



CENTRAL OREGON LANDWATCH

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*Protecting Central Oregon's natural environment
and working for sustainable communities.*

In Opposition to SB 77

Central Oregon LandWatch ("LandWatch") is a 501(c)(3) not for profit organization located in Bend, Oregon. Our mission is to help achieve a balanced and integrated approach to land use planning that will safeguard our natural resources and foster economically thriving communities. We encourage effective land use planning by: providing information and support for meaningful public participation; researching, drafting, and disseminating ideas on public policy; and pursuing litigation when necessary to enforce federal, state, and local land use and environmental laws and codes.

LandWatch was founded by Attorney Paul Dewey in 1986. Mr. Dewey served under two Oregon governors reviewing roadless areas and was on Governor Kitzhaber's Eastside Forest Advisory Council for 6 years. He has over 25 years of litigation experience representing clients throughout Central Oregon in land use cases before local governments, the Land Use Board of Appeals, State Circuit Court, the Oregon Court of Appeals and the Oregon Supreme Court. LandWatch maintains an active database of well over 2500 supporters from all across Oregon. LandWatch will continue its legislative advocacy for:

- Sound solutions that lesson the tension within our land use system
- Protections of special places and natural resources for this and future generations
- Fair, open, and accessible decision making processes.

It is this final principle, protecting citizen access to decision-making processes, that brings me before you in opposition to SB 77. I very much appreciate this opportunity to share our concerns.

Some of the justifications for the fee increases found in this bill insinuate that groups are abusing the court system with frivolous appeals that prevent economic development. These

particular justifications are simply not supported by our 25 year experience in Central Oregon. It is important to note that local governments rarely deny land use applications in Central Oregon. Further, there are literally hundreds of approvals made for every one that is appealed.

It is only in the most egregious instances where Central Oregon LandWatch pursues an appeal to LUBA. Specifically, Central Oregon LandWatch currently has one appeal before LUBA. In the 25 years of closely monitoring land use approvals throughout eastern Oregon, the highest number of appeals filed by COLW in any one year is five. Moreover, Central Oregon LandWatch has prevailed before LUBA in the vast majority of these instances.

This bill would create a 500% increase in the amount of money Oregon charges its own citizens to access its own LUBA. (combined fee plus deposit of \$400 to a combined fee plus deposit of \$2000). We believe the provision in Section 10(c) allowing rulemaking for partial fee waivers for those unable to pay will serve as an onerous and discouraging burden for people to prove they are indigent. The fee increase, even with the waiver provisions, would at best present obstacles to citizen participation and at worst stifle it. Our land use system may not be perfect by any means, but allowing citizens to have access to it is important. Promoting citizen access is imbedded in our system's very first goal. The fee provisions in SB 77 are not consistent with Goal 1.

Further the bill requires identification of assignments of error in the filing of a notice of intent to appeal where the Record for the underlying proceedings has not yet been prepared. An attorney needs to see the Record as a whole in order to see all the relevant legal issues.

Thank you again for this opportunity to share our concerns and opposition to SB 77.

-Jonathan Manton, Advocate
Central Oregon LandWatch