

September 3, 2023

Dear Housing Production Advisory Council,

My name is Hannah Althea. I'm an Urban and Regional Planning graduate student, and I deeply care about environmental issues, the built environment, and how those interactions have tangible, daily impacts on people's wellbeing and equity, particularly in our ever-changing world.

I am writing to you today regarding the proposal to allow residential development in nonconnected wetlands through loosening definitions and expanding mitigation banks, and loosening restrictions on preserving tree canopy, but particularly regarding building housing on wetlands. This is what a planner might deem a "wicked problem". It's sticky, complex, and it seems like there's no right answer...but in this case, the answer is very clear: building on wetlands is short-sighted, and **follows a pattern of urban/rural development for a climate we do not have anymore.**

It's helpful to turn to the question of equity to help inform our decision-making. History shows that building on wetlands - even nonconnected ones - will result in any buildings developed on those lands and their inhabitants being at much higher risk of flooding. Here are just a few of many examples of those consequences:

- In Philadelphia, the brilliant Anne Whiston Spirn found a connection between the filling of Mill Creek in the 1880s and a pattern of urban disinvestment. She found that buildings developed on these floodplains fell apart and eventually resulted in empty lots, furthering the cycle of poverty and disinvestment ([video](#)).
- In our very own Portland, Oregon, "the Columbia River, roaring downstream fifteen feet above the floodplain in Portland, undermined a railroad embankment that served as a dike, starting a flood that would leave 18,000 people homeless and significantly alter race relations in Portland." Despite a relatively low population of Black people in Portland in general, in proportion, the Vanport region had a high concentration of Black community members, and as a result, 1/3 of those who became homeless from the Vanport floods were Black. ([source](#))
- Not only that, lost wetlands have a resounding impact on remaining wetlands: ".. A study of a small Canadian watershed estimates that the combined effect of all wetlands

(approximately 15 percent of the basin area) reduces flood peaks by 10 percent. Conversely, the loss of wetlands has been found to increase flood risk. In fact, studies have found a strong positive correlation between individual wetland permits and flood damages. That is, projects that alter wetlands (particularly in the 100-year floodplain) result in significantly greater flood damage.” ([source](#)) Flood damage costs money - and the people who can least afford it are going to be the most impacted. This is only being exacerbated by climate change.

Wetlands are imperative because they make our environments more habitable. They become less prone to flooding, the water quality is better, they house a wide variety of flora and fauna, they keep regions cooler (again, very important in our changing climate) and they make Oregon beautiful which attracts taxpayers and tourists. The more we lose, the more pressure is put on other wetlands that receive more inundation of pollutants concentrated in their waters, and are more susceptible to invasive species.

Even with FEMA’s requirement of flood insurance, complications still remain: Low income communities are less likely to afford it, and even if they do pay for it, it’s hard for those same people to then find housing outside of a floodplain since it’s generally more expensive. [FEMA is rapidly losing money with the increased pressure from climate change induced-extreme weather events, such as the Maui wildfires of this summer.](#) As a result, FEMA has to make tough choices. Oregon will have to make tough choices in the wake of increased flooding events.

To end this humanitarian crisis and do it well so it doesn’t just result in more harm, we need to build smarter, *not* take shortcuts that ultimately benefit developers at the expense of the people who will live in these regions. It’s a tale as old as time, and we can do better. Oregonians deserve better.

Climate change has forever altered the way we experience our environment. It’s time to become resilient, part of which means honoring the natural world we still have. It is also very clear that we need to address the problem of affordability to tend to homelessness in Oregon.

Homelessness is not a result of lack of housing stock, but rather, the financialization of the housing market that has rapidly increased in price over time. It’s about profits being prioritized over people, time and time again.

Thank you,
Hannah Althea



Testimony by City of Wilsonville on Draft HPAC Recommendations Scheduled for 2nd Reading October 27, 2023

Dear Co-Chairs Tovey and Hall and Members of HPAC:

On behalf of the City of Wilsonville, we submit the following testimony for draft recommendations scheduled for 2nd reading on October 27, 2023.

As a jurisdiction with great concern about the future of housing for our current residents, future generations, and those that desire to live here, the City has taken a great interest in the Housing Production Advisory Council's (HPAC's) work. City staff has participated in most HPAC hearings, as well as joined a number of subcommittee meetings both as subject matter experts (SMEs) and as an interested party. It is clear from discussion in prior hearings that the Council is mostly forwarding recommendations unmodified, regardless of testimony received, due to the short timeline and under the presumption that the recommendations will either not move forward or be substantially refined during subsequent review by the Governor's Office and Legislature. With this in mind, it does not seem prudent for the City to invest additional resources in a detailed response to the additional various recommendations. Rather, the City would like to put on the record is that there are **feasibility and implementation concerns** with a many of the recommendations and that **our lack of specific response should not be in any way be assumed as a disinterest in or support of any of the recommendations**. We look forward to continuing to partner with the Governor's Office, Legislature, Oregon Department of Land Conservation and Development (DLCD), the development community, and others to move forward and refine implementable concepts reflected in the HPAC's final recommendations.

From: [Lindsay Costello](#)
To: [GOV Hpac * GOV](#)
Subject: Wetland Advocacy Testimony
Date: Tuesday, September 5, 2023 6:01:34 PM

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Sept 5, 2023

To the Housing Production Advisory Council:

My name is Lindsay Costello. I am a long-time Oregon resident, nature lover, and journalist.

I am writing to you today regarding the proposal to allow residential development in nonconnected wetlands through loosening definitions and expanding mitigation banks, and loosening restrictions on preserving tree canopy, but particularly regarding building housing on wetlands. Building on wetlands is short-sighted, and follows a pattern of urban/rural development for a climate we do not have anymore.

It's helpful to turn to the question of equity to help inform our decision-making. History shows that building on wetlands, even non-connected ones, will result in any buildings developed on those lands and their inhabitants being at a much higher risk of flooding. Here are just a few of many examples of those consequences:

In Philadelphia, the brilliant Anne Whiston Spirn found a connection between the filling of Mill Creek in the 1880s and a pattern of urban disinvestment. She found that buildings developed on these floodplains fell apart and eventually resulted in empty lots, furthering the cycle of poverty and disinvestment.

In our very own Portland, Oregon, “the Columbia River, roaring downstream fifteen feet above the floodplain in Portland, undermined a railroad embankment that served as a dike, starting a flood that would leave 18,000 people homeless and significantly alter race relations in Portland.” Despite a relatively low population of Black people in Portland in general, in proportion, the Vanport region had a high concentration of Black community members, and as a result, 1/3 of those who became homeless from the Vanport floods were Black.

Not only that, lost wetlands have a resounding impact on remaining wetlands: “.. A study of a small Canadian watershed estimates that the combined effect of all wetlands (approximately 15 percent of the basin area) reduces flood peaks by 10 percent. Conversely, the loss of wetlands has been found to increase flood risk. In fact, studies have found a strong positive correlation between individual wetland permits and flood damages. That is, projects that alter wetlands (particularly in the 100-year floodplain) result in significantly greater flood damage.” Flood damage costs money, and the people who can least afford it are going to be the most impacted. This is only being exacerbated by climate change.

Wetlands are imperative to protect because they make our environments more habitable. They become less prone to flooding, the water quality is better, they house a wide variety of flora and fauna, they keep regions cooler (again, very important in our changing climate) and they make Oregon beautiful which attracts taxpayers and tourists. The more we lose, the more pressure is put on other wetlands that receive more inundation of pollutants concentrated in their waters, and are more susceptible to invasive species.

To end this humanitarian crisis and do it well so it doesn't just result in more harm, we need to build smarter, not take shortcuts that ultimately benefit developers at the expense of the people who will live in these regions. It's a tale as old as time, and we can do better. Oregonians deserve better.

Climate change has forever altered the way we experience our environment. It's time to become resilient, part of which means honoring the natural world we still have. It is also very clear that we need to address the problem of affordability to tend to homelessness in Oregon. Homelessness is not a result of a lack of housing stock, but rather, the financialization of the housing market that has rapidly increased in price over time. It's about profits being prioritized over people, time and time again.

Thank you,

Lindsay Costello
Portland, Oregon

From: lmgb@earthlink.net
To: [GOV Hpac * GOV](#)
Subject: Need to have strong environmental considerations
Date: Monday, October 30, 2023 2:26:14 PM
Importance: High

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I think the lack of anyone with strong environmental credentials, makes this advisory committee totally unprepared to make good and rational decisions regarding the future of residents here in Oregon. What good will it do to build 36,000 units that are not affordable? What 36,000 residents/people will be able to afford \$450,000 homes with 8% mortgage interest. Even if they can afford them, with no trees to clean air and offer shade, the electricity needed to air condition these homes will add tremendously to our already "emergency" climate crisis. It's totally absurd to be cutting any trees over 8" in diameter.....totally irresponsible to present and future generations. Please read this article from 11/30 Washington Post.

Why many scientists are now saying climate change is an all-out 'emergency'

Escalating rhetoric comes as new study shows there's just six years left to keep global warming to 1.5 degrees Celsius at current CO2 emissions rate.

By Shannon Osaka

Updated October 30, 2023 at 10:05 a.m. EDT | Published October 30, 2023 at 6:00 a.m. EDT

More than 15,000 scientists around the world signed on to an academic paper warning of a climate emergency. (Noah Berger/AP)

Bill Ripple had never been an activist.

The Oregon State University ecologist had spent his career wandering through the hills and canyons of Yellowstone National Park, tracking the health of wolves and other large carnivores. Nor was he particularly outspoken: As a college student, he was so concerned about taking a debate class that he considered dropping out and returning to his family farm.

Sign up for the Climate Coach newsletter and get advice for life on our changing planet, in your inbox every Tuesday and Thursday.

But then, in 2018, Ripple saw pictures of a town called Paradise, Calif., completely destroyed by wildfire. Houses had disappeared in the blaze; all that remained were twisted hunks of metal and glass. Ripple started writing a new academic paper. He called it: "World Scientists' Warning of a Climate Emergency." He sent it to colleagues to see if anyone wanted to sign on. By the time the paper was published in the journal *Bioscience* in 2019, it had 11,000 signatures from scientists

around the world — it now has more than 15,000.

“My life completely changed,” Ripple said. He is the subject of a 30-minute Oregon State University documentary; he gets constant media requests and calls to collaborate from scientists around the world. Last week, he published a new paper on the state of the climate system.

It was called “Entering Uncharted Territory.”

“Scientists are more willing to speak out,” Ripple said. “As a group, we’ve been pretty hesitant, historically.” But, he added, “I feel like scientists have a moral obligation to warn humanity.”

After a few years of record-breaking temperatures and extreme weather events, Ripple’s experience is a sign of how climate scientists — who once refrained from entering the public fray — are now using strident language to describe the warming planet. References to “climate emergency” and “climate crisis,” once used primarily by activist groups like the U.K.-based Extinction Rebellion or the U.S.-based Sunrise Movement, are spiking in the academic literature. Meanwhile, scientists’ communication to the media and the public has gotten more exasperated — and more desperate.

On Monday, scientists released a paper showing that the world’s “carbon budget” — the amount of greenhouse gas emissions the world can still emit without boosting global temperatures more than 1.5 degrees Celsius — has shrunk by a third. The world only has 6 years left at current emissions levels before racing past that temperature limit.

“There are no technical scenarios globally available in the scientific literature that would support that that is actually possible, or can even describe how that would be possible,” Joeri Rogelj, a climate scientist at Imperial College London, told reporters in a call.

Tim Lenton, one of the co-authors on Ripple’s most recent paper and a professor of earth system science at the University of Exeter, said that 2023 has been filled with temperatures so far beyond the norm that “they’re very hard to rationalize.” “This isn’t fitting a simple statistical model,” he said.

Lenton said he isn’t afraid to use terms like “emergency” or “climate and ecological crisis.” “If you say ‘urgent’ to a politician ... that isn’t really enough,” he said.

It wasn’t always this way. In the 2000s and even early 2010s, most scientists shied away making any statements that could be seen as “political” in nature. Jacquelyn Gill, a professor of climate science and paleoecology at the University of Maine, said that when she was doing her PhD in the late 2000s, senior academics warned her against deviating at all from the science when interacting with the media or the public.

“We were actively told if we start to talk about solutions, if we start to talk about the policy implications of our work, we will have abandoned our supposed ‘scientific neutrality,’” Gill said. “And then people will not trust us anymore on the science.”

Susan Joy Hassol, a science communication expert who has worked with climate researchers for

years, says that even a decade ago, climate scientists were uncertain what their role was in communicating the dangers of rising temperatures. “I think at least some of them felt that scientists communicate through IPCC reports,” Hassol said, referring to the United Nations Intergovernmental Panel on Climate Change. ““We do our science, we publish, we put together these reports, and it’s kind of up to other people to listen.””

Now, she said that has changed. “We have reached this stage of crisis,” she said. It isn’t just the fact that emissions still aren’t going down — or that policy hasn’t responded quickly enough to the challenge. (Carbon dioxide emissions related to energy use have continued to climb, even following the brief downturn of the covid-19 pandemic.) As the impacts of climate change escalate, scientists say that their language has changed to meet the moment.

When it comes to terms like “climate emergency,” Gill says, “it’s a little bit of strategy and a lot of honesty.” While climate scientists are still discussing whether warming is accelerating, she added, “it’s clear the impacts are becoming more noticeable and in-your-face.”

Hassol said that the shift is simple. In the 2000s, she said, climate change wasn’t yet at the level of an emergency. She recalls a 2009 report called the Copenhagen Diagnosis, which analyzed climate science to date and made suggestions for how to reach net-zero carbon emissions. If world governments had acted swiftly, the world would have only had to cut emissions by a bit over 3 percent per year. “We called that the bunny slope,” Hassol recalled.

If, on the other hand, governments didn’t start the transition until 2020, cuts would have to be much steeper — up to 9 percent per year. “We called that the double-black diamond,” she said. Despite the brief respite in CO2 emissions during the pandemic, humanity’s trajectory has veered closer to the double-black diamond path.

At the same time, many scientists realize that even the best communication in the world isn’t enough to overcome the inertia of a fossil-fuel based system — and the resistance of various oil and gas companies.

“The problem is not that scientists haven’t been communicating clearly enough,” Hassol said. “We communicated pretty darn clearly. Anyone who wanted to hear the message — it was there.”

Lora Meisner
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503-588-6924



TO: Co-Chairs Toevy & Hall
Members of the Housing Policy Advisory Council
HPAC.GOV@oregon.gov

FROM: Oregon Recreation & Park Association

DATE: October 13, 2023

RE: HPAC draft recommendations on SDCs

On behalf of over 2,200 park and recreation professionals, agencies, and volunteers represented by the Oregon Recreation and Park Association (ORPA) we thank you. We appreciate the intense and time consuming work the HPAC members have dedicated to finding solutions that will help Oregon increase housing production. We too are looking for ways to help that occur. Please consider this letter sharing our beliefs and some concerns specific to the Finance SDC Recommendation submitted 8/30/23.

We understand the need for housing, especially affordable housing, in our state. But people of all income levels deserve parks and open areas. People in all housing types need to have outdoor opportunities. **People with fewer options for inside, need more options for outside.** Park and recreation facilities are a critical part of a healthy and thriving community. As areas across the state increase density, Park SDCs are not an obstacle but a means to ensuring that all Oregonians have equitable access to high-quality parks, nature, trails, and recreation facilities—not just those living in certain neighborhoods or areas of a community. **We urge you to not take away abilities or build barriers to continuation of parks SDCs.**

Specific to the HPAC Finance Work Group recommendation, we have the following questions/concerns:

- As reported in the 2022 Oregon System Development Charges Study, there are no guarantees developers will lower their home prices and keep the prices lower if an SDC is not collected at the time of construction. It is unclear what this concept can achieve to make homes more affordable.
- Is this limited to cities, or are counties and special districts also involved in the loan program?
- How is “essential infrastructure” defined within this recommendation? If a piece of public infrastructure is not defined as “essential,” how would local governments fund providing it?
- Would having local governments seek loans for infrastructure from the state, require a new layer of processes for local governments with the potential unintended consequence of slowing down the provision of essential public infrastructure and thereby limiting the capacity of existing infrastructure to accommodate new development? And does the state Department of Revenue have the resources to administer a loan program?
- What criteria would local jurisdictions need to meet to apply for infrastructure loans from the state?
- Currently, SDCs are an important leveraging tool for state and federal grants. Given that many local jurisdictions' general funds are constrained, what funds would replace SDCs to satisfy state and federal grant fund matching requirements?

We cannot stress enough the critical need for SDCs to ensure public spaces are not just created for those who can afford larger homes, but are equitable for all Oregonians. The impacts of any growth creates a burden for park systems and any adjustment to SDC structures could jeopardize park and recreation agencies' ability to serve its growing and evolving community. Thank you for your consideration of our concerns. We would welcome the opportunity to discuss some of our idea with HPAC members when the time is right in your deliberations.

From: [Kathy Wilde](#)
To: [GOV Hpac * GOV](#)
Subject: Codes and Design Workgroup Recommendation on Accessibility
Date: Friday, October 27, 2023 11:26:51 AM

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Greetings -

By and large, I applaud the accessibility and visitability recommendations to the HPAC, and urge their approval and adoption.

There were two additional recommendations that were mentioned in the report, but not included in the recommendations for action, that I would urge the HPAC to adopt.

First involves having the “state provide a connection point between landlords with available units and renters with accessibility needs. This way, when a landlord has an accessible unit available, they have a way to match with a person in need, rather than the next available renter.” It was mentioned in the first section of its report, but not included among the recommendations for action. It is important that it be adopted! One way to achieve this would be to contract with a private entity (Multifamily NW?) to create and manage the site.

Second, the Codes and Design workgroup recommended that the building code be amended to require backing be installed in all bathrooms on the ground floor of housing units for future installation of grab. This feature should also apply to new single family homes, as part of the visitability design recommended by the workgroup.

Thank you for the opportunity to provide public comment!

Sincerely,

Kathleen L. Wilde
Subject Matter Expert
Housing Land Advocates

October 27, 2023

Re: Climate-Friendly and Equitable Communities: Codes and Design Testimony

To Whom it May Concern:

I am writing to encourage the Housing Production Advisory Council to advance both housing production strategies and the reduction of vehicle miles traveled through Climate-Friendly and Equitable Communities. Although these efforts are complicated, pausing this important work will continue to exacerbate the dire need for affordable and accessible housing and our communities' interface with the deleterious effects of climate change.

Additional funding and technical support for cities is needed so their staff can accomplish needed analyses, develop appropriate strategies, and changes to local codes and community design.

I encourage the Advisory Council to continue to work toward equity goals that target both mobility options and accessible housing for people with disabilities and older adults. Based on my work in Portland as a planner and academic, people with disabilities have reported conflict between climate goals and accessibility; one should not outweigh the other. Our aging population structure – older adults are Oregon's fastest growing population segment – will require improvements to accessible transportation and mobility options, innovative accessible and affordable housing options, and climate-friendly areas that serve as complete communities (i.e., 15- or 20-minute neighborhoods).

Sincerely,



Alan DeLaTorre, Ph.D.

Adjunct Faculty

Portland State University | Institute on Aging | College of Urban and Public Affairs



Oregon

Tina Kotek, Governor

Department of State Lands

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State Land Board

September 7, 2023

Tina Kotek

Governor

To: Co-Chair Tovey, Co-Chair Hall, Council Members
Oregon Housing Production Advisory Council

LaVonne Griffin-Valade

Secretary of State

From: Christopher Castelli, Interim Deputy Director, Oregon Department of
State Lands

Tobias Read

State Treasurer

Subject: Comments on the Housing Production Advisory Council Workgroup
Recommendations for Wetlands (A & B) – August 17, 2023

The Oregon Department of State Lands (DSL) appreciates the opportunity to comment on the joint recommendations for wetlands from the Housing Production Advisory Council's Availability of Land and Land Development Permit Applications workgroups.

Wetlands are tremendously important to Oregon communities. Wetlands clean water, reduce costly damages from flooding, and provide natural areas for people and wildlife. Oregon's laws and policies reflect the value of protecting wetlands for current and future generations of Oregonians.

DSL administers Oregon's Removal-Fill Law, which requires permits for projects that add or remove materials in wetlands, and Oregon's Wetlands Conservation Act. DSL staff are subject matter experts on wetland regulations and wetland mitigation. We work with permit applicants, local communities, and state and federal agencies to ensure projects avoid and minimize impacts to wetlands and compensate for any unavoidable losses.

In general, DSL believes Oregon can continue to protect wetlands while supporting housing production by:

- Expanding the pace and scale of mitigation. With additional resources, including staff and funding, the Department can commit to faster and expanded processes.
- Expanding existing fee-in-lieu programs to create more options for compensatory mitigation. DSL supports the workgroup recommendation to expand these programs.

- Prioritizing where efforts and resources should be focused. It may take years to reach the scale of Governor Kotek's Executive Order, but with further direction on priority areas, near-term progress can be made as additional resources are provided.
- Partnering with local governments and communities to plan for wetland protections, complete advance work to streamline permitting, and identify opportunities for mitigation.

As the state's experts on wetland regulation and mitigation, DSL staff reviewed the workgroup recommendations and is pleased to provide the below comments. The comments previously provided to the workgroup on August 14, 2023 are attached as well.

Our comments primarily seek to ensure the Council has accurate information about Oregon wetland regulations and the anticipated impacts of these recommendations, as well as essential context and data for considering these recommendations. DSL has also identified several workgroup recommendations that the Department is unable to support, given the extreme impacts of those recommendations on Oregon's wetlands and the communities depending on those wetlands for clean water and flood protection.

DSL Comments on HPAC Workgroup Recommendations for Wetlands (A & B) – August 17, 2023

The following comments provide information about existing Oregon law and DSL policies and programs. Much of the information is provided for greater understanding and context. When DSL does not support a specific workgroup recommendation, that is indicated and discussed in detail. Comments are organized into the following sections:

- I. Oregon’s Removal Fill Law
- II. Oregon Department of State Lands 2018-19 rulemaking on mitigation eligibility and accounting
- III. Mitigation Banking in Oregon
- IV. Mitigation Banking sponsored by Oregon Department of State Lands (In-lieu Fee, and Payment in Lieu mitigation)
- V. Voluntary wetland restoration projects and mitigation credits
- VI. Oregon’s Goal 5 land use planning, wetland inventories, and Advanced Aquatic Resource Planning

I. Oregon’s Removal Fill Law

DSL does not support the removal of state protections from wetlands within urban growth boundaries of cities or the recommendation that the people of Oregon bear the entire cost of offsetting the effects of these wetland losses (*recommendation B page 1*).

State laws in Oregon protect the natural resources that are important to Oregonians, including streams and wetlands. Oregon requires protection and replacement of wetlands under the Removal-Fill Law. The “waters of the state” protected under our state law are different than Waters of the United States (WOTUS) regulated by the federal government. Before state protections were in place, many wetlands were lost – about 57 percent in the Willamette Valley; 75 percent in the Klamath Basin; and up to 94 percent in coastal estuaries ([Historical Loss of Wetlands, Oregon Explorer](#)). There is ongoing loss or degradation of wetlands associated with activities that are exempt from the Removal-Fill Law. For example, up to 50 cubic yards of fill into most wetlands is unregulated, as are many activities for farm uses and activities in wetlands on land zoned for exclusive farm use.

The workgroup recommendations highlight a recent study of wetland and land use change in the Willamette Valley between 2005 and 2020 that showed a net gain of 571 acres of wetland (*recommendation A, section 4, page 6*). While accurate, the gain should not be characterized as new wetlands. These gains were primarily from wetlands converted to other uses, such as upland agriculture, prior to 2005 that by 2020 had reverted to wetlands and are now being utilized for more wet-tolerant crops such as ryegrass.

The “marginal or degraded wetlands” referenced in the recommendations are primarily wetlands that are under agricultural management, for example, grass seed fields or pasture in the Willamette Valley. These wetlands are degraded in that they have altered hydrology, vegetation, and soils relative to less disturbed wetlands; however, these wetlands still provide critical functions such as flood protection, winter season salmon habitat, support for other fish and wildlife species, improving water quality, and

groundwater recharge. The effects of climate change make these functions even more valuable today than in the past. Mitigation for losses of these wetlands ensures these important wetland functions are still provided for communities and the environment.

The outcomes of removing state protections from wetlands on residential properties within the urban growth boundaries of cities are not described in the *expected outcomes* sections of the recommendations (*recommendation B, section 4, page 6*). The removal of state protections would result in loss of many important wetlands and would not be limited to “degraded” or “marginal” wetlands as described in the recommendation documents. The reduction in federal wetland protections resulting from the Sackett v. EPA Supreme Court decision is not specific to “degraded” or “marginal” wetlands but includes numerous wetlands providing critical functions throughout Oregon. Our state has identified some of these wetlands as Aquatic Resources of Special Concern because they are rare and valued by the people of Oregon, such as the vernal pools near Medford that are the home to rare species. DSL is waiting for further information from the Environmental Protection Agency (EPA) and U.S. Army Corps of Engineers (Corps), and guidance from the Corps’ Portland District, regarding implementation of the Sackett decision.

II. Oregon Department of State Lands 2018-19 rulemaking on mitigation eligibility and accounting

References to the 2018-19 rule changes are inaccurate. For example, the *“data and information needed”* section (*recommendation A, section 7, page 8*) states an action DSL needs to take is provide a map of *“margin[al] wetlands within the Urban Growth Boundaries that would have been developable prior to 2019. If the 2019 regulations are not repealed, Urban Growth Boundaries that were drawn for municipalities future growth prior to that date should be evaluated and potentially re-drawn.”* The rule updates in 2018-19 did not change the definition of what a wetland is or include any rule on the development of wetlands within urban growth boundaries. It is local governments who determine, through the goal 5 planning process, which wetlands should be developed, protected, or restored.

The 2018-19 rulemaking made changes to compensatory mitigation eligibility and accounting – this is how DSL confirms that mitigation proposed by a permit applicant matches the type of wetland (or stream) being impacted by a development activity, and how DSL calculates how much mitigation needs to be provided.

Prior to 2019, we calculated the amount of required mitigation based on if the method of mitigation resulted in a net gain of wetlands (restoration), a net loss in wetlands (enhancement and preservation), or a gain with temporal delay (creation). Studies showed the practice of requiring acre for acre mitigation leads to an overall loss of functions of aquatic resources across the nation. In a review of the replacement amounts (often referred to as “mitigation ratios”) required in other parts of the United States we were unable to find any state or region with lower replacement requirements than Oregon and many had higher requirements in recognition of the ongoing net loss of wetlands due to insufficient mitigation requirements.

Through the rulemaking process, DSL adjusted how much mitigation is required based on how well the mitigation wetland replaces the lost wetland functions and how long features at the mitigation site would take to develop. In most cases the cost of offsetting wetland impacts has increased because more

mitigation is required. DSL also provided opportunities in rule to reduce the amount, such as by providing more than the minimum long-term site stewardship.

DSL does not support the recommendation to suspend the soil temporal loss rule that was adopted through the 2018-19 rulemaking (*recommendation A3 pages 1 & 2*). The adjustment for the creation of new wetlands from uplands was reflected in rule previously. An adjustment was added for situations when wetland soils will be appreciably disturbed during mitigation site construction. The adjustment reflects well-supported scientific research that soil disturbance results in a delay in soil processes, and therefore a delay, or temporal loss in replacement of wetland functions. DSL conservatively assumed the delay will be for 20 years, however the actual number of years may be much longer based on the scientific research reviewed.

III. Mitigation Banking in Oregon

It is not clear how the recommendation for DSL to require a mitigation bank in every watershed basin would be achieved (*recommendation A1, page 1*). The recommendation does not specify who that requirement is directed to and information on the implementation of this recommendation is not provided in of the *Standards for Analysis (recommendation A, section 6, page 8)*.

Based on the overview of housing production issues provided in the recommendation it appears that the belief is the three-year suspension of the soil temporal loss rule would allow the development of more mitigation banks and that the 2019 rule has prevented mitigation banks from being established. This is not accurate; DSL has not experienced a reduction in mitigation banking interested or sponsors entering the mitigation bank approval process. Dairy Creek mitigation bank was recently authorized under the new rules and began construction. DSL's mitigation staff are currently working with the sponsors of 6 other potential mitigation banks as well as responding to regular inquires on other new banks.

IV. Mitigation Banking sponsored by Oregon Department of State Lands (In-lieu Fee, and Payment in Lieu mitigation)

DSL supports the recommendation to expand the existing In Lieu Fee (ILF) and Payment in Lieu (PIL) programs for wetland mitigation (*recommendation A2 and A4, pages 1 & 2*). This recommendation would directly address the “lack of available wetland mitigation banks” housing production issue identified by the workgroups.

It is important to note, however, that developing credits in every Oregon watershed would be a huge undertaking over many years. Should this recommendation be adopted, DSL recommends prioritizing a small number of watersheds e.g., those with the greatest housing needs and wetlands encumbering the developable lands. DSL would need local and state government partners to help identify local needs and potential projects. DSL would also need additional staff and funding resources to implement this recommendation and we would need a sense of the scope of the expansion (how many watersheds over what timeframe) to provide an informed estimate of staffing and funding required.

DSL could develop a proposal to expand the ILF program agreement to have credits available in additional areas of the state. Expansion of the ILF program will require that DSL develop the supporting information required by the Corps, which must be specific to the service area(s) being requested. Since the Corps review and approval process may take over a year, sequencing our requests based on priority areas is recommended. DSL would need to know the priority areas identified by the HPAC so that we can prioritize those areas first.

DSL has used a competitive bid process in the ILF program to provide credits in a target watershed and has also purchased mitigation bank credits with PIL and ILF funds (*recommendation A4 a & b, page 2*). This is an approach that we can implement with additional resources and funding, starting in priority basins.

Expanding DSL’s existing PIL program would make it even more challenging to meet the state’s goals of wetland replacement and to meet our key performance measure of using the PIL funds on a wetland project within 1 year of collecting those dollars. DSL will need to partner with local governments and

Background: Compensatory Mitigation Fee Programs

DSL has two fee-in-lieu programs. The **In-Lieu-Fee (ILF)** program can be used to satisfy both state and federal compensatory mitigation requirements. **Payment-In-Lieu (PIL)** program can only be used to satisfy state compensatory mitigation requirements. For the Corps-approved ILF program DSL currently has 6 service areas approved. The PIL program can be used anywhere in the state if no suitable mitigation bank credits or ILF credits are available.

Federal mitigation rules require that an ILF program begin project construction at an approved ILF mitigation site within 3 growing seasons of selling an advance credit. To lower our risk of non-compliance, DSL’s current practice is to wait to sell credits until we have a project identified. This also helps DSL price the mitigation credits because the cost of the project can be more accurately estimated.

natural resource organizations in priority areas to identify and implement mitigation projects in addition to needing more staff resources.

DSL can allow out-of-kind use of PIL mitigation funds to promote certain functions like water treatment or flood storage when it is a demonstrated watershed priority. Current rules also allow wetland mitigation projects to fulfill multiple purposes including stormwater retention or detention if the compensatory mitigation requirements are still met (OAR 141-085-0680 (3)(h)). However, statute (ORS 196.650) does not allow funds collected to be used for a standalone storm water treatment facility or other infrastructure that are not also waters of the state (*recommendation A2 part b i. and ii., page 1*). DSL does not recommend this change because the loss of local wetlands and their benefits, like flood storage, ground water recharge, and fish and wildlife habitat, could result in significant adverse impacts.

DSL could also consider using PIL dollars to fund the development of private or public mitigation banks (as described in *recommendation A2 part b iii., page 1*). Under this type of partnership, DSL contracts with a bank sponsor for a portion of the bank credits that will be developed. Any remaining credits could be sold by the bank sponsor at market price. DSL has used this approach in the Umpqua basin with the Yoncalla Creek Mitigation Bank.

V. Voluntary wetland restoration projects and mitigation credits

In *recommendation A5, page 2*, it needs to be acknowledged that funds provided through the Oregon Watershed Enhancement Board (OWEB), or to non-OWEB funded projects that report to the Oregon Watershed Restoration Inventory, may have restrictions on how resulting project benefits can be used. Some funders may not allow those benefits to be sold as credits for impacts, and OWEB has a policy in place to acknowledge this. DSL would need to closely work with OWEB on projects that may be eligible to be used as mitigation and determine what the funding source would allow.

There is not an overview of implementation of this recommendation provided in *section 6, page 8* of the *Standards for Analysis* in the recommendations document. It's not clear who would "own" the credits from those voluntary habitat projects and how they would be allotted or sold for housing projects.

VI. Oregon's Goal 5 land use planning, wetland inventories, and Advanced Aquatic Resource Planning.

We want to provide clarification on statements made in the recommendations document (*recommendation A, section 2, part 4, page 5*) regarding the Statewide Wetland Inventory (SWI). In developing the SWI update, DSL understood gaps in the National Wetlands Inventory were inhibiting local governments from correctly identifying possible wetland areas. To support those communities in the land use planning and the wetland land use notice (WLUN) process we added a soil type layer to the online SWI map to indicate areas where unmapped wetlands may exist based on the type of soils mapped in those areas. As noted on the SWI web page, this layer does not indicate that these areas *are* wetlands but rather indicates areas needing additional investigation via the WLUN process.

The WLUN process allows DSL wetland professionals to complete a quick check of an SWI flagged resource area and give the local government and applicant knowledge of whether wetlands are present in the project area, and whether the described project might require a DSL removal-fill permit. This is a

quick and free way for the local government and applicants to understand what permitting steps may – or may not – be needed with DSL.

Communities with local wetland inventories (LWI), such as Adair Village, Creswell, Harrisburg, and Philomath, use that information on wetland location and functions for Goal 5 planning and WLUN. This means that local governments with approved LWIs would not be using soil layers from the SWI that are included to indicate that wetland *may* be present.

The LWI process is the best way to have accurate wetland mapping. Local governments need the financial and capacity resources to do this work which is often supported by DLCD community technical assistance grants. An increase in grant funds would support more communities in preparing or updating older LWIs, especially our smaller communities.

The “*data and information needed*” section (*recommendation A, section 7, page 8 & 9*) states that DSL should be directed to coordinate with local governments to develop an Advanced Aquatic Resource Plan AARP for each basin in the state. AARPs are a planning tool to help resolve development and aquatic resource conflicts and streamline future removal-fill permit application processes. DSL has worked with local government previously to develop AARPs but the direction to create an AARP at the scale of an entire basin is unlikely to achieve desired results or be possible. AARPs require a sponsor to direct and fund the effort and the process requires wetland mapping and assessments. Information documented in an LWI can be used as part of an AARP. Providing funding for LWIs would be a better initial investment to provide local and regional certainty about wetland locations and support comprehensive planning based on more accurate information.

Additionally, prior attempts to finalize AARPs were not successful because the U.S. Army Corps of Engineers could not approve the advance alternative analysis. If there were no federally jurisdictional wetlands within the AARP study area, DSL and local governments would have the flexibility to develop AARPs. A significant expansion of the number of AARPs would require additional staff and funding resources at DSL. We would also need a sense of the scope of the AARP development effort (how many cities and counties and over what timeframe) in order to provide an informed estimate of staffing and funding required. Many or most local governments would require financial support for this process.

Table 1 – Mitigation Credits and Service Area. [See a map of mitigation bank service areas here.](#)

Mitigation Bank or ILF project	Total possible credits	Balance of credits remaining out of total possible	Counties in Service Area <i>(Coverage may not include the entire county listed)</i>
Amazon Prairie	92.79	86.82	Benton, Lane, Lincoln, Linn, Polk
Butler	45.60	12.01	Clackamas, Columbia, Multnomah, Tillamook, Washington, Yamhill
Claremont	11.62	4.84	Clatsop
Clear Lake	6.60	2.59	Clatsop
Dairy Creek	60.72	60.72	Clackamas, Columbia, Multnomah, Tillamook, Washington, Yamhill
Foster Creek	28.1	1.25	Clackamas, Multnomah
Garret Creek	15.49	3.53	Clackamas, Marion
Half Mile Lane	13.24	6.75	Clackamas, Columbia, Multnomah, Tillamook, Washington, Yamhill
Kilchis	4.53	2.1	Lincoln, Polk, Tillamook, Yamhill
Linnton Mill			Clackamas, Columbia, Multnomah
Long Tom	61.14	<1	Benton, Lane, Linn, Polk
Marion	34.09	1.9	Lane, Linn, Marion
Mary's River	71.41	52.82	Benton, Lane, Lincoln, Linn, Polk
Muddy Creek	60.33	7.36	Benton, Lane, Lincoln, Linn, Polk
Mud Slough	43.80	6.0	Clackamas, Marion, Yamhill, Polk
Pixieland	7.43	4.91	Lincoln, Polk, Tillamook
Rogue Valley Vernal Pool	24.70	6.09	Jackson, Josephine, Klamath
South Santiam	50.49	40.92	Benton, Lane, Linn, Marion
Tamara Quays	3.08	1.27	Douglas, Lincoln, Polk, Tillamook
Tualatin Valley	31.13	6.45	Clackamas, Columbia, Multnomah, Tillamook, Washington, Yamhill
Wilbur Estuary	44.12	41.15	Benton, Lane, Lincoln, Douglas
Yoncalla Creek	26.49	22.97	Coos, Douglas



OREGON PROPERTY OWNERS — ASSOCIATION —

October 23, 2023

Office of the Governor
900 Court St., Suite 254
Salem, OR 97301-4047
ATTN: Housing Production Advisory Council

Re: Wetlands Recommendation Options A & B

Dear Council:

Thank you for your work on solving Oregon's ongoing housing crisis. We write to support both your proposed wetlands recommendations – options A and B, and to commend you for the thoughtful and detailed proposals. Having spent many years working on various legislative/DSL efforts to balance the need to protect wetland functions and values with the critical demand for housing, we are thrilled with the work product you have produced. For many cities west of the Cascades, the intersection between wetlands regulation and Oregon land use law acts as a primary barrier to the production of safe, affordable housing. It doesn't need to be this way.

As we can all acknowledge, wetlands serve a critical role in both the natural and built ecosystem. Wetlands serve as a source of wildlife habitat, a water sink to limit significant flood damage, and a filter for sediments and harmful pollutants. Wetlands are important.

At the same time, we should all acknowledge that not all wetlands are created equal. A regionally significant marsh serving as habitat for a variety of species of fish and wildlife is much different than a 10-acre parcel in a small town that has been tilled and farmed for decades and is denoted as wetland solely because of the presence of hydric soils. Our statutory definition of wetlands found in ORS 196.800(17) does not sufficiently differentiate between the quality of wetlands and important alternative uses that may conflict with wetland preservation.

Oregon's wetlands program is designed to protect wetlands functions and values. This is the proper focus. But the state also has other important priorities to consider on land that may meet the broad definition of "wetland". Improvements are needed to balance protection of wetland functions and values with other critical state needs, including a supply of adequate and affordable housing. Your recommendations better achieve that balance.

We very much appreciate the emphasis on creating more mitigation banks. Mitigation banking is a trusted method of preserving functions and values and should be a viable option for preserving functions and values regardless of whether wetland loss can be avoided or minimized on a subject parcel. The focus needs to be on functions and values, not location or preservation of poorly functioning or degraded

wetlands, particularly when those wetlands are located on a site that is critically important for the production of needed housing.

We offer the following suggestions for encouraging additional mitigation banking in Oregon:

1. Simplify the process. Look at OAR 141-085-0725 and imagine the difficulty a property owner would have when determining whether to invest significant capital into the creation of a mitigation bank. Mitigation banks are a risky development which banks won't finance. That means the property owner is making an up-front investment of their own capital and facing an approval process that is uncertain at best. No wonder few property owners are willing to take the risk, and why the cost per credit is exceedingly high for the few banks that are approved.
2. Fund state owned banks. DSL should be developing their own banks and charging a fee commensurate with the development costs. This should reduce costs to the point that a development in a small city may be able to afford to buy credits without killing the project. As credits are sold, DSL can use those fees, along with any fees collected by their fee-in-lieu program, to develop additional banks.
3. Do not worry about an acre-for-acre replacement requirement. The focus needs to be on maintaining wetland functions and values, not on never losing an acre of wetland. Replacing two acres of non-functional "wetlands" in the middle of a residentially zoned development with a ½ acre addition to a fully functioning regional wetland enhances functions and values and promotes the creation of additional housing. This is a win-win.

Each of these recommendations, and many others, are found in Option A. Each is supported by examples found in Oregon cities, particularly smaller cities within the Willamette Valley who need housing to meet demand but have lower price points before a project becomes unfeasible. We fully support them.

We also support your recommendation allowing cities to exclude wetlands from the city's buildable land inventory. When DSL completed their statewide wetlands inventory a few years ago, a number of cities on the coast and in the Willamette Valley discovered that significant portions of their approved buildable land inventories that each city relied on to meet its legislatively required 20-year land supply were on land composed of hydric soils and were considered "wetlands".

Given DSL's mandate to protect wetlands functions and values, the cost to develop these lands increased significantly, and in some cases, made development impossible. There is a price point in every city where a housing project will no longer pencil. Add costs to the project for wetlands mitigation and a property may no longer be developable due solely to mitigation costs.

At the same time, LCDC's mission is to encourage compact urban development, meaning a city should develop the lands within their buildable land inventory before considering an expansion of their urban growth boundary. Those two competing objectives can be incompatible when an otherwise developable parcel is composed of hydric soils and mitigation costs prevent development under market conditions within the city. In that case, requiring the city to consider the parcel as part of its buildable land inventory creates an artificial shortage of land needed by the city for its housing demands.

To meet LCDC's directive to cities to plan for compact urban growth, a city must be allowed to discount land considered by DSL to be "wetlands" from the city's buildable land inventory. If the land is not going to be developed, then it shouldn't be considered developable. We support the Council's recommendation, which simply states what should be obvious to all.

Finally, we support the recommendation in Option B, which we recognize will be considered controversial by some. As stated above, we don't discount the importance of preserving wetland functions and values. At the same time, a variety of factors, including Oregon land use and wetland law, have resulted in Oregon completely failing to keep up with housing need. As Governor Kotek and every Oregon legislator acknowledges, we have a housing crisis. That crisis won't be solved by modest "tweaks" to our laws.

Our land use laws, including the broad definitions of "agricultural land" in Goal 3 and "forestland" in Goal 4, have resulted in an exceedingly small percentage of land in Oregon available for urban residential development. In fact, Oregon has artificially self-imposed limits on land available for urban residential development to slightly more than one-half of one percent of Oregon's land.

If we are going to declare 99.4% of Oregon off-limits to urban residential development, then we need to make darn sure that the 0.006% that's available for urban residential development can actually be developed if we want to have any chance to increase housing production to meet the Governor's goals and escape our self-imposed housing crisis. Given the fact that we can do so while still using mitigation as a means to protect wetland functions and values makes Option B a good temporary fix.

There will be those who claim that Option B will result in a diminution in wetland protection and create significant harm to the environment. That simply isn't true. Mitigation efforts can occur on all remaining areas of the state that aren't designated for urban residential development. The fact that we've so significantly restricted areas set aside for housing means that favoring development over wetlands preservation within them will not result in harm to the environment or wetlands policy.

Thank you again for your great work and for the opportunity to comment.

Very Truly Yours,

A handwritten signature in blue ink, appearing to be 'D. J. H.', written in a cursive style.

President

PO Box 230637 Tigard, OR 97281
Email: opoa@oregonpropertyowners.org



The League of Women Voters of Oregon, established in 1920, is a grassroots nonpartisan political organization that encourages informed and active participation in government. We envision informed Oregonians participating in a fully accessible, responsive, and transparent government to achieve the common good. LWVOR Legislative Action is based on advocacy positions formed through studies and member consensus. The League never supports or opposes any candidate or political party.

September 20, 2023

To: [Deb Flagan, Chair](#), and [Members of the Land Availability Work Group](#)

Re: **Wetlands Recommendations A & B – OPPOSE with Comments**

The League of Women Voters of Oregon has studied water issues since the 1960s, adopting positions in 1965, 1977, 1985 and, after multi-year studies (Water in Oregon-Not a Drop to Waste [Part 1](#) and Issues and Perspectives [Part 2](#)), consolidated positions on water quality and quantity in 2011.

The League...believes that water is a resource that should be managed for the benefit of the public and as sustainable habitat for all life forms. The League supports Oregon state policies and statutes...the improvement of water quality. The League believes that the interdependence of land use planning and water planning must be recognized and required at all levels of government. The League opposes degradation of all of Oregon's surface and ground water.

Wetlands Recommendation A: As we understand it, this recommendation, **Part 1**, focuses on wetland mitigation banks. We do support an increase in wetland banks, but the goal of this recommendation is excessive as well as overly expensive. **It is also important to acknowledge that the land for new wetlands banks currently has another use—often as agricultural lands.** We recommend focusing on a few specific areas in Oregon where the banks can free up land for housing development while also protecting the lands from future flooding.

The League has worked to address this important issue. In 2019, we supported [HB 2438 A](#), which would have provided monies for Cascades West Council of Governments to work on a mitigation bank—in that case related to industrial lands, but could have been for housing as well. The bill was not funded and did not pass. Funding will continue to be a challenge.

We do not support **Recommendation A, Part 2**, that would expand the use of fees in lieu of protecting wetlands. The statement that replacing or enhancing FUNCTION is laudable, but that determination might take a great deal of research. Wetlands protect from flooding, improve water quality as well as providing habitat for fish and fowl. While we believe the In-Lieu-Fee and Payment-in-Lieu programs have a place in the overall program, it should be more of a last resort rather than an easy way to address wetlands challenges.

In 2023, the League supported the Dept. of State Lands (DSL) budget requests in [HB 5037](#), including **POP 104 to increase Other Funds expenditure limitation by \$957,147 and authorize the establishment of the following five positions (4.28 FTE) in the removal/fill program.** With the increased focus on housing and on new industrial lands, it will be important for the agency to help determine which wetlands need to be set aside and not counted as “developable” lands. We **supported POP 109 to carry forward EPA grant funding for the removal/fill program.**

We supported **POP 106** *that provides one-time Other Funds expenditure limitation of \$4,011,699 and authorizes the establishment of one limited duration project management position (1.00 FTE) to complete the work on the new permitting and information system, known as the Oregon Water and Land Stewardship system.* It is expected to be completed by June of 2024. Their budget as passed included these Policy Option Packages.

We do NOT support Parts 3-6; however, we DO support Part 7 to remove wetlands from Buildable Lands Inventories since these lands should NOT be built upon. Excluding those lands means a presumption that they WILL NOT be built upon—developers can't have it both ways. The League has consistently argued this point. It will be necessary for local jurisdictions, along with DSL, to increase mapping of wetlands so the exclusions are as accurate as possible. This will take investment at the local and state level.

Wetlands Recommendation B: **We do NOT support any recommendation that would change the definition of Oregon's wetlands.** *Oregon recognizes the role of wetlands in water quality and in flood management among other values. The waters of the state are an important public asset. Management of activities in these waters must be done carefully and with full application of state and federal regulations.*

Remember the [Flooding of Vanport](#)? Or the perennial flooding of Johnson Creek in the Portland area? Or flooding in Pendleton or Tillamook? **No one, and certainly not our most vulnerable Oregonians, should have homes placed in areas that may flood.** We urge you to oppose or amend these recommendations to protect Oregon's wetlands while finding reasonable ways to assure Oregon can provide housing for ALL.

As with many of the recommendations from the Housing Production Advisory Council, the cost to implement these recommendations is significant. The League has, over many years, continued to support increased funding for many of the items now listed as recommendations, often with few voices from the development community. **We suggest that the full Council consider the cost of many of the recommendations and prioritize those that have the most broad-based support and will increase housing units, especially for Oregonians with 60% AMI or less, and that will not violate Oregon's statutes and rules.**

Thank you for the opportunity to discuss this legislation.



Rebecca Gladstone
Co-President LWVOR



Peggy Lynch
Natural Resources Coordinator

Cc: HPAC.Gov@oregon.gov, Housing Production Advisory Council
[Geoff Huntington](#), Governor's Senior Natural Resources Advisor
[Karin Power](#), Governor's Natural Resources and Climate Advisor
[Brenda Bateman](#), Dept. of Land Conservation and Development Director
[Vicki Walker](#), Dept. of State Lands Director



October 13, 2023

To: Housing Production Advisory Council (HPAC)

CC: Matt Tschabold, Karin Power, Geoff Huntington, Morgan Gratz-Weiser

From: Oregon Climate Action Coalition

RE: Comment on Codes and Design CFEC Recommendation

SUMMARY

We do not support the HPAC Code and Design Working Group's recommendation to pause and delay the Climate Friendly and Equitable Community (CFEC) rules. It is not necessary and will unduly postpone implementation of rules related to parking reform, street design standards, Climate Friendly Area designation and upzoning, and more that will accelerate housing opportunities in Oregon's communities. Further, implementation of these rules is well underway in many Oregon cities. Undue delay creates unnecessary confusion, burden, and expense. We ask that you not move this misguided recommendation forward.

CFEC & OHNA integration

Our organizations have worked for years to support and improve the Department of Land Conservation and Development's Oregon Housing Needs Analysis (OHNA) program and the Climate Friendly and Equitable Communities (CFEC) program. **We strongly support the objectives of both programs. OHNA and CFEC are a powerful combination for urgently delivering more needed housing to our communities in the most climate-friendly ways possible.** OHNA will identify the housing amount, type, and affordability that Oregon communities need. CFEC will help cities build significantly more housing in mixed use, walkable/bikeable/rollable neighborhoods, centers, and downtowns, creating complete communities and delivering multiple benefits to the people who will call that housing home. We have asked that DLCD and ODOT provide timely, clear, and strong leadership in better outlining and communicating this integration to cities, HPAC and the Governor's office. This will address the issues being raised, and thus, a wholesale pause and delay of CFEC rules is not necessary.

CFEC will help cities deliver on OHNA housing projections

The revised 20-year housing projections under OHNA, for every city and at specific income levels, will be released in January 2025. It is expected that these OHNA housing projections will be compatible with the CFEC program because most cities will have to accommodate more housing for those of moderate and lower income levels and smaller household sizes at all income levels than their current zoning codes and regulations readily accommodate. That will translate to the need for more diverse, accessible, smaller, and compact housing options, especially in mixed use, walkable/bikeable/rollable areas, and less land devoted to off-street parking, one story office and commercial buildings, expanded roads that are too wide and fast,

and the like. Therefore, CFEC is particularly well poised to help cities deliver on the housing needs identified by OHNA.

Good for Oregon's housing and climate goals

Integrating CFEC and OHNA means providing more housing in the most climate friendly, affordable, and equitable way possible. In fact, we believe it is essential for the future of Oregonians, our state, and planet that we build significantly more affordable housing in mixed use walkable/bikeable/rollable neighborhoods, centers, and downtowns.

The timing, sequencing, deliverables and supportive intersections of CFEC and OHNA's programs and policies needs to be more clearly outlined and communicated by DLCD and ODOT. And ODOT also needs to provide the transportation modeling and assumptions to support cities as they undertake these planning and investment efforts as soon as possible.

Oregon needs more diverse, accessible, and affordable housing in every community. And we need to invest in and grow climate friendly neighborhoods, with higher densities and safe and accessible routes for people who walk, bike, and roll.

We believe that the goals of OHNA and CFEC are compatible. The two efforts, and the necessary investments to make them a reality, can and will be coordinated in time and integrated in substance by DLCD and ODOT. We ask that you not move this misguided recommendation forward.

Sincerely,

Phil Carver, Co-coordinator
350 Salem

Mary Kyle McCurdy, Deputy Director
1000 Friends of Oregon
CFEC RAC Member

Elisa Cheng, Board President
Bend Bikes
CFEC RAC Member

Rob Zako, Executive Director
Better Eugene-Springfield Transportation (BEST)

Corie Harlan, Cities & Towns Program Director
Central Oregon LandWatch
CFEC RAC member

Jacqui Treiger, Campaign Manager
Climate & Transportation Programs
Oregon Environmental Council

Julia DeGraw, Coalition Director
Oregon League of Conservation Voters

Michael Andersen, Senior Housing Researcher & Transportation Lead
Sightline Institute

Michael Szporluk
CFEC RAC member | OHNA Work Group member
Independent Consultant on disability rights

Bob Cortright

Jonathan Harker, AICP



TO: Co-Chairs Toevy & Hall
Members of the Housing Policy Advisory Council
HPAC.GOV@oregon.gov

FROM: Oregon Recreation & Park Association

DATE: October 23, 2023

RE: HPAC draft recommendations on SDC waivers

We previously wrote to you regarding the Finance Committee recommendation on SDC financing and an essential infrastructure loan program. We urged you to not take away abilities or build barriers to continuation of SDCs. Today, on behalf of over 2,200 park and recreation professionals, agencies, and volunteers represented by the Oregon Recreation and Park Association (ORPA) we want to specifically address the recommendation on **SDC waivers for affordable housing** and provide you with facts about the **inequities** that could be created. It should be noted that many local governments have policies that provide for exemptions, waivers and/or deferrals of specific SDCs to address identified priorities or special needs in the community, especially those that advance a public benefit. But those locals make that decision as to what is best and what works for their community.

As we stated in our prior communication, **people in all housing types need to have outdoor opportunities**. People with fewer options for inside, need more options for outside.

- HB 2001 (2019) enhanced Oregon's statewide efforts to increase "middle housing" – duplexes, triplexes, quadplexes, townhouses and cottage clusters.
- Affordable housing is most likely to occur in these denser configurations.
- With denser development, yards, places for kids to play, spaces for pets and open area for sports and recreation are decreased.
- The recent pandemic and resulting isolation exemplified the need for outdoor places for all.

And to back that up, the December 2022 SDC study prepared for OHCS that the recommendation template refers to also said:

"... higher-quality infrastructure investments can drive both higher SDC rates and higher home values, especially for facilities with visible value, such as parks. Affluent buyers and renters who value these amenities may choose to pay more to live in places that offer them, **but low and moderate-income households may not have this option.**"

Here are some more facts about potential inequities:

City Parks Alliance [Smart Investment Report](#):

- In addition to improving physical and mental health, parks and greenspaces are also critical to the environmental health of cities and are important tools for mitigating the effects of climate change.
- Low-income communities of color have historically received even lower park investments than whiter, wealthier communities. This has contributed to **health disparities** in communities of color, where rates of obesity, heart disease, anxiety, and depression are significantly higher.
- **Inequitable park investments** have also contributed to people of color suffering greater impacts from climate change, including higher temperatures and more frequent and destructive flooding.
- [Infographics](#) on why parks and green spaces are essential to the physical, mental, and environmental health of communities.

CDC Parks and Trails Health Impact Assessment [Toolkit](#):

- Parks and trails can promote physical activity and community engagement; and provide both environmental and mental health benefits.
- Parks can affect a range of public health issues, including injuries, mental health, and pollution exposures.
- People who are exposed to the greenest environments also have the lowest levels of health **inequality** among low-income households. Physical environments, like parks and trails, that promote good health might be important to reduce **socioeconomic health inequalities**.

2022 NRPA [Reports](#):

- Access to indoor and/or outdoor recreation facilities and frequency of park visitation correlate with greater physical activity...Greenspace exposure corresponds with improved physical health, including decreases in stress, blood pressure, heart rate, and risk of chronic disease (cancer, diabetes, cardiovascular heart disease).
- Time spent in nature positively impacts mental health by increasing cognitive performance and well-being and alleviating illnesses such as depression, attention deficit disorders, and Alzheimers.
- Children lacking parks are more likely to be physically inactive, have excessive screen-time (greater than or equal to 4 hours daily), obtain inadequate sleep, and be obese, overweight, or diagnosed with attention deficit hyperactivity disorder (ADHD).
- Every person in every community deserves to benefit from the power of parks and recreation. The very philosophy behind public parks and recreation is the idea that all people — regardless of race, ethnicity, age, income level, identity or ability — have access to programs, facilities, places and spaces that improve quality of life and build healthy communities. Parks and recreation truly builds communities — communities for all.

SDCs are one of very few tools available to your local park and recreation providers. Park SDCs are a means to ensuring that **all** Oregonians have equitable access to high-quality parks, access to nature, trails, and recreation facilities— not just those living in certain neighborhoods.

Additionally, we have a question about a statement in the HPAC Work Group Recommendation Template for the waiver: *“It is not uncommon for SDCs to be \$25,000/unit which, considering an average housing cost of \$250,000/unit, represents 10% of the total cost of production. This represents a modest profit margin for a builder and thus would incent a builder to build where otherwise infeasible”.*

- While this suggests that SDCs commonly account for 10% of the total cost of production, the Oregon System Development Charges Study (OHCS, December 2022) found that, “SDCs likely account for anywhere from just under 2 percent to nearly 13 percent of total development costs for housing in Oregon, depending on the housing type, SDC rates, other cost factors, and market conditions.” The statement in the recommendation template is misleading because it does not acknowledge that the impact of SDCs on the total development cost varies based on a multiple factors and can actually be much lower than 10%. Variations exist across the State and the one-size fits all statement does not accurately reflect the realities in communities across Oregon.
- We also can’t help but wonder what “a modest profit margin for a builder” means and if there are recommendations that somehow address measuring profits and limitations – how are these types of accountability and restrictions embedded in any HPAC recommendations? As also reported in in the 2022 Oregon SDC Study, there are no guarantees developers will lower their home prices and keep the prices lower if an SDC is not collected at the time of construction. It is unclear if this would make homes more affordable.

We appreciate your attention to our concerns and your ongoing commitment to Oregon’s housing production issues.

From: [Ryan Johnston](#)
To: [GOV Hpac * GOV](#)
Subject: Wetlands Reform
Date: Thursday, October 26, 2023 2:29:01 PM

You don't often get email from rjohnston@woodhillhomes.net. [Learn why this is important](#)

Dear HPAC committee,

As a regional home builder and land developer we believe wetland reform is needed.

We believe option A of the proposed wetland reform recommendations to be the best solution as it will streamline the time and cost and remove wetlands from the buildable lands inventory.

Thank you for your consideration,

Ryan Johnston
Woodhill Homes
971 533 4414

From: [Michael Szporluk](#)
To: [GOV Hpac * GOV](#)
Subject: written testimony for 27 Oct meeting: code & design: CFEC recommendation
Date: Thursday, October 26, 2023 5:09:19 PM

You don't often get email from mszporluk@yahoo.com. [Learn why this is important](#)

To whom it may concern,

I'm submitting this written testimony for your consideration. I've lived in Oregon since 2005 and was a member of the CFEC rulemaking advisory committee and the OHNA working group. I self-identify as a person with a disability, and appreciated the efforts by DLCD to ensure that persons from historically marginalized groups were included in both processes.

I've reviewed the Codes & Design CFEC recommendation. a few things stand out. HPAC appears to have made three key assumptions that underpin its findings and recommendations:

Assumption 1: VMT reduction will lead to limitation on housing production

Assumption 2: Implementing climate goals will interfere with housing production goals

Assumption 3: Cities need more money (staff time) so there "essential housing production planning and approvals" won't be impacted.

It is not clear, though, the evidentiary basis for any of these three assumptions. The assumptions are presented as fait accompli. However, there are many actions that the Governor and legislature and local government officials could undertake to promote the production of adequate housing while at the same supporting the reduction of VMT.

Our status quo systems and strategies for housing production and for addressing climate change have shown that they are insufficient, so it is strange and disappointing to see HPAC recommending a pause that would enable the continuation of practices that have led us to this housing and climate crisis. Moreover, DLCD's whole aim behind CFEC and OHNA is to pull together processes that should be complementary.

While there's a tendency to focus on the production of affordable housing, one of the main points I've made during the CFEC RAC and OHNA working group meetings is that there's a need to focus on ensuring the availability of "adequate housing" as defined by the UN Economic Social and Cultural Rights Committee. For that committee there are seven elements of housing: security of tenure, affordability, location, accessibility, habitability, access to materials/services, and culturally appropriateness.

The increased frequency of natural and manmade disasters, globally, needs to inform and spur our actions at the state and local level. We don't have time to delay action

further - as our current practices will continue to exacerbate our crises. I understand that certain people benefit from our current dysfunctional system that allows highway and road extensions, and pushes for the expansion of UGBs, and I understand that those individuals don't want to divert energy or resources to a more sustainable and equitable model.

Finally, I note that some of the individuals' concerns, as quoted in the Code & Design CFEC recommendation, should be read as requests for technical assistance, training and support. Increasing DLCD's budget would enable DLCD to provide that support.

Thank you for your attention.

Kind regards,

Michael Szporluk

----- Forwarded Message -----

From: Corie Harlan <corie@colw.org>
To: Michael Szporluk <mszporluk@yahoo.com>
Sent: Thursday, October 26, 2023 at 03:43:10 PM PDT
Subject: Re: Fw: All hands on deck: CFEC verbal testimony this Friday

Hi Michael - yes, written testimony is accepted. It can be submitted to the same email: HPAC.GOV@oregon.gov

And to your previous email, I agree with your assessment. There are a lot of negative assumptions made by cities and others, without asserting or explaining or detailing where and how those assumptions have merit. I know DLCD is working on something that better describes how these programs (CFEC & OHNA) support each other - and I hope they share it soon. And it should include a timeline that syncs up key deliverables for each program.

Thanks for your engagement and efforts here, I appreciate it.

All my best,
Corie

Corie Harlan (*she/her*)
Cities & Towns Program Director
[Central Oregon LandWatch](#)
2843 NW Lolo Dr. Ste. 200
Bend, OR 97703
503-913-2371 (cell)
541-647-2930 x.801 (office)
On ancestral & traditional ceded lands of the Wasco, Warm Springs, and Paiute

On Thu, Oct 26, 2023 at 11:17 AM Michael Szporluk <mszporluk@yahoo.com> wrote:
| Corie

do you know if written testimony is permitted/accepted?

best

Michael

----- Forwarded Message -----

From: Alan DeLaTorre <aland@pdx.edu>

To: Michael Szporluk <mszporluk@yahoo.com>

Cc: Jennifer Knapp <jknapp@cvision.org>; Allen Hines <ahines@cvision.org>

Sent: Thursday, October 26, 2023 at 09:27:42 AM PDT

Subject: Re: Fw: All hands on deck: CFEC verbal testimony this Friday

Michael,

I'm in Eugene for a conference all day tomorrow, is written testimony being accepted?

Alan

On Wed, Oct 25, 2023 at 11:58 AM Michael Szporluk <mszporluk@yahoo.com> wrote:

Jen, Allen, and Alan,

there's been a barrier thrown our way with respect to adoption of the Climate Friendly and Equitable Communities charge. There is an opportunity to provide testimony this Friday (i.e day after tomorrow). it's not much time, but if you are able to pull something together, that would be great.

Kind regards,

Michael

p.s. Jen - I hope you are feeling better !

----- Forwarded Message -----

From: Corie Harlan <corie@colw.org>

To: Michael Andersen <michael@sightline.org>; Bob Cortright <23cort@gmail.com>; Rob Zako <rob@best-oregon.org>; Mary Kyle McCurdy <mkm@friends.org>; Neil Baunsgard <neil@envirocenter.org>; Jonathan Harker <jonathanharker@comcast.net>; Elisa Cheng <elisac@bendbikes.org>; Julia DeGraw <julia@olcv.org>; Jacqui Treiger <jacquit@oeconline.org>; Indi Namkoong <indinamkoong@verdenw.org>; Michael Szporluk <mszporluk@yahoo.com>

Sent: Wednesday, October 25, 2023 at 11:47:56 AM PDT

Subject: All hands on deck: CFEC verbal testimony this Friday

Team, **this Friday beginning at 1:40pm**, HPAC will hear public comment on recommendations, including the recommendation to postpone and delay CFEC.

We need as many people to testify as possible.

Key docs:

- Our joint comment we submitted to HPAC about this is attached. Pull from this to create your

verbal comments.

- HPAC Code & Design Work Group: [CFEC recommendation](#)
- HPAC's [meeting agenda](#)

If you are available and interested, please:

1. Email HPAC.GOV@oregon.gov, include your name and the recommendation on which you will provide testimony: "Code & Design: CFEC recommendation"
2. Limit testimony to three (3) minutes or less.
3. Let me know if you'll be able to testify.

Thanks to all for continuing to show up strong on this,
Corie

Corie Harlan (*she/her*)

Cities & Towns Program Director

[Central Oregon LandWatch](#)

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--

Alan DeLaTorre, Ph.D.

(*he/him/his* [profile](#))

Adjunct Faculty

Portland State University