



50 SW Bond St., Ste. 4 | Bend, OR 97702
Phone: (541) 647-2930
www.centraloregonlandwatch.org

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HB 4031: Opposition

Dear Chair Clem and Members of the House Committee on Agriculture and Natural Resources:

My name is Paul Dewey and I am testifying today on behalf of Central Oregon LandWatch as its Executive Director and attorney. LandWatch was organized in the mid-1980s and has operated for over 30 years in Central Oregon working to encourage conservation of both private and public lands. Our mission is to achieve a balanced and integrated approach to land use planning that will safeguard our natural resources and environment and foster socially and economically thriving communities.

Thank you for this opportunity to comment on HB 4031, which we oppose in several respects. This bill is just the latest of a number of bills that have followed legislation protecting the Metolius in 2009. Originally, the purpose was to facilitate a transfer of development opportunities for developers that ended up not being able to develop destination resorts in the area of the Metolius. From the beginning, this provision has been based on the inaccurate premise that there were actual development rights that existed and could be transferred. There were no development rights to develop a destination resort and, in fact, land use applications had not even been filed with Jefferson County at the time of the legislation. Nevertheless, the Legislature allowed the potential developers to exercise a transfer of development opportunity for several years. Despite this opportunity, no party has exercised those TDOs.

Over the years, we have seen a number of “extensions” for this “right” for the TDOs. When there was an economic downturn it made some sense to grant the extensions, but recently the legislated extensions have been completely unwarranted. Instead of taking advantage of the TDOs, the relevant parties have asked for more and more exceptions to state statutes and rules for any such potential development. That is not what the deal was in 2009 and there is no justification for any further erosion of our land use laws or for any further extensions of these generous 2009 provisions.

Accordingly, we oppose those provisions of Section 1(7) which allow a small-scale recreation community to constitute an acknowledged exception to “any” applicable statewide land use planning goal with which the use would not otherwise comply. There is simply no basis for this broad exception in this context and it runs counter to the practice of the Legislature in the past few years not to pass “one-off” legislation to the benefit of one or few particular parties. The basic unfairness of granting exceptions to our laws to select individuals appears to have been recognized by the Legislature in the past few years. The introduction of this subsection “(7)” is an unfortunate resurrection of the old one-off policy.



Also under Section 1, there is no justification for any further extensions. There is no evidence that the affected parties have even attempted a good faith development opportunity to justify this exception and they have certainly not shown any difficulty with the economy of the state of Oregon.

In addition, we oppose the changes in Section 2 allowing a small-scale recreation community to be developed with lesser standards. The previous language required such a community to meet the land division standards and other development standards of the county. That fundamental and fair requirement should be retained.

Finally, it would be very helpful if the drafters of this legislation would identify what particular community they intend to benefit with the exception in Section 3, which would allow an economic development pilot program outside of an urban growth boundary if it is at least 78 miles away (rather than 100). Special exceptions like this should be completely explained and transparent so that the public may effectively comment on the proposed legislation.

Thank you again for this opportunity to testify today. We respectfully request your vote in opposition to the proposed legislation.

/s/ Paul Dewey

Paul Dewey,
Executive Director
Central Oregon LandWatch

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