

Umatilla County

Department of Land Use Planning



DIRECTOR
TAMRA
MABBOTT

February 12, 2015

LAND USE
PLANNING,
ZONING AND
PERMITTING

TO: Mark Nystrom, AOC

CODE
ENFORCEMENT

FROM: Tamra Mabbott

SOLID WASTE
COMMITTEE

CC: AOC PD

SMOKE
MANAGEMENT

Umatilla County Board of Commissioners

GIS AND
MAPPING

AOC PD President Mike McCallister, Clackamas County Planning Director, asked me to provide comments on HB 2894, the bill that could give irrigation districts veto power over land partitions and subdivisions.

RURAL
ADDRESSING

LIAISON,
NATURAL
RESOURCES &
ENVIRONMENT

1. Existing law already provides irrigations districts legal authority to participate in the land use review process. **ORS 92.090(6)** says, “[s]ubject to any standards and procedures adopted pursuant to ORS 92.044, no plat of a subdivision or partition located within the boundaries of an irrigation district, drainage district, water control district, water improvement district or district improvement company shall be approved by a city or county unless the city or county has received and accepted a certification from the district or company that the subdivision or partition is either excluded from the district or company or is included within the district or company for purposes of receiving services and subjecting the subdivision or partition to the fees and other charges of the district or company. “ This provision was added in 2007, if my memory is correct, at the request of Oregon Water Resources Congress.
2. **ORS 197.180** State agency planning responsibilities; determination of compliance with goals and compatibility with plans; coordination between agencies and local governments rules; exceptions. This section of land use law has established the State Agency Coordination Program, and, it setforth the process for providing notice to and incorporating comments from local agencies and state agencies. Although local agencies and special districts do not have an adopted State Agency Coordination Program (SAC), cities and counties are responsible for providing notice to any affected agency or district . Districts have the right to appeal a local decision if they believe the city or county erred in their decision by not addressing the issues raised by the district.

Given the above, it is my opinion that there is sufficient legal protection for irrigation districts and a new law is not warranted. Coordination between irrigation districts and county planning offices has a long established tradition. Irrigation districts and Oregon Water Resources Department are sent notice of partition and subdivision applications. Comments from both are incorporated into Final Findings, and the decision often includes a condition to submit a plat to the irrigation district for review. In some instances, the Irrigation District is included on the Final Plat for signature.

If irrigation districts are not getting the cooperation from cities and counties, it may be more of an education and awareness problem than a legal problem. Many years ago, I attended the annual meeting of the Oregon Water Resources Congress and spoke about this very issue. At that time, irrigation districts were having a similar problem, primarily with cities. Subsequent to that conference, OWRC proposed legislation that resulted in ORS 92.090(6).

It would seem more productive for OWRC and perhaps local irrigation districts to provide training materials to city and county planning offices. And also to follow up with training.

One final thought, although ORS 92.090(6) has worked fairly well, in recent months some county planners have seen the potential for abuse. For example, an irrigation district asked county to impose conditions requiring a landowner install special irrigation equipment and a new system before the district would sign the plat. That likely is over-reaching the intended scope of the law, which was to provide coordination so that new property lines accounted for irrigation district infrastructure and easements. Thinking ahead, future legislation might best serve the landowners that balanced the role of the districts and local land use laws to prevent unnecessary takings.

I would be happy to meet again with OWRC to develop an outreach and education tool to alleviate future disputes.