Oregon
John A. Kitzhaber, MD, Governor

Department of Land Conservation and Development
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July 3, 2012

Douglas County Board of Commissioners
Douglas County Courthouse
1036 SE Douglas Avenue, Room 217
Roseburg, OR 97470

Jackson County Board of Commissioners
Jackson County Courthouse
10 South Oakdale, Room 214
Medford, OR 97501

Josephine County Board of County Commissioners
Josephine County Courthouse
500 NW 6th Street, Dept. 6
Grants Pass, OR 97526

RE: Clarification on Executive Order 12-07 Process

Dear Commissioners:

I and other staff from the Department of Land Conservation and Development attended two meetings in Southern Oregon on June 26, 2012 regarding the Regional Pilot Program outlined in Executive Order 12-07. The first meeting was with the Douglas County Board of Commissioners and the second was a joint meeting with the Boards of Commissioners from Jackson, Josephine and Douglas counties. During these meetings our department was asked to clarify whether the counties could choose to withdraw from this pilot program after a rulemaking petition is submitted to the Land Conservation and Development Commission (LCDC).

It is clear that the three counties included in this executive order will have the option of determining whether to participate in this project. If at least two of the three counties elect to participate, it is clear that the counties will have the option of whether to enter into a grant agreement(s) with the state to proceed into the next phase of this project which consists of completing the technical studies, mapping and preparation of materials required for preparing a rulemaking petition to LCDC. If at least two of the three counties enter into a grant agreement(s) and complete the requisite materials, it is also clear that the counties will have the option of whether to submit a rulemaking petition to LCDC.

If at least two of the three counties agree to participate, this department will work closely with the participating counties and relevant state agencies to develop a recommendation to LCDC on rule, and possibly goal, amendments that address the counties' needs. The executive order states in section 4, "This rulemaking is intended to be a collaborative process between the state and the counties electing to participate in the pilot program." The rationale for the pilot project is to address regional needs, and the Governor has directed that it be completed in a collaborative manner; we therefore consider the pilot to be for development of a program that will authorize, not require, the counties to update their comprehensive plans.

It is our working assumption and clear intention that a petition for rulemaking will only be submitted to LCDC with recommendations acceptable to the participating counties and the state. This includes recommendations as to the nature of implementation of any rules or goals via amendments to county comprehensive plans. The department will only support a regional pilot under rules that allow, not require implementation of those rules by more than one county. We cannot limit LCDC's authority to adopt rules as it sees fit, within or outside the mandates of this pilot program. However, the commission did not initiate this program and has not expressed dissatisfaction with existing resource lands programs in Southern Oregon. We therefore consider it unlikely that LCDC will consider a requirement that counties implement a new resource land protection program.

Sincerely,

Jim Rue
Acting Director

cc: Kelly Madding, Development Services Director, Jackson County
Dave Wechner, Planning Director, Josephine County
Keith Cubic, Planning Director, Douglas County