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February 7, 2023

Sen. Jeff Golden, Chair, and Committee Members  
Senate Committee on Natural Resources  
State Capitol  
Salem, OR

Re: SB 70 – Houses on Eastern Oregon Farm Land

Dear Chair Golden and Committee Members:

Thank you for the opportunity to provide testimony on SB 70, which 1000 Friends of Oregon opposes. 1000 Friends of Oregon is a nonprofit, membership organization that works with Oregonians to support livable urban and rural communities; protect family farms, forests and natural areas; and provide transportation and housing choice.

In the 2021 session, the legislature passed SB 16, allowing 200 acres of exclusive farm use (EFU) land in the Eastern Oregon Border Region, located in Malheur County, to be rezoned to allow up to 100 homes on 2-acre lots, within certain parameters. Among the parameters was that these houses would not be allowed on “high value” farmland. At the time, the Executive Director of the Eastern Oregon Border Economic Development Board stated that SB 16 “Allows rezoning of **limited, nonviable** land within Eastern Oregon Border Economic Development Region from exclusive farm use to residential use.” (Emphasis added)<sup>1</sup>

Less than two years after SB 16 took effect, the sponsors are back with another bill, seeking changes that would open up even more EFU lands to housing. Senate Bill 70 changes the original definition of “high value” farmland that was in SB 16. The impact of changing the definition is to **open up high value farm land** to the possibility of siting the “SB 16 houses.”

How? Oregon statutes have two definitions of “high value” farmland - one is more narrow, primarily based on soils classified as Class I or II, prime or unique farmland.<sup>2</sup> The other definition, while it includes these high value soils, *also* includes lands that grow or can grow high value crops, such as wine grapes; lands related to irrigation; and it specifically includes lands in designated viticultural areas, including the “Snake River Valley viticultural area.”<sup>3</sup>

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<sup>1</sup> See written testimony of Shawna Peterson, Executive Director - Eastern Oregon Border Economic Development Board, <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/PublicTestimonyDocument/2668> Feb. 9, 2021

<sup>2</sup> ORS 215.710

<sup>3</sup> See ORS 195.300(10)

So, SB 16, as passed in 2021, said that the houses could *not* be sited on high value farmland, using the more *expansive* definition. By changing it to the narrower definition, **SB 70 opens up not only more EFU land, but EFU land that is still "high value,"** including it would appear, the large Snake River Valley viticultural area and some land in irrigation districts.

The officially designated Snake River Valley American Viticultural Area (AVA) region spans from eastern Oregon into Idaho, including around Ontario. According to [Oregon Wine](#): "[T]he Snake River Valley offers ideal growing conditions."

Most farm land in Oregon is not high value, and of the land that is, most is in western Oregon. High value soils grow a variety of high value crops, making Malheur County an agricultural standout. Malheur County ranks #5 among Oregon's counties in agricultural production, bringing in approximately \$350,000,000 each year. Three of Malheur County's top farm crops are on Oregon's top 10 list of agriculture commodities. Malheur County products include cattle, onions, hay, dry bean, mint, potatoes, and sugar beets.

This high value farm land is *not* "limited, nonviable land."

In addition, a recent story in the *Malheur Enterprise*<sup>4</sup> described that the county was having challenges mapping the boundaries of its irrigation districts, to determine where the "SB 16" houses could be located, because the districts do not have GIS-based maps. Apparently, SB 70 is intended to address this issue.

However, it is difficult to see SB 70 answers, or should answer, the described mapping problem:

- It would not result in a map of the irrigation districts' boundaries. Therefore, is the intent of SB 70 to allow the SB 16 house on any lands in the irrigation districts? That is what the news article implies, contrary to the stated intent of SB 16.
- Regardless of the state of the mapping capacity of the irrigation districts, the districts can tell an individual property owner if their land is in the district. And it seems that the burden should properly be on an individual landowner who is interested in building one of these houses to call up the irrigation district and find out if their land is in it. The answer is not to open up the irrigation district lands.

We urge this Committee to not pass SB 70; it is not consistent with the stated purpose of SB 16 that the houses would be on "limited, nonviable" farmland. Thank you for consideration of our comments.

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<sup>4</sup> [https://www.malheurenterprise.com/2023/02/01/county-waiting-on-legislators-to-fix-law-to-finally-clear-way-for-new-farmland-housing/?mc\\_cid=04ab6455bd&mc\\_eid=23b15cf16b](https://www.malheurenterprise.com/2023/02/01/county-waiting-on-legislators-to-fix-law-to-finally-clear-way-for-new-farmland-housing/?mc_cid=04ab6455bd&mc_eid=23b15cf16b)

Sincerely,

*Mary Kyle McCurdy*

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Deputy Director