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Land Use Planning and Development

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Senate Natural Resource Committee
Chair Golden, Vice Chair Girod, Committee Members,

RE SB 509 Amendment 1

As a Land Use Consultant that recently retired after being a part of the land use system in Oregon for over 44 years, I was asked to help review SB 762 and its impact on property owners. I conducted, as a primary presenter, public meetings to explain the provisions of SB 762. I have submitted comments and testimony to the Wildfire Programs Advisory Council, Land Conservation and Development Commission, Building Codes Division, State Fire Marshal, Oregon State University and Jackson County Commissioners. I have also met with Senator Golden to discuss SB 762 at length and in detail. I do have a dog in the fight as I live in a rural area of Jackson County that is proposed to be designated as Extreme Risk on the Wildfire Risk Map.

I am encouraged with some proposals in Amendment 1 to SB 509. The foremost being the creation of a “neighborhood protection cooperative program” to be administered by the State Fire Marshal. The program includes grants for both individuals and municipalities to reduce wildfire risk. The proposal includes on-site consultants to educate owners and identify work to be done to reduce risk. I especially support that as part of the rule making that there would be public hearings in at least six communities in the state that have high exposure to wildfire. I also see the Fire Marshal would also administer an assistance program to assist with grants for home hardening. Additionally there is a requirement to create a central user-friendly website that clearly describes all programs, grant opportunities, requirements, and dates for grant programs from the State Fire Marshal. I had hoped that with 11 state agencies being part of the wildfire bill, that the centralized website would cover all the agencies’ activities not just the Fire Marshal. With the addition of the other involved agencies, these changes in the Amendment would strengthen the impact of SB 762. I fully support these proposed changes.

However, I am concerned about the provisions in Sections 10 and 11 of the Amendment. The opposition to the Wildfire legislation began with a letter to landowners whose property is designated as High or Extreme Wildfire Risk. The letter went on to explain that mandatory requirements that were being developed would apply to all such designated lands. A website was created by ODF and Oregon State University that showed the Wildfire Risk Map. Public meetings that were scheduled in Southern Oregon were combined into a Zoom meeting because there was alleged threats to state officials. According to information released to the Oregonian newspaper by State Forestry, 1700 people participated in the meetings with ODF receiving 2000 emails and over 300 phone calls with hundreds more emails sent to Oregon State University. As a result of the opposition from the initial role out of the program, the Oregonian described the situation; “Last August, the agency (State Forestry) withdrew the map and suspended the appeals process. It has since acknowledged inaccuracies and said it bungled its public communications effort as it struggled to comply with the tight deadlines in the legislation.” Additionally Mark Bennett, chair of the Wildfire Advisory Committee told lawmakers that the time line should be extended so the agency and its partners can deliver a better, more accurate package. Tom

DeLuca, dean of OSU's College of Forestry, agreed, saying some of the data used in developing the map was missing or incorrect or came from data sets that had not been well maintained. Subsequent discussions have led to statements generally saying that if we "follow the science," any new map won't change much from the old map. It is stated in Section 10 of the amendment taken from ORS 476.392, "the State Fire Marshal shall establish minimum defensible space requirements for wildfire risk reduction on lands in areas identified on the statewide map of wildfire risk described in ORS 477.490 as within the wildland-urban interface." This being the map that so angered the landowners together with the mandates to remove and/or modify vegetation and harden structures from fire. Section 10 further states in subsection (2)(e) that the Fire Marshal "Shall enforce the requirements that are applicable to lands within the jurisdiction of a local government." The most objectionable parts of the original bill are retained in this amendment. With no changes to the most objectionable parts of the original SB 762, why would it be expected that people would react differently now?

The only significant thing that has changed is that there will be a program administered by the State Fire Marshal to advise and possibly provide grants to become compliant with the new requirements. If an owner does not choose to become part of the grant program, the requirements for defensible space and structure hardening will still be required and enforced. The changes as proposed will be regarded by property owners as putting "lipstick on a pig". It may look nicer with the "community program" but it is still a pig with mandates and punishment if there is not compliance.

Many agencies and officials have maintained that a map is a necessity and we must have a map of fire risk areas. I don't disagree with the usefulness for a map to display information. However, it should be used to identify in detail the most at-risk areas in the state. Then agencies responsible for forest resiliency, Small Forestland Grant Program, Oregon Conservation Corps Projects and federal forest thinning projects can be concentrated in the most at-risk areas to protect, life, property, and forest resources. From what I saw in the detail of the initial mapping, the accuracy and scale of the layers can identify areas but not the details of individual taxlots. The map should not be used to spotlight individual properties for state scrutiny but should identify neighborhoods for wildfire prevention work.

The overwhelming response from the meetings I have conducted and attended is "why are property owners burdened with these new rules when the biggest problem is federal timber land that poses the most danger to the state and our homes, and they are not required to do anything." What is also concerning is that in the testimony before the Senate Natural Resources Committee by Glenn Casamassa, Regional Forester, United States Forest Service was asked specifically what was learned and what can be done differently in light of the disastrous large fires on federal land in the last few years. He could not provide any positive answer citing the numerous acts that they must follow and the unprecedented conditions surrounding the fires.

I am disappointed in the Amendment as proposed and implore you to eliminate the mandates on private property. The course correction should be to create voluntary incentive programs as described in Sections 2 through 7 to give the people a chance to reduce fire risk before another program exerts more government control of private property. This will also give government agencies time to implement the other provisions of SB 762 that affect the agencies in an effort to reduce wildfire risk. If voluntary programs are found not to be working, the topic can be revisited at a future date.

Respectfully,

Bob Hart, Land Use Consultant