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## WESTERN ENVIRONMENTAL LAW CENTER

### **Testimony of Susan Jane M. Brown, Western Environmental Law Center**

#### **Senate Committee on Natural Resources and Wildfire Recovery Legislative Hearing on SB 762-1 April 9, 2021**

Chair Golden, Vice-Chair Heard, and members of the Committee, thank you for the opportunity to join you today to discuss SB 762-1, relating to wildfire risk reduction and mitigation.

My name is Susan Jane M. Brown, and I am the Wildlands Program Director and staff attorney for the Western Environmental Law Center (WELC). We are based in Eugene, Oregon, with offices in Portland and Bend, Oregon; Seattle, Washington; Taos and Santa Fe, New Mexico; and Helena, Montana. WELC uses the power of the law to defend and protect the American West's treasured landscapes, iconic wildlife, and rural communities. We combine our legal skills with sound conservation biology and environmental science to address major environmental issues in the West in the most strategic and effective manner. WELC works at the national, regional, state, and local levels and in all three branches of government. We integrate national policies and regional perspective with the local knowledge of our 150+ partner groups to implement smart and appropriate place-based solutions.

WELC is also deeply engaged in collaborative forest conservation in Oregon, working closely with the Blue Mountains Forest Partners on the Malheur National Forest in eastern Oregon, the Ochoco Forest Collaborative on the Ochoco National Forest, the Deschutes Collaborative Forest Project on the Deschutes National Forest, and the Northern Blues Forest Collaborative on the Wallowa-Whitman and Umatilla National Forests. WELC's work with these forest collaboratives, our service on Oregon Governor Brown's Council on Wildfire Response, and dialogue with forest and fire ecology experts and land managers, has informed our position on SB 762-1 and led to our support for this much-needed legislation.

In 2020, Oregon experienced a record-setting wildfire season. Dry conditions exacerbated by the effects of global climate change, along with strong east winds, combined to fan the flames of dozens of wildfires that eventually consumed more than a million acres of forestland, thousands of residences and structures, and unfortunately, too many lives. Our bluebird Oregon skies were orange for weeks, causing severe health concerns for a population already struggling with the global COVID-19 respiratory pandemic. Urban centers of Talent and Phoenix made national news as they burned, causing terrified residents to chaotically flee. While managers are still assessing the damage and the causes of these fires are under investigation, it appears that several of the most destructive blazes were sparked by powerlines and other anthropogenic sources.

Experts tell us that the era of megafires is here, and that we should begin to expect “gigafires,” blazes that burn more than a million acres. California is no stranger to large conflagrations, and I fear Oregon and other western states must also come to terms with this “new normal.”

And yet, it need not be this way.

In 2009, Congress enacted the Federal Land Assistance, Management, and Enhancement Act (FLAME Act), which directed the Department of Agriculture (USDA) and the Department of the Interior (DOI) to develop a national cohesive wildland fire management strategy to comprehensively address wildland fire management across all lands in the United States. In 2010, the intergovernmental Wildland Fire Leadership Council initiated the National Cohesive Wildland Fire Management Strategy (Cohesive Strategy)<sup>1</sup> effort, which focuses on achieving three essential national goals: 1) **restore and maintain landscapes** so that landscapes across all jurisdictions are resilient to fire-related disturbances; 2) **create fire-adapted communities** so that human populations and infrastructure can withstand a wildfire without loss of life and property; and 3) **ensure a safe, effective, and efficient risk-based wildfire response** across all jurisdictions.

The Cohesive Strategy thus establishes a national vision “to safely and effectively extinguish fire, when needed; use fire where allowable; manage our natural resources; and as a Nation, live with wildland fire.”<sup>2</sup> In order to achieve this vision, decision makers must address all three prongs of the Cohesive Strategy. Failing this, the West will continue to burn and change cherished landscapes in ways that society cannot tolerate.

Senator Golden and Governor Brown understand this dynamic. SB 762-1 focuses on all three legs of the Cohesive Strategy stool, and this comprehensive, integrated, and science-based approach to wildfire management is exactly the solution Oregon needs. WELC supports this legislation.

First, SB 762-1 recognizes the need to create **resilient landscapes** across all ownerships by, among other things, requiring the development and implementation of a statewide pilot program to reduce wildfire risk on public and private lands using science-based and collaboratively developed land management strategies. Importantly, sensitive lands are excluded from treatment under this approach, while lands near communities and those that would most benefit from restoration would be prioritized for immediate restoration. The legislation will facilitate cross-boundary large landscape restoration, which the best available science tells us is essential if we are to restore ecosystems, protect communities, and address the growing challenge of global climate change.<sup>3</sup>

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<sup>1</sup> Wildland Fire Leadership Council, *National Cohesive Wildland Fire Management Strategy*, available at <https://www.forestsandangelands.gov/strategy/index.shtml> (last visited Nov. 14, 2020).

<sup>2</sup> *Id.*

<sup>3</sup> Cyphers and Schultz, *Policy design to support cross-boundary land management: The example of the Joint Chiefs Landscape Restoration Partnership*, 80 L. USE POLICY 362 (2019), ISSN 0264-8377, <https://doi.org/10.1016/j.landusepol.2018.09.021> available at <https://www.->

Second, SB 762-1 contributes to the creation of **fire-adapted communities** in several important ways. The legislation requires the State Fire Marshal to establish minimum defensible space requirements for private property, requires Oregon to develop a consistent definition of “wildland urban interface,” and requires Department of Land Conservation and Development to update statewide land use codes to reflect the International Wildland-Urban Interface Code, among other important changes. While some Oregonians have been resistant to requiring action on the part of private landowners to reduce wildfire risk around their homes, the fact is that risk reduction cannot be borne by state or federal government alone: we *all* must contribute to this important work. Given that the wildland urban interface has increased by 41% – or 46 million acres – over the past 20 years,<sup>4</sup> the emphasis on home hardening and community preparedness is as urgent as it is necessary.

Finally, SB 762-1 recognizes the need for a **safe and effective wildfire response**. SB 762-1 requires the development and implementation of a statewide emergency plan for responding to wildfires, provides Oregon Department of Forestry fire protection for lands outside of protection districts, and authorizes the state to utilize the fire response capacity of other entities. This traditional fire suppression capacity is important, although WELC observes that Oregon must take additional steps to better integrate fully with the Cohesive Strategy, which identifies the use of prescribed wildland fire and managed wildfire as one of the most effective, and least costly, methods of reducing hazardous fuels and reintroducing fire into fire-dependent ecosystems, thus restoring and maintaining landscapes. Similarly, the Cohesive Strategy identifies the use of prescribed and natural fire as a tool to assist land managers in fighting future wildfires: although perhaps counterintuitive, experts tell us that we can – and must – use fire to fight fire.<sup>5</sup> We would like to see Oregon take additional steps to facilitate the introduction and use of managed fire to achieve resource benefits, include resilient landscapes and fire-adapted communities.

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[sciencedirect.com/science/article/pii/S0264837718310500](https://www.sciencedirect.com/science/article/pii/S0264837718310500); Kelly and Kusel, *Cooperative, cross-boundary management facilitates large-scale ecosystem restoration efforts*, 69 CA. AGRIC. 50 (2015) available at <https://doi.org/10.3733/ca.v069n01p50>.

<sup>4</sup> United States Forest Service, *Areas where homes, forests mix increased rapidly over two decades*, NORTHERN RESEARCH STATION (May 19, 2019), available at <https://www.nrs.fs.fed.us/news/release/wui-increase>.

<sup>5</sup> CNN, *Her tribe tamed wildfires for generations. Their method might surprise you* (Oct. 29, 2020), available at <https://www.cnn.com/videos/us/2020/10/29/california-wildfires-native-americans-prescribed-burn-eg-orig.cnn> (last visited Nov. 14, 2020); Amanda Monthei, *Land Managers Can't Burn the West Fast Enough*, THE ATLANTIC (Oct. 28, 2020), available at [https://www.theatlantic.com/science/archive/2020/10/prescribed-burns-are-failing/-616889/?utm\\_source=feed](https://www.theatlantic.com/science/archive/2020/10/prescribed-burns-are-failing/-616889/?utm_source=feed) (last visited Nov. 14, 2020); Anna M. Phillips, *As wildfires explode in the West, Forest Service can't afford prevention efforts*, LOS ANGELES TIMES (Oct. 21, 2020), available at <https://www.latimes.com/politics/story/2020-10-21/amid-worsening-wildfires-the-forest-service-is-short-of-funds-and-delaying-fire-prevention-work> (last visited Nov. 14, 2020); Philip Connors, *We Made Wildfire an Enemy for 110 Years. It Could Have Been an Ally*, NEW YORK TIMES (Sept. 20, 2020), available at <https://www.nytimes.com/-2020/09/22/us/forest-fires-fighting-history.html> (last visited Nov. 14, 2020).

SB 762-1 is an important step forward in achieving the vision of the Cohesive Strategy. It is also consistent with the recommendations of Oregon Governor Brown's Council on Wildfire Response. WELC supports this legislation, and I urge the Committee to report out this legislation. Thank you for the opportunity to share my thoughts and experiences with you.

Sincerely,

A handwritten signature in black ink that reads "Susan Jane B". The signature is written in a cursive style with a large, stylized initial "B".

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