HOUSE BILL REPORT
HB 1472

As Reported By House Committee On:
Government Reform & Land Use

Title: An act relating to mineral resource land designation.

Brief Description: Providing for designation of mineral resource lands.

Sponsors: Representatives Reams, Romero, Pennington, Sherstad and Lantz.

Brief History:
Committee Activity:
Government Reform & Land Use: 2/5/97, 2/20/97 [DP].

HOUSE COMMITTEE ON GOVERNMENT REFORM & LAND USE

Majority Report: Do pass. Signed by 11 members: Representatives Reams, Chairman; Cairnes, Vice Chairman; Sherstad, Vice Chairman; Romero, Ranking Minority Member; Lantz, Assistant Ranking Minority Member; Bush; Fisher; Gardner; Mielke; Mulliken and Thompson.

Staff: Kimberly Klaiber (786-7156).

Background: The Growth Management Act (GMA) requires certain counties and the cities within them to use an agreed-upon procedure to adopt a *county-wide planning policy*. This policy establishes a "framework" from which the county and cities in the county develop and adopt *comprehensive plans*, which must be *consistent* with the county-wide planning policy. The GMA requires counties to address certain issues in the comprehensive plan (land use, housing, capital facilities plan, utilities, rural designation, transportation) and to protect critical areas, designate and conserve certain natural resource lands, and designate urban growth areas. Finally, each county and city adopts *development regulations* consistent with its comprehensive plan.

All counties that plan under the GMA and contain mineral resource lands must *designate* mineral resource lands that are not already characterized by urban growth and that have long-term significance for the extraction of minerals. The GMA cities and counties must consider the mineral resource lands classification guidelines adopted by the GMA's "parent agency," the Department of Community, Trade and Economic Development (DCTED). DCTED must consult with the Department of Natural Resources in order to guide counties and cities in classifying mineral resource

lands. To carry out this process, DCTED must consult with interested parties (the list includes cities, counties, developers, builders, environmentalists, Indian tribes, and others) and conduct public hearings around the state.

After designating the mineral resource lands, the county, city, or town must adopt development regulations to *conserve* the designated mineral resource lands but these entities cannot adopt regulations that prohibit uses legally existing on any land before the county adopted the regulations. The development regulations must assure that the use of lands adjacent to mineral resource lands will not interfere with the continued use, in the accustomed manner and in accordance with best management practices, of lands designated for the extraction of minerals.

Summary of Bill: Two provisions are added to the GMA. The first provision sets forth the legislative intent regarding the importance of mining and the legislative finding that designation, production, and conservation of adequate sources of minerals is in the best interests of the citizens of the state. The second provision states that if a county contains mineral resource lands of long-term commercial significance (defined as including the mineral composition of the land for long-term economically viable commercial production, in consideration with the mineral resource land's proximity to population areas, product markets, and the possibility of more intense uses of the land), and the county classifies mineral lands under the GMA, the county must designate sufficient mineral resource lands in its comprehensive plan to meet the projected 20 year, county-wide need.

Once a county designates mineral resource uses (including mining operations, defined as "all mine-related activities exclusive of reclamation, that include, but are not limited to activities that affect noise generation, air quality, surface and ground water quality, quantity, and flow, glare, pollution, traffic safety, ground vibrations, and/or significant or substantial impacts commonly regulated under provisions of land use or other permits of local government and local ordinances, or other state laws), those uses must be established as an *allowed use* in local development regulations. Allowed use is defined as the "uses specified by local development regulations as appropriate within those areas designated through the advance or comprehensive planning process."

Once designated, a proposed allowed use is reviewed for project specific impact and may be *conditioned* to mitigate significant adverse impacts within the context of site plan approval. However, this type of a review cannot "revisit" the question of use of the land for mine-related operations.

The county or city must also designate mineral resource deposits, both active and inactive, in economically viable proximity to locations where the deposits are likely to be used. Through the comprehensive plan, the counties and cities must discourage the siting of new applications of incompatible uses which are adjacent to mineral resource industries, deposits, and holdings.

Amendments or additions to comprehensive plans or development regulations pertaining to mineral resource lands may be adopted in the same manner as other changes to the comprehensive plan or development regulations.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This was originally the land use component of the Surface Mining Act of 1993. It adds a new level of specificity with respect to who has the power to designate in the event of competing natural resource interests. If no designation or conservation, a resource can be lost if homes are built atop those lands. It is easy to designate and identify needs « identify materials to complete road-building projects. Some counties are not setting aside enough land to meet future needs. The allowed use component does not say that local governments do not hold hearings.

Nothing in the bill changes the way incorporated areas designate. County designation is troublesome because a county designates within city limits, which is not the way it is under current law. More state direction is needed, e.g., a model for designation.

Permits for gravel pits are contentious. The bill adds a new layer– to what is in the GMA. Sand and gravel are usually under land that is covered with trees, etc. Counties should be allowed the chance to reconsider designations that may harm agricultural areas (overlay possibilities that could bring benefits to some at the expense or harm to others). Mine-related activities are often disruptive. More work is needed on the bill. There is no new money available. We need more hearings.

Testimony Against: Concern was expressed about the term economically viable proximity.– Allowed use is a one-size-fits-all approach.

Testified: Mark Triplett, Washington Aggregate & Concrete Association (pro); Dave Williams, Association of Washington Cities (with concerns); Paul Parker, Washington Association of Counties (with concerns); and Scott Merriman, Washington Environmental Association (con).