



Wendie L. Kellington  
P.O. Box 2209  
Lake Oswego Or  
97035

Phone (503) 636-0069  
Mobile (503) 804-0535  
Email: [wk@klgpc.com](mailto:wk@klgpc.com)

May 20, 2025

Via Electronic Submission  
House Committee on Rules

RE: HB 3971

Dear Chair Bowman and Members of the Committee:

This letter is written in OPPOSITION to HB 3971 on behalf of the Lane County Garbage and Recycling Association (LCGRA), a group of “mom and pop” garbage and recycling companies. LCGRA contributes significantly to Lane County’s existing, successful recycling ecosystem that, right now, with LCGRA’s help, enjoys the highest recycling rate in Oregon. The speculative development you are asked to supersite offers only the potential for a marginal increase in recycling at best. LCGRA cares because the County’s expressly prohibited development undermines land use and environmental rules everyone else plays by, but also risks destroying the existing successful recycling ecosystem which would cause recycling rates to go down not up and does its mischief by imposing fee hikes on LCGRA customers, many of whom can ill afford the \$178 million price tag. Equally bad is that you have been misled about HB 3971 as have its supporters who clearly have no idea what HB 3971 does. HB 3971 is unprecedented in its supersiting reach and the magnitude of false and misleading statements underpinning it is stunning. The summary that follows is based upon decades of experience, serving under Governors Goldschmidt, Kitzhaber and Roberts to appointed terms on LUBA, where I served for many years before entering private practice. My 42-year legal career has emphasized Oregon land use.

HB 3971 is a supersiting bill for a disappointed land speculator, Lane County, that bought property on the cheap, in Goshen, composed of 21 acres of wetlands for which the County hopes to fill 11 acres, that is in a type of “Light Industrial” zone designed instead for desirable, high density, high wage industrial uses, that strictly prohibits all “waste related uses,” which legal truism a County hearings officer pointed out after a public hearing, which hearings officer order Lane County appealed in a pending LUBA case. The property is mapped by EPA as a floodplain, adjoining a Willamette River tributary. The Willamette River is a protected salmonid River where what happens upstream matters and every other community in Oregon is making sacrifices to protect against proposals like HB 3971 that destroy floodplains and wetlands. The property is in the special Goshen “GREAT” Plan area that was specifically established to bring Goshen up, with input from 1000 Friends, DLCD and the Goshen community. HB 3971’s hoped-for supersited development is expressly contrary to everything the GREAT plan envisions. Instead, HB 3971 saddles the Goshen community with yet another new highly dangerous land use among the major electrical substations, landfill, substandard sewerage, substandard roads and substandard storm management that the Goshen community already disproportionately hosts.

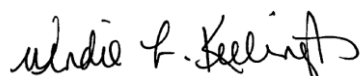
The County falsely claims supersiting is necessary because there is no zone that allows its development - essentially a transfer station that manufactures, stores and distributes gas. If true, this is a disturbing claim because the County told the State of Oregon that the facility could be rezoned to allow the facility to induce the state to part with \$32 million in public bond money. If the County now claims that the use is not allowed not only on the property but also not in any Lane County zone, then the fact that the County claimed otherwise to obtain public money for the facility is a serious problem, regardless of whether such conduct was intentional or reckless. If a private speculator behaved equivalently, they'd be in serious trouble: claiming on the one hand to get public money, that a use is allowed no problem, and on the other to get supersiting that that the use is a "21<sup>st</sup> century" use not allowed at all in "20<sup>th</sup> century" land use zones.

The truth is that HB 3971 is unnecessary because the County has four zones that at least seem to allow the use – including the Short Mountain Landfill's zone that features a gas collecting facility. Additionally, the County has another zone that the County officially claimed for a year or more supports the facility, to which zone it pursued a zone change that it withdrew. But also the County has three more zones that *also* appear to allow the facility, with special DEQ permitting. The list of zones that seem to allow the facility are shown on the attached Exhibit A. But an indisputable fact is also that the County already features 15 transfer stations, and the County has never explained why those cannot accommodate its development plans – either as permitted or conditional uses there or as alterations or expansions of nonconforming uses there.

Moreover, even if it were true that the County's "20<sup>th</sup> century" land use code did not fit the County's development plans, there is no reason that the County can't pursue a code update, like everyone else. It's probably time the County did so if its codes are really 25 years out of date, which they're not. But HB 3971's premise is untenable - that if Oregon's land use program is inconvenient, land speculators can simply expect a supersiting bailout, so long as they concoct a misleading story using politically expedient words.

HB 3971 "skips" land use/environmental permitting and forecloses public participation - in fact penalizes public and state agency engagement with one-way attorney fees, for daring to uphold Oregon's land use and environmental laws. HB 3971 requires Willamette Valley counties to approve any garbage related facility, anywhere, so long as it has some recycling equipment and a digester to make gas. Under HB 3971, it does not matter that Lane County's exact "21<sup>st</sup> century" proposal is expressly forbidden in its zone. It does not matter that it requires filling 11 acres of wetlands and an EPA floodplain. It does not matter that the Goshen community does not want the development, rightly fears it, is entitled to rely on the promise of Oregon zoning that expressly prohibits it, and the property is within 400 ft of a school for disadvantaged youth: the proposal is an environmental justice anathema. HB 3971 is an unjust and cynical indictment on Oregon's land use program and deserves strong rejection. It appears that the Speaker has taken her name off the bill. Other sponsors should do the same. No one should support it. The legislature has been misled with a speculator's bill that is profoundly bad policy for Oregon.

Very truly yours,



## EXHIBIT A

LC 16.211 (Impacted Forest Lands) allows:

6.3.	Disposal site for solid <b>waste</b> approved by the governing body of a city or county or both and for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation;	C	II	(4), (5), (6)
6.4.	Television, microwave and radio communication facilities and	C	II	(4), (5),

LC 16.212 (Impacted Forest Lands / Rural Comprehensive Plan)

6.9.	A site for the disposal of solid <b>waste</b> for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation not on high value farmland	X*	X*	C	II	(5); or *(4)(z)
------	--	----	----	---	----	--------------------

LC 16.214 (Marginal Lands)

6.3.	A site for the disposal of solid <b>waste</b> for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation	C	II	(4)
------	---	---	----	-----

LC 16.219 (Public Facility Zone)

- (iv) Sewage disposal: sewage treatment plants, sewage sludge drying beds, sewage pressure control stations.
- (v) Solid waste disposal: refuse incineration, central garbage grinding stations, composting plants, sanitary landfills and refuse disposal.
- (vi) Educational centers such as:

LC 16.229 (Suburban Residential Zone)

- (m) Public and private schools.
- (n) Radio and television transmission facilities.
- (o) Solid **waste** disposal facilities.
- (p) Stables, riding academies and commercial riding arenas.
- (q) Amusement parks, carnivals or circuses.
- (w) Correctional institution.
- (x) Garbage dump, sanitary landfill or solid **waste** management.
- (y) Jail or penal farm.

LC 16.231 (Rural Residential Lands)

- (m) Public and private schools.
- (n) Radio and television transmission facilities.
- (o) Solid **waste** management.

LC 16.292 (Rural Industrial - County claimed for a year or more that this zone fits the proposal)

LC 16.294 (County Rural Public Facilities Zone)

drying beds and sewage pressure control stations.

(e) Solid waste disposal such as: refuse incineration, central garbage grinding stations, composting plants, sanitary landfills and refuse disposal.

NOTE County Definition of Disposal Site includes transfer stations and energy recovery:

Department.

(64) Disposal site. For the purposes of LC 16.212 and 16.292, land and facilities used for the disposal, handling or transfer of, or energy recovery, material recovery and recycling from solid wastes, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, transfer stations, energy recovery facilities, incinerators for solid waste delivered by the public or by a collection service, composting plants and land and facilities previously used for solid waste disposal at a land disposal site.

(a) "Disposal site" does not include:

(i) A facility authorized by a permit issued under ORS 466.005 to 466.385 to store, treat or dispose of both hazardous waste and solid waste;

(ii) A facility subject to the permit requirements of ORS 468B.050 or 468B.053;

(iii) A site used by the owner or person in control of the premises to dispose of soil, rock, concrete or other similar nondecomposable material, unless the site is used by the public either directly or through a collection service;

(iv) A site operated by a dismantler issued a certificate under ORS 822.110; or

(v) A site used for the storage of dredged materials.

Solid Waste Management is defined as:

and comparable to a normal city lot.

(210) Solid Waste Management. A planned program providing for the collection, storage and disposal of solid waste including, where appropriate, recycling and recovery.

NOTE ALSO: Business Oregon gave project, without any land use approval, \$32 million in public bonds on the basis that the facility was an IRS "exempt" solid waste facility