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February 21, 2023

Rep. Ken Helm, Chair, and Members
House Committee on Agriculture, Land Use, Natural Resources, and Water
State Capitol
Salem, OR

Re: HB 2192 – replacement dwellings on resource lands

Dear Chair Helm and Committee Members:

Thank you for the opportunity to testify today in opposition of HB 2192, a bill that would amend the rules for replacement dwellings on farm and forest land. 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. 1000 Friends of Oregon has long been involved in protecting farm and forest land.

This bill seeks overturn farm dwelling replacement provisions that are temporary and should remain so. The original farm dwelling replacement provisions that HB 2192 seeks to expand to forest land is scheduled to sunset in 2024.

In 2013, the replacement provisions for dwellings on farmland were temporarily amended to fix a specific problem. Farmers with long disused, dilapidated and damaged farm dwellings on their property wanted the ability to demolish the structures to avoid creating a nuisance.¹ The temporary replacement dwelling provisions, allowed farmers time to both remove and replace those structures. That problem has been addressed and the existing law will sunset in 2024.

¹ In *LandWatch Lane County v. Lane County*, 364 Or 724, 742-43 (2019), the Supreme Court summarized the purpose of 2013 HB 2746 as follows: During hearings in February 2013 and in statements and documents submitted to the House Committee on Land Use at that time, the bill's sponsors and supporters explained that its purpose was to address the problem of dwellings that were ineligible for replacement because they did not presently meet the structural requirements. Both actual and hypothetical examples of such dwellings were discussed, including former dwellings where “a wood stove has been removed or the roof has caved in,” Audio Recording, House Committee on Land Use, Feb. 21, 2013, at 10:16 (statement of Katie Fast) <https://olis.leg.state.or.us> (accessed Apr. 17, 2019); *743 a building that was “deteriorating” and “completely uninhabitable,” from which vandals had taken “all the wiring, the plumbing,” *id.* at 14:11 (statement of Dave Vanasche); and an “abandoned house * * * that is beyond repair (uninhabitable),” Exhibit 6, House Committee on Land Use, HB 2746, Feb. 21, 2013 (statement of Mark Unger).”

1000 Friends respectfully requests that this committee not expand the temporary provisions to circumstances on forestland that they were not designed or intended to address.

Existing law already allows landowners to replace dwellings that are on the property but in a state of disrepair. The amendments would appear to allow landowners to replace a dwelling that no longer exists on the property and did not exist when they purchased the property. There is no reason for a nearly 50-year look back to 1973 to determine whether a dwelling may have previously existed on the property. The proposed bill looks back to a period in time in which county records may not exist or may be incomplete. That creates circumstances in which applicants may present a limited evidence of a dwelling—such as photographs or a first hand account—that are difficult and in some cases impossible to verify. Those issues will only get worse as time progresses.

The 2013 version of the statute at least limited the look-back to the previous five tax years and/or required proof that the building had been taxed as a dwelling. Those provisions were modified in 2019 and are no longer a requirement. That tradeoff was balanced by the fact the law will sunset in 2024. **1000 Friends of Oregon opposes making the 1973 look back permanent and expanding it to dwellings on forest land.**

The legislature already allows new, non-forest dwellings on forest land pursuant to the forest template dwelling statute. The legislature has also established provisions for second forestland dwellings. These provisions would undermine the limits established for forest template dwellings and second forest dwellings, allowing landowners to potentially establish second and third dwellings on forestland parcels by staggering their “discovery” of a previously existing dwelling on their property.

Thank you for consideration of our comments.

Sincerely,

Andrew Mulkey
Rural Lands Attorney
1000 Friends of Oregon