

March 31, 2025

House Committee on Housing and Homelessness
Oregon State Capitol
900 Court Street NE
Salem, Oregon 97301

Re: HB 3928 - Oppose

Chair Marsh, Vice-Chair Andersen, Vice-Chair Breese-Iverson, and members of the Committee,

Thank you for the opportunity to provide testimony on HB 3928.

Central Oregon LandWatch is a land use and conservation advocacy organization that has proudly protected Central Oregon's forests, high deserts, rivers, wildlife, and vibrant communities for more than 35 years. The membership of Central Oregon LandWatch consists of farmers, ranchers, environmentalists, hunters, anglers, housing advocates, and community leaders. Our members share the belief that Oregon's land use system is fundamental to what makes this state such a special place to live.

LandWatch opposes HB 3928. The bill would allow unlimited designation of rural lands, including farm and forest lands protected by statewide land use Goal 3 and Goal 4, for urban-scale housing development. It would also except such designation and development from all existing Oregon state and local land use laws, and disallow any appeals to LUBA.

Dismantling Oregon's vaunted statewide land use planning system, as this bill proposes, would transform Oregon into endless urban sprawl. Oregon is exceptional for our promotion of sustainable urban development inside urban growth boundaries (UGBs), for our protection of rural farm and forest lands, and our checks on irresponsible public infrastructure and service extension outside our UGBs. HB 2938 would upend Oregon's exceptionalism, making our beloved state just another sea of sprawl, like the front range of Colorado, the Treasure Valley of Idaho, or the Valley of the Sun in Arizona. Oregon is what it is today because we have intentional planned to not become like them.

HB 2928 would allow counties to open up an unlimited amount of rural lands for residential development, with a maximum lot size of one acre. The negative consequences of such a departure from existing Oregon land use laws are numerous.

I. Loss of agricultural and forest industrial land base

Many of the properties on which this bill 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 that our state's limited supply of farm and forest lands are maintained for those uses. ORS 215.243, ORS 527.630. Existing provisions of Oregon law provide several opportunities for siting dwellings on farm and forest lands, usually only when the dwellings support continued farm and forest use of the lands. HB 3928 would break up farm and forest lands for additional development without a showing of need to support farm or forestry operations. Doing so would introduce unnecessary conflicts to farm and forest operators and drive up the costs of farm and forest land, making it more difficult for new operators to begin and for existing operators to expand. This bill is counter to longstanding state law that "substantially limits" nonfarm uses on farmland. ORS 215.243(4).

II. Degradation of wildlife habitat

Oregon's elk, mule deer, antelope, and numerous other species depend on rural land as habitat. Many of the rural lands on which this bill would allow sprawling residential development are protected under Goal 5, which protects natural resources, scenic and historic areas, open spaces, and wildlife habitat. In Central Oregon, excessive rural development is a primary cause of the rapidly declining population of mule deer, an iconic and beloved big game species of the high desert. Here in Deschutes County, 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 2024.¹ Greatly increasing the amount of development allowed on this species' range in Central Oregon, which HB 3928 would permit, spells disaster for this and other species.

III. Risks to groundwater supplies

Greatly increasing the number of dwellings on rural lands across the state will also further destabilize groundwater resources. Deschutes County already has over 16,000 domestic wells.² 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 OWRD to reform its permitting rules.³ New groundwater wells, or tapping into existing wells, to serve the new dwellings sought to be authorized by HB 3928 would likely be exempt

¹ 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. Accessed on February 6, 2025.

² 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. Accessed on February 6, 2025.

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



from regulation under ORS 537.545(1) and would further strain Oregon's groundwater resources.

IV. Degradation of groundwater quality

Not only would groundwater quantity suffer, but so would groundwater quality. The increase of rural dwellings that HB 3928 seeks to authorize would likely be served by on-site septic wastewater systems. At Section 2(4), the bill makes it completely optional for a county to require sewage treatment facilities. Such facilities outside UGBs would be disallowed by Goal 11, but of course HB 3928 would exempt its extra-UGB development from that and all other Goals. There are many areas of the state facing 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 poses severe human health risks.⁴ It also includes portions of Crook County, where manganese, aluminum, and arsenic are contaminating rural domestic wells.⁵

V. Increased wildfire risk

Greatly increasing the number of rural dwellings in the state also unnecessarily puts more Oregonians at risk of wildfire. Even with defensible space and home hardening, *this bill would increase both wildfire hazard and wildfire risk*. Wildfire hazard would be increased by introducing additional potential for new wildfire starts in rural areas, as 70% of Oregon's wildfires are human caused.⁶ Wildfire risk would also be increased by placing more people and development in the path of wildfire, which risks both residents' safety and the safety of firefighters and first responders who are already stretched thin during Oregon's lengthening wildfire season. Oregon's State Insurance Commissioner and the Director of Department of Consumer and Business Services, Andrew Stolfi, was recently quoted as saying that he does not expect wildfire insurance to become unavailable in Oregon, as is happening in California, because Oregon land use laws have minimized the amount of building in the WUI and insurance

⁴ 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. Accessed on February 6, 2025.

⁵ Central Oregon Daily News. 2025. "New tests reveal more toxins, including arsenic, in Crook County well water crisis." March 18, 2025. Available at https://www.centraloregondaily.com/news/in-focus/crook-county-toxic-well-water/article_8f41b9c8-0371-11f0-a4c7-a7c981b78a28.html

⁶ 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.



carriers really only worry about structure losses.⁷ 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, embodied in Goal 14, is to concentrate population inside urban growth boundaries. This policy reduces sprawl, minimizes the costs of public services and infrastructure provision, preserves farmland, forests, open space, and wildlife habitat, and as described above, minimizes wildfire risk. Although we might not have recognized it in 1973 when SB 100 was adopted, our land use system also helps minimize our 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 state and local efforts to mitigate greenhouse gas emissions.

LandWatch respectfully requests this Committee not pass HB 3928 out of committee.

Thank you for your consideration of this testimony.

Regards,

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Central Oregon LandWatch

⁷ 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.

