could review any soils work at the site would raise the level of diligence by those performing the soils analysis. Simply reviewing a report for completeness or finding that proper procedures were followed does nothing to guarantee the actual accuracy of the analysis.

I also suggest that there should be a process by which a soils scientist could be removed from the DLCDC's qualifying soils professionals list for performing unsatisfactory work.

Thank you for your time on this matter and please enter this testimony into the record.

Respectfully submitted,



Shelley Wetherell  
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WERT & ASSOCIATES

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DEPT OF  
OCT 06 2011  
LAND CONSERVATION AND DEVELOPMENT

Casaria Tuttle  
Oregon Dept. of Land Conservation and Development  
635 Capital Street NE, Suite 150  
Salem, OR 97301-2540

October 5, 2011

Dear Ms. Tuttle;

The original intent of HB 3647 was to prevent unprofessional soil scientists from practicing in the State of Oregon. No one that I know has a problem with efforts to make the soils profession stronger. HB 3647 might accomplish this goal, however, it is very much an "overkill". There are easier ways to "weed out the bad actors" without government being intrusive into private consulting. The bill puts DLCD in control of what is a private matter and at the same time produces income to DLCD for a service that is not needed. Having a state agency collect money, take a fee, and then pay the soil scientist is distasteful, unnecessary, and is one more added cost to the client.

To make sure that dishonest or unqualified soil scientists are not allowed to practice, a simple procedure could have been used. Any county in the State of Oregon could request that a soils report be reviewed by a state committee of disinterested soil scientists who are themselves experienced in mapping soils. The committee would have to place their stamp of approval on it before the report could be submitted to the county. One soil committee could easily handle the entire state. Such a procedure already exists for "high value lots of record". That could simply be expanded to include any soil report that attempts to remove a parcel zoned agricultural and place it in a non-agricultural zone or where NRCS soil maps are challenged. A fee could be collected from the client to cover the committee's costs. Only those reports that look suspicious would be referred to the committee. To my knowledge, there are two, possibly three, individuals that have produced bogus work. The rest of the soil scientists are honest, professionals. HB 3647 will now punish those honest professionals by adding another layer of government. A person is known by their work. Why treat those people that have proven themselves over the years as if they are the offending party?

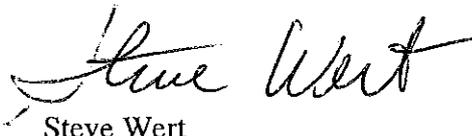
In my opinion, the counties already know who has caused problems. When a report is submitted by a questionable soil scientist, it could be checked by the committee. If the report or the person's background is inadequate, the committee issues a letter to this

effect and the problem is solved. The committee would need legal protection to avoid being fearful of a lawsuit.

Following a procedure somewhat along the lines listed above would speed the process, keep costs down, eliminate unneeded and unwanted government involvement in what is a technical issue. DLCD does not have a soil scientist on staff.

In my opinion, HB 3647 should be repealed. I realize DLCD cannot do this, but we can if there are enough of us. Efforts to work with the committee writing the rules have not resulted in any major changes. It is overly bureaucratic, complicated by an unneeded Oregon bidding process, and intimidating to the client. I have wondered if this too is not part of the plan. HB 3647 was sponsored by 1000 Friends of Oregon, Central Oregon Land Watch, and Group One. These groups are known for their opposition to development.

Respectfully Submitted;

 CPSS & CPSE #371

Steve Wert

Cc: Tammy Baney, Deschutes County Commissioner  
Tony DeBone, Deschutes County Commissioner  
Al Unger, Deschutes County Commissioner  
Will Austin, Oregon State University Soils Professor  
Chad McGrath, NRCS  
Thor Thorson, NRCS  
Jim Johnson, State of Oregon