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February 26, 2025

Senate Committee on Housing and Development  
Oregon State Capitol  
900 Court Street NE  
Salem, Oregon 97301

**Re: SB 878 and SB 438 – Oppose**

Chair Pham, Vice-Chair Anderson, and Members of the Committee,

Thank you for the opportunity to provide testimony on SB 478 and SB 438, bills to provide more dwellings for relatives of rural landowners beyond the multiple dwelling types already provided on farm and forest land that include relative farm help dwellings, hardship dwellings, accessory dwellings, and nonfarm dwellings.

These bills would bypass the benefits of requiring counties to plan for additional rural development through the exceptions process or through the Big Look provisions of ORS 215.788.-794, both of which ensure any increased densities will not have unintended negative consequences on Oregon's precious resources. The bills would be an end-run around these provisions that ensure an equal playing field, where everyone, not just well-financed individual landowners, has access to the planning process.

Central Oregon LandWatch ("LandWatch") is a land use and conservation advocacy organization that for more than 35 years has protected Central Oregon's farm and forest lands, rivers and springs, fish and wildlife, and vibrant communities. We work to conserve the region's ecosystems, wildlife habitat, and working rural lands balanced with a responsible, sustainable approach to planning and fostering thriving communities.

***LandWatch opposes SB 878 and SB 438:*** These bills would allow owners of a rural property across the state to build a second dwelling on lots or parcels with existing dwellings, fragmenting the state's agricultural and forest land bases.

## **I. Loss of agricultural and forest industrial land base**

Many of the properties on which these bills would allow additional development are protected for farm use under Goal 3 of the statewide land use planning system, or protected for forest use under Goal 4. These Goals ensure Oregon's limited supply of farm and forest lands is maintained for those uses. ORS 215.243, ORS 527.630. *Importantly, existing law already allows for the siting of additional dwellings for relatives on these lands*, including when a landowner faces a medical hardship, or requires other help to continue their farm and forestry



**WE DEFEND AND PLAN FOR CENTRAL OREGON'S LIVABLE FUTURE**



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operations. ORS 215.283, ORS 215.757. SB 878 and SB 438 would allow dwellings on farm and forest lands without a showing of need to support farm or forestry operations.

Doubling the number of dwellings on rural lands would introduce unnecessary conflicts with farm and forest operators that will drive up the costs of farm and forest land, making it more difficult for new operators to begin, and for existing operators to expand. The bills are counter to the Oregon legislature's agricultural land use policy which substantially limits nonfarm uses on farmland and calls for the preservation of agricultural land in large blocks. ORS 215.243.

The bills would allow an additional house on the nearly 1 million acres of land outside UGBs *already zoned for rural residential use* in Oregon. The bills allow a bait-and-switch process, stating that the additional house must be for a family member, *but only until the property is sold*.

## II. Degradation of wildlife habitat

Oregon's elk, mule deer, antelopes, and many other species of wildlife depend on rural land for their habitat. Many of the properties on which these bills would allow rural development are protected under Goal 5 for their natural resources and wildlife habitat value. In Central Oregon, excessive rural development has caused a stark decline in populations of mule deer, an iconic and beloved big game species of the High Desert. ODFW estimates that mule deer populations in the Upper Deschutes, Paulina, and Metolius units are at only 56%, 25%, and 70%, respectively, of ODFW management objectives as of 2024.<sup>1</sup> *Doubling the amount of development in winter range habitat in Central Oregon, as SB 878 and SB 438 would allow, would mean disaster for mule deer, antelope, elk, and all the other wildlife species that need these lands to survive.*

## III. Risks to groundwater quantity

*Roughly doubling the number of dwellings on rural lands across the state will further destabilize groundwater resources.* Deschutes County has over 16,000 domestic wells.<sup>2</sup> These wells are unpermitted, unmonitored, and are allowed to pump up to 15,000 gallons per day. ORS 537.545(1). Unsustainable groundwater declines due to excessive pumping recently led the

<sup>1</sup> ODFW (2024). Mule Deer population estimates, herd composition, and over-winter fawn survival in Oregon 2010 – 2024. Available at [https://www.dfw.state.or.us/resources/hunting/big\\_game/controlled\\_hunts/docs/hunt\\_statistics/24/Mule%20Deer%20Population%20Estimates,%20Composition,%20and%20Over-Winter%20Fawn%20Survival%202020-2024.pdf](https://www.dfw.state.or.us/resources/hunting/big_game/controlled_hunts/docs/hunt_statistics/24/Mule%20Deer%20Population%20Estimates,%20Composition,%20and%20Over-Winter%20Fawn%20Survival%202020-2024.pdf). Accessed on February 6, 2025.

<sup>2</sup> Deschutes County Commissioner Phil Chang. 2024. "Guest column: How to avert a future groundwater crisis." Published in the Bend Bulletin, November 18, 2024. Available at [https://www.bendbulletin.com/opinion/guest-column-how-to-avert-a-future-groundwater-crisis/article\\_678cf696-a5c4-11ef-963f-1f6ee5bc2008.html](https://www.bendbulletin.com/opinion/guest-column-how-to-avert-a-future-groundwater-crisis/article_678cf696-a5c4-11ef-963f-1f6ee5bc2008.html). Accessed on February 6, 2025.





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OWRD to reform its permitting rules.<sup>3</sup> New groundwater wells, or tapping into existing wells, to serve the relative dwellings sought to be authorized by SB 878 and SB 438 would be exempt from regulation under ORS 537.545(1), and would further strain Oregon's groundwater resources.

#### IV. Risks to groundwater quality

These bills would affect not just quantity but quality of rural groundwater. The rural dwellings that SB 878 and SB 438 would allow would be served by on-site septic wastewater systems. While the bills consider OWRD restrictions on new exempt wells, there are many areas of the state facing severe groundwater quality problems where new exempt wells are still allowed. This includes southern Deschutes County where nitrate pollution from excessive on-site septic wastewater has contaminated the shallow aquifer, leading to dangerous nitrate levels in groundwater that pose severe human health risks.<sup>4</sup>

#### V. Increased wildfire risk

Roughly doubling the number of rural dwellings in the state also unnecessarily puts more Oregonians at risk of wildfire. The bills require new dwellings, if located inside the wildland-urban interface (WUI) or a high hazard zone, to comply with defensible space requirements and Oregon's "R327" wildfire-resistant building code. As a result of SB 762 (2021), these requirements are already imposed on any new development in the WUI and high hazard zones.

Even with defensible space and home hardening, *these bills would increase both wildfire hazard and wildfire risk*. Wildfire hazard would be increased by introducing a significant increase in the potential for new wildfire starts. Fully 70% of Oregon's wildfires are human caused.<sup>5</sup>

Wildfire risk would be increased by placing many more people and structures in the path of wildfire, risking the safety of existing residents and the firefighters and first responders who are already stretched thin during Oregon's lengthening wildfire season. Andrew Stolfi, Oregon's State Insurance Commissioner, believes Oregon's strong land use laws mean there is less risk of

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<sup>3</sup> See <https://www.oregon.gov/owrd/programs/gwwl/gw/pages/groundwater-rulemaking.aspx>. Accessed February 6, 2025.

<sup>4</sup> Bend Bulletin. 2025. "Editorial: The villain in southern Deschutes County." Published in the Bend Bulletin, February 5, 2025. Available at [https://www.bendbulletin.com/opinion/editorial-the-villain-in-southern-deschutes-county/article\\_e5a46b14-e30d-11ef-8cdb-ab2816c88822.html](https://www.bendbulletin.com/opinion/editorial-the-villain-in-southern-deschutes-county/article_e5a46b14-e30d-11ef-8cdb-ab2816c88822.html). Accessed on February 6, 2025.

<sup>5</sup> Oregon Department of Emergency Management. Available at <https://wildfire.oregon.gov/prevention#:~:text=More%20than%2070%25%20of%20Oregon's,to%20put%20a%20fire%20out>. Accessed on February 6, 2025.





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wildfire insurance becoming unavailable in Oregon, as is happening in California, because Oregon's land use laws have minimized the amount of building in the WUI, and insurance carriers really worry about structure losses.<sup>6</sup> Oregon is a step ahead of other states when it comes to mitigating wildfire risk, and now is no time to take a step back.

## VI. Increases in sprawl and greenhouse gas emissions

One of the primary goals of Oregon's visionary land use system is to concentrate population inside urban growth boundaries. Goal 14 reduces sprawl, minimizes the cost of public services and infrastructure, minimizes wildfire risk, and preserves farmland, forests, open space, and wildlife habitat. Although we might not have recognized it in 1973 when SB 100 was adopted, our land use system also helps minimize climate impact. Accommodating population in compact urban land use patterns reduces vehicle miles traveled and associated greenhouse gas emissions. Maintaining population growth inside UGBs will allow Oregon to continue being a leader in reducing greenhouse gas emissions.

## VII. Permanent negative consequences

Finally, we note that as drafted *the bills allow a non-relative of the owner to occupy the new dwelling for a period of 18 months, and then allow anyone to occupy the new dwelling once the property is sold*. The idea that these dwellings are limited to relatives of existing owners is a façade. Meanwhile, the negative consequences of these bills on Oregon's farms, forests, wildlife, groundwater resources, wildfire risk, and climate goals will extend into perpetuity.

For the above reasons, LandWatch respectfully requests the Committee not to pass SB 878 or SB 438 out of committee.

Sincerely,

*Carol Macbeth*

Carol Macbeth  
Staff Attorney  
Central Oregon LandWatch

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<sup>6</sup> Oregon Public Broadcasting. 2025. "Think Out Loud: Oregon Residents Face Home Insurance Challenges." Broadcast on January 31, 2025. Available at <https://www.opb.org/article/2025/01/31/oregon-residents-face-home-insurance-challenges/>. Accessed on February 6, 2025.

