



# Oregon

John A. Kitzhaber, M.D., Governor

## Department of Land Conservation and Development

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RE: Southern Oregon Regional Pilot Program- Response to Task 5 submittal

Dear Mr. Cavallaro,

Thank you again for the recent submittal of work on the Southern Oregon Regional Pilot Project (SORPP). This is the first regional submittal of work this biennium and therefore our first opportunity to formally comment on the project since October 17, 2013.

This letter provides coordinated comments from the participating state agencies in response to the materials submitted to the department in the original submittal on February 23, 2015 and in the amended submittals on April 14 and June 2, 2015 for SORPP Technical Assistance grant (no. TA-OL-15-001).

The comments below are in response to the proposal to consider 68,575 acres of resource soils in Douglas County, 3,664 acres of resource soils in Josephine County, and 13,551 acres of resource soils in Jackson County as non-resource or "candidate land". The comments are separated into those which apply to Task 5 (Assessment of Resource Lands) and to the upcoming Task 7 (Carrying Capacity Analysis). The Task 5 comments are in response to the recent submittal of the Task 5 Report, including the amendments. Please use these comments to further refine the proposal. The Task 7 comments are meant to provide clarity and direction as to what is expected by the State in regards to the forthcoming work.

### **Task 5 (Assessment of Resource Lands)**

1. Agricultural Land Definition. The current approach has not taken into consideration the complete definition of agricultural land. Per Oregon Administrative Rule (OAR) 660-033-0020 the definition includes:  
*(B) Land in other soil classes that is suitable for farm use as defined in ORS 215.203(2)(a), taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted farming practices; and*

*(C) Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.*

*(b) Land in capability classes other than I-IV/I-VI that is adjacent to or intermingled with lands in capability classes I-IV/I-VI within a farm unit, shall be inventoried as agricultural lands even though this land may not be cropped or grazed;*

As such, adjacent and intermingled lands and existing farm uses and farm units need to be considered. Adjacent and intermingled land and land with existing commercial farms should be excluded as non-resource land. Additionally, land part of a larger farm unit, which on its own would qualify as non-resource, should be excluded. This analysis should take into consideration ownership (typically derived from county assessment data) and leasing/operation patterns (typically derived from aerial photography). The current soils based approach does not provide enough information to analyze farm activity. The Department of Agriculture has digitized field/crop boundaries. While this data set does not represent complete farm units, it can be used as a starting point in this analysis. We will send this data to the counties shortly.

2. Viticultural areas. The definition of the Southern Oregon and Umpqua Valley viticultural areas in ORS 195.300 should be used in the Task 5 analysis. Land meeting the definition should be removed from consideration as non-resource lands. Executive Order (EO)12-07, item 4 (page 3) states: “lands that are functionally important to the types of farming and forest operations that occur, or that are likely to occur in the future, ... are retained in farm or forest planning and zoning designations.” If a County believes that some of the land which meets the definition in ORS195.300 should not be used as a non-resource filter, then a specific justification shall be included.

It appears, based upon the amended Task 5 submittal, that each County has now removed from consideration as non-resource land all viticultural areas. If this is the case, this comment has been addressed.

3. AUM data. In order to address OAR 660-033-0020(B) cited above, it is essential that Animal Unit Month (AUM) data be included in the non-resource analysis. See additional details from our October 17, 2013 letter. This is appropriately addressed in Task 5 since it is part of the definition of agriculture. As outlined in the Grant Contract, additional funding for this work is available from the Task 7 funds.

Counties should consult with local ranchers/farmers and OSU Extension to examine the character of existing ranching operations and determine an appropriate justifiable threshold and applicability of the AUM data. Additional data which may be helpful

includes farm tax deferral status and the analysis from Item 1 above. In lieu of the counties determining a justifiable AUM threshold, the Department of Agriculture is willing to develop a threshold for use in differentiating resource and non-resource land.

4. Irrigation. Please explain whether the ability to irrigate property was taken into consideration as part of this process. For instance, was land within an established irrigation district treated differently than land outside of an irrigation district?
5. Parcel based approach. Currently the non-resource analysis submitted is based upon soils data rather than parcel/tax lot information. The analysis should be parcel/tax lot based. Item 1 above provides one reason for this. Additionally, there is no way to distinguish between publicly and privately-owned land unless parcel/tax lot information is analyzed. Resource land under public ownership should not be considered as “candidate land” through this process.

Furthermore, it is our understanding that the result of this process, if successful, would be to change the comprehensive plan designation for properties which qualify as non-resource land from resource to a non-resource designation. If this is still the case, a parcel/tax lot based analysis is required. If this is no longer the case, please inform us of a change to the approach.

6. Forestland Productivity Standard. The current proposal for forestland productivity is not consistent between the three counties. Per the amended Task 5 Report, both Jackson and Josephine counties are proposing NRCS soils with a forest productivity rating of less than 50 cubic feet per acre per year (cf/ac/yr) to be non-resource land while Douglas County is proposing using 85 cf/ac/yr as the threshold<sup>1</sup>. As we’ve discussed previously, the Oregon Department of Forestry opposes anything above 50 cf/ac/yr as a productivity threshold for identifying commercial forest viability or “resource” versus “non-resource” land given that it is significantly higher than prevailing accepted measures of productive commercial forestland.

Biologically, commercial tree species start growing on lands capable of producing 20 cf/ac/yr. This biological threshold is the difference between land suitable for growing commercial species like pine and Douglas-fir versus non-commercial species like juniper and low value hardwoods. A threshold above 50 cf/ac/yr ignores the capacity of lands with productivity greater than 20 cf/ac/yr to support commercial forest management.

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<sup>1</sup> While Josephine County’s submittal indicates 72cf/ac/yr as the defining productivity rating, no soils proposed as non-resource soils are above 50cf/ac/yr, making their approach consistent with Jackson County’s.

Supporting this position are multiple examples of recognized lower productivity standards currently used to identify commercially viable forestland (see Table 1).

Table 1. Accepted Commercial Forest Productivity Standards

<b>Productivity Threshold</b>	<b>Use</b>	<b>Entity</b>
20 cf/ac/yr	Current	- United State Department of Agriculture (USDA) - Forest Inventory Analysis (FIA), United States Forest Service (USFS) - United States Department of Interior (USDI) – Bureau of Land Management (BLM)
20 cf/ac/yr	Current	- Oregon Forest Practices Act (OFPA)
40+ cf/ac/yr	Current	- Oregon Land Use Board of Appeals (LUBA) – West Side

**USDA and USDI – Definition of Forestland and Timberland**

The USDA recognizes the FIA forest land definition. According to the FIA forestland includes lands that are at least 10 percent stocked by forest trees of any size, or land formerly having such tree cover, and not currently developed for a nonforest use. FIA further differentiates forestland between timberland and nontimberland based on forest productivity for growing commercial crops of wood. Forest productivity is determined by FIA as the culmination of mean annual increment of fully stocked natural stands. FIA considers forest land nationally and in Oregon with productivity below 20 cubic feet/acre/year to be nontimberland, unsuitable for growing commercial crops of timber; forest land with productivity of 20 cubic feet/acre/year is considered to be timberland, economically suitable for growing commercial crops of timber. The USDA Forest Service and USDI Bureau of Land Management use 20 cf/ac/yr as the dividing line for commercial forest management.

**Oregon Forest Practices Act**

Oregon Forest Practices rules require reforestation of harvested forest land which is capable of annual wood production of at least 20 cubic feet/acre/year at culmination of mean annual increment, cubic foot site class 6 or better. The State of Oregon has consistently used a threshold of 20 cf/ac/yr to define commercial viable forestland in eastern Oregon, and has either used a 20 or 50 cf/ac/yr threshold to define commercial viability in western Oregon. Current Forest Practices Act Reforestation Rules (OAR 629-610-0010) requires reforestation on any land capable of producing 20 cf/ac/yr after a timber harvest has occurred.

**Land Use Board of Appeals (LUBA)**

In 2009, LUBA considered a case (ruling No. 2009-089) concerning forestland and addressed productivity standards for commercial forestland. In this case LUBA made the

following findings to establish a standard for commercial forestry in western Oregon which begins at 40 cf/ac/yr.

*“Our cases suggest that land with a productivity of less than 20 cf/ac/yr may be unsuitable for commercial forest use unless there are factors that compensate for the land’s relatively low productivity. But land in a middle range from a low of approximately 40 cf/ac/yr to a high of approximately 80 cf/ac/yr is unlikely to be unsuitable for commercial forest use unless there are additional factors that render those moderately productive soils unsuitable for commercial forest use. Rural land with a wood fiber productivity of over 80 cf/ac/yr is almost certainly suitable for commercial forest use, even if there are limiting factors.” Id., slip op at 10-11 (footnote omitted).*

The Douglas County proposal is clearly not consistent with the aforementioned thresholds identified in Table 1. Table 2 below illustrates a breakdown of forest productivity in relation to the total soils proposed as non-resource. As shown, the vast majority of soils (90.2%) considered as non-resource soils by the three counties fall into the category of unrated- presumably under 20 cf/ac/yr<sup>2</sup>.

Table 2. Non-Resource Soils Breakdown (Acres)

County	Total: Proposed Non-Resource Soils	Soils between 50 and 85 cf/ac/yr	Soils between 20 and 50 cf/ac/yr	Soils under 20 cf/ac/yr*
Douglas	68,575	4,309	0	64,267
Jackson	13,551	0	4,063	9,488
Josephine	3,664	0	0	3,664
Total	85,790 (100%)	4,309 (5.0%)	4,063 (4.7%)	77,419 (90.2%)

\*No Rating provided by NRCS data. Further analysis is necessary to verify productivity. See comments under item 7 below.

Therefore, considering commercial forest and other forest values, we recommend that the region adopt a 20 cf/ac/yr threshold to differentiate resource from non-resource land in regards to forestland. At a minimum, we recommend that Douglas County reduce the forest productivity threshold to 50 cf/ac/yr to be consistent with Jackson and Josephine counties and to be more consistent with currently used thresholds. As shown in Table 1, this would affect only 6% of the total amount of land proposed by Douglas County (4,309/68,575).

7. Lack of NRCS productivity data. It appears that soils lacking a forest productivity rating in the NRCS soils data were considered to be non-resource land. This was not discussed

<sup>2</sup> See comments under item 7.

in the Task 5 Report. Before it is concluded that the these soils have a low forest productivity rating: 1) NRCS should be consulted to determine if subsequent soils data is available for each county<sup>3</sup> and 2) the proper data procedures identified in OAR 660-006-0010 must be followed:

*(2) Where NRCS data are not available or are shown to be inaccurate, other site productivity data may be used to identify forest land, in the following order of priority:*

*(a) Oregon Department of Revenue western Oregon site class maps;*

*(b) USDA Forest Service plant association guides; or*

*(c) Other information determined by the State Forester to be of comparable quality.*

*(3) Where data of comparable quality under subsections (2)(a)-(c) are not available or are shown to be inaccurate, an alternative method for determining productivity may be used as described in the Oregon Department of Forestry's Technical Bulletin entitled "Land Use Planning Notes, Number 3 April 1998, Updated for Clarity April 2010."*

For the purposes of applying OAR 660-006-0010, it may only be possible to utilize the Department of Revenue (DOR) data described in (2)(a) above. Table 3 below provides a conversion chart to use for determining potential yield based upon the DOR land class. Essentially, a classification of FX or unrated equate to less than 50 cf/ac/yr.

Table 3. DOR Land Class Potential Yield (cf/ac/yr) Conversion

Site Class	I			II			III			IV			V				
Site Index 100 year tbl	210	200	190	180	170	160	150	140	130	120	110	100	90	80	70	60	50
Site Index 50 year tbl	160 - 136			134 - 122			120 - 110			108 - 102	100 - 90		88 - 76		74 - 50		< 50
DOR Land Class	FA			FB			FC			FD	FE		FF		FG		FX
Potential Yield Cu/Ft/Ac	225+			224 - 164			164 - 120			119 - 85		84 - 50			49-20	< 20	
USDA Cu/Ft Prod. Class and State Forest Survey Class	1			2			3			4		5			6	7	

8. IRR. Josephine County originally proposed using a conversion of Internal Rate of Return (IRR) to NRCS Soils (cf/ac/yr) productivity. This is not the correct method to use. Standard NRCS soils data is available and use of it would be consistent with what the

<sup>3</sup> Even though not explicit, it appears that Jackson County has already done this.

other two counties have done and would not require any conversion factor. The Oregon Department of Forestry opposes using stand level economic analysis techniques, like IRR, to define the commercial viability of the land for zoning purposes. Unlike physical measures such as productivity, these types of economic analysis are based on assumptions about future costs and revenues, and can be manipulated to produce a predetermined outcome. IRR can be a useful tool for financial analysis, but not for determining if forest land is or is not adequate for commercial forestry which by nature is identifiable based on measurable physical characteristics more so than assumptions which are subject to variability and are indeterminate, absent significant assumption. Moreover, the assumptions chosen for the Josephine County IRR system produce a standard similar to the 85 cf/ac/yr threshold, which we believe eliminates productive forestland from being zoned for commercial uses.

This appears to have been corrected based upon the revised Task 5 submittal but is important to consider if the IRR system is proposed to be relied upon at some point later in this process.

9. Community Buffers. The candidate lands as proposed fall within 3 miles of Urban Growth Boundaries, Urban Unincorporated Areas, Rural Communities and Rural Service Areas. Please explain why buffering of these areas, in particular Rural Communities and Rural Service Areas meets the intent of EO12-07. Specifically, please discuss what uses other than residential exist in each of these communities and how those other uses may be utilized by potential additional residents. If determined to not meet the intent of EO12-07, we recommend the counties consider reducing or eliminating the buffering distance for Rural Communities and Rural Service Areas.

## **Task 7 (Carrying Capacity Analysis)**

1. Wildfire. The existence of structures, particularly dwellings, can significantly alter fire control strategies and can increase the cost of wildfire protection by 50-95%.<sup>4</sup> Specifically, “an increase in fire suppression costs of \$31,545 if two homes instead of one were within 6 miles of the wildfire. By comparison... an increase of only \$319 if 100 homes instead of 99 were within 6 miles of the wildfire”.<sup>5</sup> More than half of wildfires in the Northwest and more than 80% of wildfires in Northern California are human-caused<sup>6</sup>. Additionally, the cost of the State of Oregon’s catastrophic fire insurance policy has

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<sup>4</sup> <http://headwaterseconomics.org/wphw/wp-content/uploads/fire-costs-background-report.pdf>

<sup>5</sup> [http://headwaterseconomics.org/wphw/wp-content/uploads/ORfire\\_Manuscript\\_Jan12.pdf](http://headwaterseconomics.org/wphw/wp-content/uploads/ORfire_Manuscript_Jan12.pdf)

<sup>6</sup> [http://www.fs.fed.us/rm/pubs/rmrs\\_gtr299.pdf](http://www.fs.fed.us/rm/pubs/rmrs_gtr299.pdf)

dramatically increased in the previous year and future availability is in jeopardy due to the recent escalation in wildfire fighting costs.<sup>7</sup> Additional landscape fragmentation would exacerbate the costs and risks associated with wildfire. Lastly, the Land Conservation and Development Commission (LCDC) has raised this item as a concern repeatedly in regards to SORPP.

As we understand it, the counties will be requiring future annexation into a fire district, as a condition for future residential development on properties which qualify as non-resource land. While inclusion into an existing fire district and associated requirements (i.e. standard fuel-breaks) aid in potentially reducing the possibility of catastrophic wildfires, they alone do not adequately address the requirement of EO12-07, which requires that “lands are planned and zoned for types of uses and at levels that... are sustainable in terms of their effects on... fire protection”. Therefore, Task 7 will need to go further to analyze and potentially mitigate the effects of allowing additional development in wildfire prone areas. Specifically, we offer the following suggestions:

- a. Review status of existing fire districts to determine whether they are still functioning and have the capacity to expand. This item was raised at a Douglas County Technical Advisory Committee meeting.
  - b. Review for existing development patterns and only allow new development in areas where development above a certain density already exists.
  - c. Require clustering of dwellings on potentially smaller than minimum lot sizes (e.g. between 2-5 acres) assuming the average density does not exceed 1 dwelling per 40, 20, 10 acres in the respective buffers. In this case a deed declaration would be required on the remainder to limit further development.
2. Winter Range/Big Game. The Oregon Department of Fish and Wildlife (ODFW) recommends that properties designated as winter range/big game habitat should be precluded from conversion to non-resource lands.
- a. Douglas County. ODFW recommends that all Sensitive and Peripheral Big Game Habitat Overlays be precluded from consideration of non-resource designation. ODFW has concerns with the proposed development densities within deer and elk habitat for Douglas County. The Peripheral Big Game Habitat overlay is an important transitional area and currently a protective buffer to the Sensitive Big Game Habitat Overlay. If the development densities increase in these areas, there may be a significant impact to big game populations and other wildlife species.

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<sup>7</sup> [http://www.oregonlive.com/pacific-northwest-news/index.ssf/2015/04/lloyds\\_of\\_london\\_offers\\_oregon.html](http://www.oregonlive.com/pacific-northwest-news/index.ssf/2015/04/lloyds_of_london_offers_oregon.html)

This in turn can increase the amount of damage complaints received from property owners in those areas.

The Task 5 submittal indicates that land within the Sensitive Big Game Habitat was precluded from consideration as non-resource land. The Douglas County Comprehensive Plan establishes a maximum density of 1 dwelling per 80 acres for Sensitive Big Game Habitat and 1 dwelling per 40 acres for Peripheral Big Game Habitat (Natural Features Element, pg. 6-8). To maintain consistency with those established maximum densities, Douglas County should, at a minimum, maintain the current approach which precludes the Sensitive Big Game Habitat from consideration as non-resource land. Additionally the minimum lot size for non-resource land within the Peripheral Big Game habitat should be no lower than 40 acres to ensure the density standard will not be breached.

- b. Josephine County. Given the current County winter range maps, ODFW recommends that all winter range be precluded from conversion to non-resource designation. There are approximately 185,069 acres of private property within the 3 mile buffer outlined in the Task 5 report. 73,910 acres are encumbered by winter range protection, which leaves 111,159 acres (60% of the three mile buffer) for consideration as non-resource land under the current winter range mapping.

If the county chooses not to consider winter range as a screen to preclude non-resource conversion, ODFW recommends maintaining the current density standard. The Josephine County Rural Land Development Code establishes a maximum residential density for areas within winter range of 32 homes per 2 square miles (Section 69.220), or 1 home per 40 acres. Unfortunately, this density standard has recently caused conflict between adjacent development projects and has introduced uncertainty into the land use planning system. ODFW recommends the county apply a minimum lot size of at least 40 acres to maintain consistency with the existing density standard and avoid the uncertainty in the current density standard.

Another option for Josephine County is to work with ODFW to amend the current winter range zoning overlay during the timeframe of this process. The County may consider adopting new Goal 5 maps that accurately reflect ODFW's current winter range data and help alleviate some confusion with the current density standard. We understand that the County is under fiscal and staffing constraints. Therefore, if Josephine County is interested in this mapping effort, ODFW is

available to collaborate and offer technical assistance. To assist the project, ODFW would need a description of the Goal 5 update process and approximate timeframe.

- c. Jackson County. ODFW recommends that all land within the Deer and Elk Habitat overlay in Jackson County be precluded from the conversion to non-resource designation.

The amended Task 5 submittal indicates that land within both the Especially Sensitive Winter Range and Sensitive Winter Range were precluded from consideration as non-resource land. This is consistent with the minimum lot sizes established in the Jackson County Land Development Ordinance required within the Especially Sensitive and Sensitive Winter Ranges, and is supported by ODFW.

It does not appear that Jackson County used the Other Winter Range layer as a screen. This layer does not have a specific minimum lot size; however, Jackson County Land Development Ordinance states that “Other Winter Range units may be divided according to the prevailing minimum parcel/lot size for the zoning district”. If the County designates lands within these areas as non-resource, ODFW recommends the County consider adopting a minimum parcel size and other site specific standards (see item 7 below), in addition to the current winter range protections to build within 300’ of an existing road or driveway.

3. Conservation Opportunity Areas. Executive Order (EO) 12-07, item 5 (page 4) indicates that the process for designating non-resource lands will assure that “such lands are planned and zoned for types of uses and at levels that: (c) are sustainable in terms of their effects on water supplies, transportation, water quality, fire protection, wildlife, and fish and wildlife habitat.” The Conservation Opportunity Areas (COAs) developed through the Oregon Conservation Strategy provide a very useful tool for utilization in this process. A COA is defined as “those areas where the likelihood of successful conservation is strongest, and the conservation needs of wildlife and their habitats would be best met”.<sup>8</sup> COAs “capture a larger number of species by casting a wide net over the landscape. Conservation actions focused on the maintenance of natural habitats are likely to benefit a wider range of organisms than conservation actions developed for single species. It is the best way to maintain diverse and healthy wildlife communities. In addition, conserving larger areas of terrestrial or freshwater habitat preserves system-

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<sup>8</sup> [http://www.dfw.state.or.us/conservationstrategy/docs/document\\_pdf/c-appendices\\_4.pdf](http://www.dfw.state.or.us/conservationstrategy/docs/document_pdf/c-appendices_4.pdf)

wide ecological processes critical to the viability of the ecosystems and the survival of wildlife species inhabiting them”.<sup>9</sup> Although developed as a non-regulatory tool, the COAs address a number of the items required in the EO, which cannot be wholly addressed through a species-specific approach. As such, it is recommended that land within the COAs be removed from consideration as non-resource land.

4. Regional ODFW Comments. Non-resource land designation can have significant impacts on the management of fish and wildlife. This includes significant impacts to fish and wildlife habitat, including fragmentation of habitat corridors, introduction of non-native plant species, disturbance during biologically sensitive seasons (e.g., fawning) and increased social conflict, including damage complaints and restrictions on hunting and fishing access. ODFW is concerned about the potential impacts to management of fish and wildlife resources from non-resource conversion, without an adequate compatibility.

ODFW is especially concerned about the potential increase for wildlife damage associated with increased development pressure and habitat fragmentation. For example, southern Oregon has some of the highest bear densities in the state. This is both a wildlife resource and ODFW staffing resource concern to address the damage complaints. Increasing development in rural areas will exacerbate this problem and limit the ability of ODFW to resolve these issues. Residential development in rural areas increases the amount of forage available to wildlife through watered landscaping, gardens, compost piles, and bird feeders, while limiting wildlife management tools used to address conflict, such as hunting. ODFW staff currently spends considerable time responding to social conflict between property owners and wildlife species.

5. ODFW has previously requested that the counties include a data dictionary to describe the source of the various layers used in the mapping. Please provide a table for each county that clearly identifies the data used in these analyses to determine NR land designation. For example, ODFW requests clarification on:
  - a. The term “Significant Wetlands” needs to be defined. Is the base layer the National Wetlands Inventory? Does this include vernal pools?
  - b. What data was used for the Federally Protected Sites?
  - c. Mapping of all Class I and II streams should be incorporated into the analysis;
  - d. Was the marbled murrelet and Band tailed pigeon data considered in this analysis? ODFW recommends including the Oregon Department of Forestry’s District bird layer and the spotted owl suitable habitat layer.

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<sup>9</sup> [http://www.dfw.state.or.us/conservationstrategy/docs/document\\_pdf/A\\_4.pdf](http://www.dfw.state.or.us/conservationstrategy/docs/document_pdf/A_4.pdf)

6. ODFW recommends that any property completely encumbered by Goal 5 protections, such as vernal pools or sensitive nest sites, be precluded from conversion to non-resource zoning. For example, ODFW recommends avoiding the creation of tax lots that would force residential construction to occur within the required setback for a great blue heron rookery or other sensitive resource.
7. ODFW recommends that the counties consider ODFW's Wildlife Habitat Conservation and Management Program<sup>10</sup> to provide additional incentive to landowners for conserving native wildlife habitat. This tax incentive program does not replace existing habitat protections (e.g., Goal 5), but it is a coordinating program and useful tool to provide willing landowners a tax incentive.
8. Per EO12-17, it is essential that avoidance and minimization to fish and wildlife habitats be considered. The following list of site-specific conditions could help maintain the proper functioning of local ecosystems. ODFW recommends the county consider adopting ordinances or voluntary measures that will:
  - a. Provide compensatory mitigation for impacts to fish, wildlife and habitat resources as a result of development actions, consistent with the goals and standards as outlined in the ODFW Fish and Wildlife Habitat Mitigation Policy;
  - b. Implement appropriate site specific conditions to avoid and minimize impacts to Conservation Opportunity Areas, Strategy Habitat and Strategy Species mapped in the counties, as identified in the Oregon Conservation Strategy (e.g. mature oaks);
  - c. Conserve site specific natural resources such as rare plants, legacy oak trees, down wood and standing snags;
  - d. Cluster development to retain as much open space as possible. This is also consistent with the comments under item 1- "Wildfire"- above. This may include requiring construction within a certain distance of a road or by requiring a certain percentage of the land remain in a contiguous natural condition;
  - e. Develop restrictive covenants associated with new developments, such as wildlife friendly fences to avoid injuries and exclusion fencing for landscaping, and language banning or discouraging feeding of wildlife;
  - f. Ensure structures, roads and other infrastructure does not further constrain the movement of waterways within their natural floodplain, as well as impede wildlife connectivity;
  - g. Ensure that all newly constructed waterway crossings comply with ODFW fish passage standards.

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<sup>10</sup> <http://www.dfw.state.or.us/lands/whcmp/index.asp>

9. Protected Aggregate Sites. Lands adjacent to or within a certain proximity to protected aggregate sites should be removed from consideration to avoid future conflicts.
10. Steep Slopes. Remove all parcels entirely consisting of slopes of >25%.
11. Floodway. Remove all parcels entirely consisting of floodway.
12. Other- Douglas County. The consideration of important coastal resources (Goals 16-18) does not appear to have been mapped or considered in the evaluation on non-resource designation. Per EO12-07, other resource values, such as fish and wildlife populations and their habitats beyond Goal 5, are required to be considered in this process.
13. Other- Jackson County. ODFW recommends avoidance of the following areas:
  - a. Critical Vernal Pool Habitat
  - b. Ecologically significant areas, which reflect unique and important natural resources that should also be considered during the carrying capacity analysis. Some of these sites, such as the Nature Conservancy areas, should be used as a screen to preclude development. Other data such as the Siskiyou Salamander or nest site locations could be used as a flag requiring survey work before development could occur. Unfortunately, some of the data used to generate this layer is now out of date. For example ASC90-10 includes 40 nest sites provided by ODFW, but this data is likely out of date. A newer reference, such as ODF's District Bird layer (buffered by the appropriate distance) could be used instead.
14. Other- Josephine County. ODFW recommends that the county consider protection for the unique Serpentine soils, which provide habitat for rare plant species. Measures could include surveys and site-specific setbacks in areas likely to hold rare plants.

Regards,



Josh LeBombard

Southern Oregon Regional Representative; Department of Land Conservation and Development

cc: Keith Cubic- Douglas County; Kelly Madding- Jackson County; Dennis Lewis- Josephine County; Ivan Gall- Oregon Water Resources Department; Joy Vaughan- ODFW Wildlife Division; Jim Rue, Rob Hallyburton, Katherine Daniels- DLCD; Doug Decker, John Tokarczyk- Oregon Department of Forestry; Jim Johnson, Katy Coba- Department of Agriculture