March 22, 2019

Rep. Brad Witt
900 Court St NE, H-374
Salem, Oregon 97301

Re: **Opposition to House Bill 2659**

Dear Representative Witt:

We are opposed to the passage of House Bill 2659. We understand that you are the chairperson of the committee that will be considering this bill. We want to share our concerns with you and the committee.

First, a little background about us as small forestland owners. My wife and I are retired, and we own and manage about 84 acres of forestland in western Oregon near Estacada, which we have been doing for almost 30 years. We use the Small Tract Forestland (STF) special assessment option. We are proud of our sustainable forest stewardship, and have conducted tours of our forest for the Clackamas County Farm Forestry Association and the Clackamas River Basin Council, among other organizations. Additionally, I have been a lecturer at the OSU Extension Service Clackamas Tree School. We decided long ago to employ long rotation forestry (at least 60 years between thinning harvests) to maximize our forest's overall potential, including wildlife and riparian benefits.

HB 2659 will subject small forestland owners either to overwhelming property tax obligations or undefined modifications to how they will manage their forestland by the removal of the special tax assessments for forestland and the addition of an ad valorem tax on the value of standing timber unless the forestland is classified as "natural" or "seminatural." [Note: it is <u>highly</u> unlikely that "natural" forestland as defined in this bill ("has not yet been modified by humans") exists on any private forestland in western Oregon. In the bill's current form, the definition of "seminatural" is too nebulous for strict interpretation and could result in many potentially negative scenarios for implementation resulting in numerous noneconomic alternatives.] Section 10 of this bill would impose an ad valorem tax and would repeal ORS 321.272, which exempts timber from ad valorem property taxation; ORS 321.272 has been in statute for over 40 years, and for good reason, as described below. It would appear that the intent of HB 2659 is directed more towards industrial forestland owners; however, the way it is written it will also apply to small, family forestland owners. As such, we will comment on its effects on families like us.

It appears the thrust of this bill focuses on penalizing small forestland owners that manage their land as a timber "plantation," which is defined in the bill as "forestland that has been intensively logged and replanted and is now covered by trees at least five meters in height with a canopy closure of at least 40 percent," and any land that is nonforested, which is defined in the bill as "forestland that is covered by recent clear-cuts, logging roads, infrastructure or other openings." We take exception to these definitions and they are also not recognized in modern forestry practice. We invite you to come out to observe a portion of our place that was clear-cut logged about 30 years ago before we owned it, to see how diverse and multi-layered the floral understory and canopy is for an area that was replanted all at the same time.

Prior to delving into the non-practicality of implementing efforts to try and make existing, privately-owned, small acreage forestland conform to the ill-defined terminology noted above, we present a brief background about the intent of previous Oregon legislative sessions regarding how they wisely addressed changes to tax law to incentivize forestland owners to protect Oregon's forests due to the many benefits they provide, which then will naturally promote the economic and environmental health of the state. ORS 321.700 through 321.754 pertain to those of us in the STF program. It appears these sections will be repealed under HB 2659. The pertinent legislative findings and declarations of the current ORS 321.703(1), which is part of the above range of STF-related statutes, and which form the basis of STF and similar special assessments legislation for forestland, are listed below. We have emphasized key declarations in bold and/or underlined text:

"321.703 Legislative findings and declarations. (1) The Legislative Assembly finds that [*partial list*]:

(c) Private family and nonindustrial forestlands are important parts of the forest resource base of this state. **Private family and nonindustrial forestlands make major contributions to the economy of this state and provide many other social and environmental benefits.**

(d) **Because of the <u>wide array of management goals and objectives</u> that apply to private family and nonindustrial forestlands, these forestlands provide a great range of valuable forest diversity across the landscape of this state.**

(f) **The interests of this state, its residents and its future residents are best served by sustainable forest practices and taxing policies that encourage maintaining and establishing diverse forest resources for watersheds, commerce, recreation and stabilized employment levels.** These practices and policies prevent shifts in population and encourage the processing of forest products within Oregon.

(g) **<u>Timber on private land that is managed on a sustainable basis should be treated as a crop and not taxed as real property.</u>**

(h) **<u>A tax imposed at the time of harvest coincides with the cash flow of small timber operations and recognizes the hazards and uncertainties involved in growing a long-term timber crop on a sustainable basis.</u>**"

What has changed in the intervening years since the above language was crafted to invalidate these findings and declarations for small forestland owners?

In our case, we assume about 20% of our property could be classified as "seminatural," because it was last logged in about the 1930's, and in those days they did not replant, so the trees and underbrush regrew naturally. About another 24% of our property could also be classified as "seminatural" because we thinned it about four years ago as it, too, was a naturally re-stocked stand that regrew too densely in areas and is about 50 years old. (Thinning needed to be done to reduce the risk of wildfire hazards and to provide a little income for our children's college education.) The remaining 56% of our property would be defined, under this bill, as a "timber plantation" because it was previously clear-cut logged by others (prior to our purchase of it) and then replanted by others as two even aged, Douglas-fir stands (currently about 22 years and 30 years old). However, this is not a monoculture, as stands of red alder and many bigleaf maple, bitter cherry, western redcedar and western hemlock trees also exist, in addition to other tree and shrub species, which regrew naturally. Of course, there are a few logging roads that run through our entire property, which are obviously needed to maintain one's forestland, and would be classified as "nonforested land" and would thus be subtracted from the above percentages of "seminatural" forestland. We also have a medium type SSBT fish-bearing stream running through the entire property. How would that be classified? Would we be additionally taxed on that as well, since it is a long opening that obviously cannot be replanted? (The inclusion of "other openings" in the "nonforested land" definition would appear to contradict established language in ORS 321.257 (2) regarding the recognition of natural openings being deemed as part of forestland.) This is not clear.

While specific, financial-related details about how HB 2659 would be implemented are not completely clear to us at this time, we understand the following regarding the bill's impact on our property taxes. Using the latest (2018-19) property tax statements we have received for our undeveloped, forestland-only parcels, and going over with our local, Clackamas County tax assessor the potential changes this bill would create on our parcels that are ill-defined as a "timber plantation", our forestland taxes (<u>not</u> including the one, forested parcel with our home) will jump from about $84.00 per year to over $3,800 per year, or **a tax increase of over 45 times!** (This is due to the real market-derived, assessed value of our land and its relatively close proximity to the greater Portland metropolitan area.) This increase does NOT include the annual ad valorem tax that would be imposed upon our standing timber, the magnitude of which is unknown, but would be substantial, given the ages and sizes of many of our trees, further compounding this amplified annual property tax. Very roughly, assuming a traditional 1.5% tax rate on the standing timber in the "timber plantation" parcels only, combined with a rough cruise estimate of 700 MBF for this stand age and acreage at, say $400/MBF, will yield an **annual additional ad valorem tax of at least $4,200 per year**! (<u>This tax amount can only increase with time as the trees grow and board footage is added.</u>) This untenable combination will create an annual financial hardship that cannot be reasonably compensated by our planned, future timber harvests: we do not plan to harvest again for another 25 years. So, where will the money come from to pay for these new, annual taxes? We will need to withdraw

significantly more from our retirement savings, eliminate our annual riparian and wildlife stewardship projects (the public benefits of which would be lost) and significantly reduce our home and auto maintenance needs. Or, would we need to sell our forestland parcels, and at what reduced profit, given the uncertain prospects for reduced forest value due to this new taxing philosophy and unknown level of future income from a "seminatural" forest that has no clear definition at this point. It must be understood that, under the current timber-related tax structure, when forestlands are harvested for logs, additional taxes are levied at that time to capture not only the volume of the timber extracted (Forest Products Harvest Tax), but the proportionate share of remaining timber value-based taxes (STF Severance Tax for those of us in that program). These additional, traditional taxes are expected and have been accounted for in our forest management plan and financial plans, and they are then paid for through the proceeds of that future timber harvest, as pointed out above in ORS 321.703(h). HB 2659 annual, significant tax increases cannot be economically accounted for, with any reasonable rate of return, in such long term forest management and financial planning. Furthermore, logging uneven-age stands is typically more expensive, further reducing any expected future rate of return, since it is presumed one wants to save and not damage the understory trees, to allow them to thrive after the dominant trees are removed.

In addition to the extreme financial hardship incurred by private forestland owners as a result of HB 2659, we envision other potential problems that will **not** be beneficial to Oregonians in general, including:

1. **Land use concerns:** Under this proposed bill, this change in property tax structure will force many small family forestland landowners who practice even-aged management (which is a majority) to reevaluate the use of their land for timber production. Perhaps some will try to convert their land to a "seminatural" forest, or develop the land, or convert to some other non-timber use. Those that seek to develop may be hindered by land use laws, which restrict such development, since most of these lands, including our land, are in areas zoned for Ag/Forest or Forest use only, with 80 acre minimum lot sizes. What is to become of these landowners? These land use laws are an unfair financial and development burden; if forestland is determined to have a highest and best use other than forests, landowners should be able to develop/convert their land to such use.
2. **Development concerns:** Under this proposed bill, if some landowners feel compelled, and have the legal right to develop their land, is this in the best interest of the state: to take valuable, mainly low-elevation, productive timberlands out of production? This would appear to contradict the goals of current land use policy in Oregon, which has been effective for over 40 years.
3. **Legislative consistency concerns:** Under this proposed bill, including the value of standing timber (ad valorem) in the assessed value of property would obviously incentivize landowners to harvest their timber at the youngest possible age, reducing a developing, more complex forest to truly a mere tree plantation. Clear cutting, instead of thinning, would also definitely be required in order to suit this new economic model. (Prior to 1977, both land and timber were taxed as property. In some cases, this led to premature harvesting to lower the property tax burden. As a result, the legislature at that time wisely decided to encourage holding timber to longer rotation ages, and the property tax on the value of the timber (ad valorem) was eliminated.) **Therefore, such ad valorem taxation on the standing timber would not allow the growth of forests to the age required for effective carbon sequestration and storage** (forced cutting at 30 to 40 years of age versus 80 to 125 years that will be necessary to maximally sequester and store carbon), or for essential wildlife (e.g. for bird nesting cavities) and riparian (e.g. large woody debris) habitat. **Thus, HB 2659 is contrary to some of the principal goals and carbon storage mechanisms in Oregon's proposed Clean Energy & Jobs (HB 2020) bill.** (Our family wholeheartedly supports HB 2020, as currently proposed, and are very interested in exploring a carbon sequestration and storage option for our property, but the proposed policy of HB 2659 will not allow us to pursue that.)

   It is <u>not</u> economically feasible to take 56% of one's forestland that has been growing for decades as an even-age stand with a known tree density and volume, to thin it to some unknown level, and then replant it to try and attain an uneven-managed stand. To what end? What is to be replanted certainly cannot be Douglas-fir, as that is a very shade intolerant tree – it needs plenty of sun. Therefore, we

would need to create large openings in the canopy to grow this species, further reducing the planned economic model of our forestland. So, perhaps we could plant shade tolerant species such as western redcedar or western hemlock to create a multi-tiered canopy. While these trees may grow in the shade of other trees, they will have a very slow growth rate, which is not optimal for carbon sequestration and storage or near-term future income. Furthermore, it does not make sense to simply stick these additional trees in the ground, further increasing tree density, which will stress all the surrounding trees and potentially increase wildfire hazard risks. Where is the financial incentive in this for the landowner? Section 14 of the bill proposes that our county will take at least 30% of our additional tax money for climate adaptation and climate smart forest practices. Where will the other 70% go? To some degree, HB 2659 appears to duplicate the efforts of HB 2020's language regarding similar, proposed climate-related efforts, which is monetarily wasteful and not a good use of tax dollars. What would happen if a large percentage of private forestland owners decided to convert to a "seminatural" forest, to the extent that the funds received from any additional property taxes or ad valorem tax would not cover the conversion –who then covers this cost? Furthermore, HB 2659 says nothing about rotation time between harvests, so it is ridiculous to assume that a complex, diverse, multi-tiered canopy that one might find in a late successional or ancient forest on public land can be developed in the current short rotation times practiced by many owners of privately-owned forests, whether they have tree species diversity or not.

4. **Wildfire hazard concerns:** Under this proposed bill, policy is directed towards the creation of a "seminatural" forest, and this term is ill-defined in the bill. As many Oregonians are acutely aware, we now live in a time of much greater risk of tree and property damage due to wildfire hazards as a result of climate change. In 2014, the 5,500 acre 36 Pit Fire came within about four miles of our home. Forestry practices are trying to adapt to this reality by encouraging forestland owners to provide fire breaks (strategic openings), prune tree limbs (to minimize ladder fuels), increase tree spacing (whether planted or naturally grown) and to minimize (not eliminate) particular brush and other understory shrubs as much as practicable. In terms of liability, it is the landowner's duty to control and extinguish a wildfire on their land – to do so requires sufficient road access and following evolving standards of practice. The intent of this bill directly contradicts this emerging practice, which, it would seem, will only lead to more frequent and/or larger wildfires. There are serious life-safety issues at stake here. Small forestland owners are typically closer to the rural/urban interface than federal forests. Has anyone in the legislature conferred with wildfire experts at the Oregon Department of Forestry (ODF) on this matter?
5. **Effective implementation concerns:** Under HB 2659's definition of "nonforested land," what would happen if there was a wildfire, insect infestation or windstorm, causing mortality to a large number of trees, and the land needed to be replanted. Similarly, after a "seminatural forest" was logged, and was open, would these areas be fully taxed since they are open and would remain so until any planted trees reached a particular age or size, or at such point in the future that the lower-tiered trees are planted? Who is to pay the additional cost to have planting contractors come in at multiple times instead of all at once to plant the parcel in order to create some assumed diversity of trees species, sizes and ages? Who is to dictate what tree species are to be planted where, how many and when? This would appear to be governmental overreach on private property at an unheard of level of micromanagement.
6. **Estate planning concerns:** Under this proposed bill, a family's goal of passing on their property to their heirs may not practicable. Many landowners (including us), have owned their land for several decades, some for five or more generations, passing the land on to their heirs. This family tradition may no longer be possible if landowners are forced to sell their land due to excessively high annual property tax burdens. (It must be remembered that small forestland owners only receive the majority of the revenue from their land very infrequently, perhaps on a 40 to 80 year (or longer) harvest cycle.) We are not like industrial forestland owners who have a reasonably constant, annual cash flow due to thousands of acres under various ages of production. Furthermore, when the land is sold, how will the change in the forest management practice or property tax structure affect the real market value of this land? Will it become a diminished investment? Has an economic analysis been undertaken of all the ramifications of such a drastic change in public policy (considering all of the factors listed above and others that we are not even aware of) on a typical small forestland owner? It would appear not.

7. **Retirement planning concerns:** Under this proposed bill, for those small forestland owners who are currently retired, or are nearing such an age, and have made long range budget forecasts based upon current tax law, how will they cope, being on fixed incomes, with such onerous property tax increases if they can only continue to practice even-age forest management? There are over 60,000 small forestland owners in Oregon, many of whom are retired, or nearing so.

There is a simple solution to this. Assuming the aim of HB 2659 is not solely to raise revenue for the state, but to develop some sort of practicable public policy to attempt to mimic on private forestland the more complex and diverse forests found in some late successional and ancient forests on public lands, then **please thoughtfully consider the following:** HB 2659 and a similar bill, HB 2152, both seek to harm small forestland owners by repealing special tax assessments and imposing excessive ad valorem taxation. This will also most likely reduce the amount of private land that will be growing timber that potentially could have a lifespan of many decades, or perhaps a century or more, to the detriment of all Oregonians. (About 35% of all forestland in Oregon is in private ownership.) We strongly recommend that the committees working on HB 2152, 2659 and the Clean Energy Jobs bill (HB 2020) sit down with each other, along with practicing, respected forest economists, ODF staff and consulting foresters to talk over the legislature's attainable and consistent goals. This group should eliminate those portions of HB 2152 dealing with private forestland and HB 2659 in its entirety; then, it should develop practicable policy focusing efforts on HB 2020. If HB 2020 is to be a model for the nation and one of this session's centerpieces of legislation, then competitive offsets and/or carbon storage incentives (relative to the value of harvesting timber) should be provided in HB 2020 (e.g. expand sections 7, 31 and 68 as needed) to allow forestland owners with at least five to ten acres of forestland to *voluntarily* increase their timber harvest rotation ages from the current 30 to 40 years to 60, 80 or 120 years to maximally sequester and store carbon. If the incentives are fair, many landowners will sign on; they want to help address the climate change issue. This will also most likely garner more rural support. This will be the least expensive, most effective, most natural and most immediate method of drawing carbon dioxide from the atmosphere. Oregon is very fortunate to possess this abundant forest resource. The longer the sequestration and storage duration contractually agreed to, the more the incentive could be provided based upon a reasonable value of carbon dioxide equivalent per metric ton and the lost opportunity revenue to sell timber at shorter rotation cycles. This will not only result in much more carbon sequestered and stored, which should be a key component of HB 2020 to help solve the climate change problem, but will also greatly benefit fish, wildlife and all Oregon by using a carrot approach to lead (in lieu of a stick to prod) to achieve more longer-lived and ultimately diverse, privately-owned forests. This is the time for everyone to think clearly, work together, implement sound, science-based public policy and support both the rural and urban parts of our state for a win-win.

In summary, we find that HB 2659, as currently written, is short-sighted, unworkable, will result in unknown detrimental economic impacts, conflicts with some of the goals of HB 2020, could compromise some of Oregon's current land use goals and is excessively burdensome for small forestland owners. Ultimately, it will certainly be a detriment to all Oregonians. We strongly believe that HB 2659 should be withdrawn from further consideration.

Sincerely,

David & Mary Ann Bugni
30265 SE Kowall Rd.
Estacada, OR 97023

cc: Representative Anna Williams (our representative)
Senator Chuck Thomsen (our state senator)
Representative Michael Dembrow & Karin Power (HB 2020 co-chairs)
Representative Nancy Nathanson (Revenue Committee chair)