III. OBJECTIONS AND ANALYSIS

A. Organization of Review

Due to the size of the submittals included in this proceeding, the large number of objections provided by objectors and the range of issues subject to objections, the department has consolidated its review of objections by major compliance topics. This review starts in section III.E.

Sections III.B and C address the status of the objectors, determining whether they meet the legal requirements for objections, and whether their objections meet the requirements for valid objections. Section III.D addresses objections to Department of Land Conservation and Development's jurisdiction to review a portion of the submittal – the City of Bend's adoption of Ordinance NS-2111, adopting amended public facilities plans that relate to and are used as one basis for the city and county decisions on the Bend UGB.

Starting with Section III.E, review of each consolidated compliance topic includes (a) a summary of the applicable legal requirements relating to that set aspect of the decisions, (b) a summary of the local government actions, (c) a summary of relevant objections and previous department comments, and (d) the director's analysis and conclusions. The analysis and conclusions in each section are collected together and repeated in the report's final section, which contains the director's conclusions and decision. In the event of any conflict between the conclusions in Section III. and the conclusions in Section IV, those in Section IV will control.

B. Objectors and Status

Persons who participated at the local level orally or in writing during the local process leading to the final decision may file an objection to the local government's UGB expansion with the department, which then must review the expansion decision or refer it to the Land Conservation and Development Commission (LCDC) for review. Pursuant to OAR 660-025-0140(2), to be valid, objections must:

(a) Be in writing and filed with the department's Salem office no later than 21 days from the date the notice of the submittal to the department was mailed by the local government;
(b) Clearly identify an alleged deficiency in the UGB expansion, and the statute, goal or administrative rule the task submittal is alleged to have violated;
(c) Suggest specific revisions that would resolve the objection; and
(d) Demonstrate that the objecting party participated at the local level orally or in writing during the local process.

On May 7, 2009, the 21-day objection period for the city's April 16, 2009 submittal ended with the following 26 parties filing timely objections with the department. The

parties listed all participated at the local level according to materials submitted to the department, with the exception of Mr. and Mrs. Harold Simpson, as set forth in more detail in the next subsection. This list presents objectors in roughly the same order that they were received by the department.

1. Swalley Irrigation District
2. Tony Aceti
3. Terry L. Anderson
4. Toby Bayard
5. Bend-La Pine School District
6. Bend Metro Park and Recreation District
7. Brooks Resources Corporation
8. Richard and Jelinda Carpenter, Jack McGilvary (trustee)
9. Central Oregon LandWatch
10. Cindy Shonka
11. Edward J. Elkins, Doris E. Elkins
12. Fred and Katy Boos
13. Hillary Garrett
14. E. M. Holiday
15. Mark Anderson
16. Barbara I. McAusland
17. Tony and Cyllene King
18. Miller Tree Farm, LLC (Charlie Miller)
19. Newland Communities
20. Oregon Department of State Lands
21. Paul J. Shonka
22. Rose and Associates, LLP
23. Shevlin Sand and Gravel, Inc.
24. Mr. and Mrs. Harold Simpson
25. Keith Spencer
26. Tumalo Creek Development, LLC

On July 6, 2009, the 21-day objection period for the city's June 12, 2009 submittal ended with the following nine parties filing timely objections with the department. The parties listed all participated at the local level according to materials submitted to the department. This list presents objectors in roughly the same order that they were received by the department.

1. Toby Bayard
2. Hunnel United Neighbors
3. Newland Communities
4. Swalley Irrigation District
5. Anderson Ranch
6. Central Oregon LandWatch
7. J. L. Ward Company
8. Rose and Associates, LLC

9. Tumalo Creek Development

C. Validity of Objections

Objections must satisfy the requirements of OAR 660-025-0140(2) in order to be valid and considered by the director. This rule states:

> Persons who participated at the local level orally or in writing during the local process leading to the final decision may object to the local government's work task submittal. To be valid, objections must:
> (a) Be in writing and filed with the department's Salem office no later than 21 days from the date the notice was mailed by the local government;
> (b) Clearly identify an alleged deficiency in the work task sufficiently to identify the relevant section of the final decision and the statute, goal, or administrative rule the task submittal is alleged to have violated;
> (c) Suggest specific revisions that would resolve the objection; and
> (d) Demonstrate that the objecting party participated at the local level orally or in writing during the local process.

Some objectors have provided numerous or multiple objections covering a range of compliance issues, while others focus on a single objection. All of the objectors listed in section III.B filed their objection(s) in a timely matter, satisfying the requirements of OAR 660-025-0140(2)(a).

The objection of Mr. and Mrs. Harold W. Simpson (dated May 1, 2009) does not establish a clearly identified deficiency in the submittal as required by OAR 660-025-0140(2)(b). The objector attached a letter dated December 15, 2008, which apparently was originally sent by another party to the city, but after the City of Bend closed the public record on the matter on December 1, 2008. The objectors have not demonstrated that they participated orally or in writing at the local level as required by OAR 660-025-0140(2)(d). The Simpsons' objections are not valid.

The objection of Keith Spencer (dated April 23, 2009) does not establish a clearly identified deficiency in the submittal, as required by OAR 660-025-0140(2)(b). As a result, Mr. Spencer's objections are not valid.

The remaining objectors provided one or more valid objections. However, as set forth in more detail in the director's analysis section later in this report, specific objections may be found to be invalid based on criteria in OAR 660-025-0140(2)(b) or OAR 660-025-0140(2)(c).

Objections not addressed in the analysis sections of this report are denied.