

Date: February 7, 2020

To: Senate Committee on Energy and Environment

From: Sara Miller
64370 Dobbin Rd
Joseph, OR 97846

Re: Opposition SB 16 – Housing on EFU Lands in Eastern Oregon Border Region

I am submitting testimony as a private individual in opposition SB 16. My background includes more than 20 years of experience working in economic and community development in Northeast Oregon. I am also a small business owner, a first generation rancher and a resident of Wallowa County, where my children have grown up. I currently serve on the Leadership Team of the Oregon Community Food Systems Network, a statewide network with 56 member organizations from across Oregon. I am also a member of the Access to Land and Beginning Farmer Rancher Development teams of this Network.

Key reasons SB16 should not be approved:

- By scattering up to 100 homes for non-farmers across 200 acres of EFU land, SB 16 risks undermining both Malheur County's very healthy agricultural industry, and the state's land use system.
- Agriculture is an economic engine of this region. Malheur County is in the top five of the state's 36 counties in agricultural production, and is among the top beef and dairy producing regions in the country.
- Agriculture is also Malheur County's largest jobs provider, employing 21 percent of working men and six percent of working women.
- The state has recently invested in a major rail re-load shipping facility in Nyssa, which will greatly increase the transportation options available for Malheur County's ranchers and farmers to get their products to market quickly. This is not a time to be taking farmland out of production.
- Ontario has quite a bit of land available for residential development. In 2008, Ontario established an urban reserve of about 2200 acres. Urban reserves are for the land need beyond the 20-year UGB, IF future growth is required. Between 2009-2014, Ontario expanded its UGB 3 times, bringing in about 600 acres from the urban reserve, consisting mostly of EFU lands and mostly for industrial use, but not entirely. That leaves about 1500 acres still available in the Ontario Urban Reserve, in addition to vacant residential lands already in the Ontario UGB. This illustrates that if there is a demand for homes, including higher end homes, outside of the immediate built-up area of Ontario, there are plenty of options.
- Instead of opening Eastern Oregon's farm and ranchlands to residential development, the state should invest in growing existing agriculture-related businesses, improving transportation needs of agriculture, incentivizing value-added production, and helping new farms get access to affordable farmland.
- The wildfire maps show areas of "very high" and "high" risk wildfire risk outside of Ontario and Vale, in areas that zoned EFU. Increasing the housing and people who are not engaged in ranching and farming can increase the risk and cost of wildfires.

The area affected is unclear; it's impossible to know what areas are included in the Eastern Border Economic Development Region. The definition of location provided by ORS 284.771 is vague. Are the cascading references (a), (b), and (c) all subject to (d). This is implied by the use of the word "and," however I doubt that was the intent. This definition must be clarified in order to assess the impacts of SB16 and any other legislative or administrative actions applying this definition. Is the area referred to just part of Malheur County? Does it include Baker County and/or Wallowa County? The definition should clearly state exactly what areas are included. The affected areas should be clearly mapped and maps available to the public so that impacts can be understood prior to any vote. There is no way for the public to assess the impacts and provide testimony without knowing what areas will be affected. This includes the ability to assess impacts to individuals, such as landowners, as well cumulative impacts, such as the impacts to adjacent public lands and services.

Section 2 (e) does not prevent costly conflicts between rural subdivisions and adjacent farmers. Section 2 (e) appears to guarantee farmers the legal right to farm with impunity. However ORS 30.936 and 30.937 provide limited statutory immunity and when conflicts arise, which they will, there will be monetary, opportunity and social costs that will incur to farmers and non-farming neighbors.

The review board structure is weak due to the limited scope of representation as prescribed in Section 3 (3). Three of the four prescribed positions are public agents and the structure does not provide for additional members from community sectors purported to benefit from the bill's intent, for example, high-wage earners and those in poverty (who need better educational opportunities). Similarly, the prescribed review board does not include community sectors that could be negatively affected by the decisions and opinions of the review board. Testimony at a public hearing is not a substitute for representation on a review board.

Recent analysis of land transfer in Oregon must be considered in order to understand the cumulative impacts of the proposed bill. It does not appear that authors of the bill have studied the most recent published analysis of trends regarding transfer of ownership of farmland in Oregon. These trends point to the significant cumulative impact of transfer of farmland to nonfarm uses and speculative purchasing, including in SE Oregon. This research includes: Changes in Farmland Ownership in Oregon, <https://www.mdpi.com/2073-445X/8/3/39/htm>; and The Future of Oregon's Agricultural Land, https://centerforsmallfarms.oregonstate.edu/sites/centerforsmallfarms.oregonstate.edu/files/formatte_d_future_of_farmland_final_0.pdf

During the period from 2010 to 2015 the NE and SE regions of Oregon were already experiencing high numbers of ownership transfer of exclusive use farmland. Northeast Oregon had the highest number of acres transferred, followed by Southeast Oregon and trends indicate that the pace of land transfer is increasing. Other important trends include the fact that the Southeast region had the highest percentage of out-of-state buyers (nearly 40%) and the second-highest percentage of sales to corporate buyers (46%) in the state.

More than half of corporations buying farmland in Oregon did not have clear connections to agriculture, but were in the business of real estate, land development and investment property management. In fact, across Oregon some of the top volume purchasers of farmland are nonagricultural corporations. Further complicating the ability to evaluate cumulative impacts, counties are not currently tracking land ownership transfer actions in a uniform way. This is a weakness that could reasonably be addressed by standardizing processes and records.

Conversion of farmland to nonfarm uses threatens the next generations of farmers. In NE Oregon, time and time again, in focus groups, in testimony to the Board of Agriculture, at workshops on succession planning, in field trips on ag-innovation, and in individual conversations along the side of the road, the next generation of farmers and ranchers have identified escalating land prices and access to land as their most significant challenge. In Eastern Oregon, land considered non-high value for farming could still be valuable for range and pasture. Subdivision and conversion of farmland for nonagricultural uses continues to drive the increase of land values based on speculation, including the demand for wealth diversification options. The proposed bill will set a precedent that exacerbates the current trend of conversion of farmland to non-farm uses.

There is no evidence that the proposed bill will have the purported desired outcomes or address the purported needs as described by those voting and testifying in support. Many advocates for the bill state that farmland needs to be rezoned in order to provide housing for a high-wage earning labor force that does not want to live within the city limits or urban growth boundary. Yet the bill would not regulate ownership of the proposed residential parcels. It does not restrict future sale of parcels to people of a specific income level, occupation (such as people willing to teach in high poverty schools), residency or tenancy.

There is nothing in the bill that would limit free-market forces from determining the ownership and development of newly created rural subdivisions. These are forces which recent trends in transfer of ownership of farmland have shown to be increasingly investor and developer driven. While in the residential real estate industry, the most desirable markets are often high-end retirement and second or vacation homes. This also speaks to the unlikelihood of the bill addressing the need for farm operator or worker housing. If farm housing is being lost due to removal because of unsuitable location with regard to farm operations or due to structures being degraded/unlivable, those are issues which are more suitably addressed by considering changes to existing replacement dwelling regulations. And accessory farm dwellings are already allowed under certain circumstances, including farm family hardship.

In addition, while the ability to apply for rezoning and partition of farmland for housing subdivisions would sunset in 2030, there is nothing in the bill that says that land purchased and rezoned/partitioned has to be developed for housing in any given timeframe. This makes purchase of the land even more attractive to some speculators who have the financial capacity to just hold the land in their wealth portfolio until such time that reselling it or developing it becomes beneficial to them or their heirs.

The current real estate market is already providing a solution that is meeting the needs of higher wage earners seeking rural residential housing and it does not require sacrifice of Oregon's farmland. It is the market-driven solution that allows people to choose where they want to live based on the options

available. If someone doesn't want to live in town, they don't have to. As long as they can afford it, they can live wherever they want. If residents of the border region (which is not adequately defined) wish to find ways to use rezoning of agricultural land to address the need for workforce housing, job creation or other shared community and economic development needs, it will require a very different approach than SB16. SB16 does little to guarantee any outcome other than further erosion of the protections for Oregon farmland and future loss of land that can be used by people to grow food and raise livestock to feed ourselves and others. In fact, it might just give developers from Idaho more reasons to buy Oregon farmland.

Thank you for considering this testimony.

Sara Miller