

*U.S. Department of the Interior
Bureau of Land Management*

*Prineville District Office
185 East Fourth Street
Prineville, Oregon 97754*

*Lower Deschutes
River Management Plan

Record of Decision*

February 1993



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I. Record of *Decision*

Lower Deschutes River Management Plan

This plan documents decisions on 20,641 acres of public land administered by the Bureau of Land Management in the Prineville District. This land is located within the boundaries of the Lower Deschutes Wild and Scenic River. Proposed decisions contained in this document are identical to those proposed decisions in the Final Lower Deschutes River Management Plan and Environmental Impact Statement. The publication of this Record of Decision complies with Federal policy requirements and outlines the role and responsibility of BLM in implementing portions of the overall plan. Implementation of decisions in this document will protect and enhance natural and cultural resources, accommodate a variety of recreational activities and provide for public safety and services.

Comparison of Alternatives

Five alternatives for management in the Lower Deschutes River Planning Area were analyzed in the Draft Lower Deschutes River Management Plan and Environmental Impact Statement dated May, 1991. The environmental consequences of implementing each of the alternatives were described in Chapter VI of the Draft Lower Deschutes River Management Plan and Environmental Impact Statement. They are summarized in Table 1 of this document.

The selected plan provides for somewhat higher levels of overall use from 1988 baseline levels while attempting to redistribute use from peak weekends and holidays to weekday periods. Interaction with other individuals or groups would generally be moderate. The management objectives under this alternative would be to allow overall use levels to slightly increase over 1988 levels while reducing both peak recreational use levels and conflicts between user groups. Natural resource condition for most resources would be improved significantly over the 5 to 10-year implementation period. Facility development to accommodate recreational activities such as camping, boating, fishing and vehicle-oriented activities would occur so long as

the natural character of the area is not significantly changed and natural values such as soil, water, vegetation, wildlife habitat and cultural resources are protected and wherever possible, enhanced. Regeneration and controls would be handled both on-site and off-site through regulations, fees and, as a last resort, use limitations. On-site regeneration and controls would be obvious, but would be compatible with the environment and aimed at protecting natural values and visual quality. This alternative is the environmentally preferable alternative. This river management plan best meets the intent of Federal and State statutes and best resolves the river-related planning issues while contributing to the local and regional economy and protecting or enhancing outstandingly remarkable river-related resource values.

Alternative 1 would have provided for a higher level of use. The management objectives under this alternative would be to accommodate increased levels of recreational use, while protecting the environment where the sights, sounds and interaction with other individuals or groups would often be high. The character of the area would remain in a generally natural-appearing condition; however, facility development to enhance recreational opportunities such as camping, boating, fishing and vehicle-oriented activities would occur. On-site regeneration and controls would be obvious, but limited to those necessary for public safety as well as to accommodate increased numbers of visitors, and to maintain fisheries condition, soil stability and vegetative cover. This alternative would provide the widest range of beneficial uses of the river environment, but would provide the second lowest level of protection for both renewable and nonrenewable resources.

Alternative 2 described existing management. Alternative 2 is the baseline from which the other alternatives can be compared. This is the no-action alternative required by the National Environmental Policy Act. The intent of this alternative would be to continue present levels of management. Overall recreational use levels would be unregulated and would continue to increase causing a moderate to



high degree of interaction with other individuals and groups. On-site regimentation and controls would be evident in some areas and lacking in others. This alternative would provide a high level of beneficial uses and low or declining levels of protection for both renewable and nonrenewable resources.

Alternative 3 provided for lower levels of peak use. The management objectives under this alternative would be to maintain present overall levels of use while reducing peak recreational use levels while natural resource condition would be improved. The sights, sounds and level of interaction with other individuals or groups would be moderate. Facility development to accommodate recreational activities would occur so long as the natural character of the area was not affected. Regimentation and controls would be obvious, but would be compatible with the environment and aimed at protecting natural values and visual quality. This alternative would provide moderate levels of resource protection and enhancement while maintaining current beneficial uses.

Alternative 4 provided for much less use. The management objectives under this alternative would be to significantly reduce recreational use levels, improve overall natural resource condition and provide recreational opportunities in a less crowded setting. The sights, sounds and overall level of interaction with other individuals or groups would be low to moderate. New facility development would occur away from sensitive areas to disperse recreational use. Regimentation and controls would be handled both on-site and off-site through fees, regulations and limitation. On-site regimentation and controls would fit into the natural landscape to the greatest degree possible. This alternative would provide the highest level of protection or enhancement of resource values but would reduce beneficial uses.

A supplement to the Draft Management Plan was prepared as a result of the need to consider public access upstream from the Portland Deschutes Club locked gate. A range of alternatives which presented various options for providing public access was considered. See Volume 2 of the Final Lower Deschutes River Management Plan/EIS and the Access: Road, Trails and Launch Sites section of this document.

Mitigation Measures

All protective measures and standard operating procedures identified in the plan will be taken to mitigate adverse impacts. These measures will be strictly enforced during implementation. Monitoring and evaluation will tell how effective these measures are in minimizing environmental impacts. Therefore, additional measures to protect the environment may be taken during or following monitoring.

Area Manager Recommendation

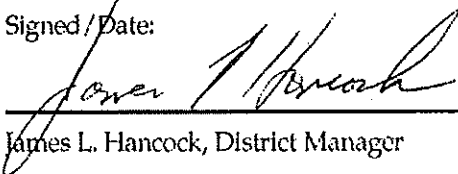
I recommend adoption of the Lower Deschutes River Management Plan Record of Decision.

Signed / Date:

 Feb. 1, 1993
James C. Kenna, Area Manager

I approve the Lower Deschutes River Management Plan Record of Decision as recommended. This document meets the requirements for a Record of Decision as provided in 40 CFR 1505.2.

Signed / Date:

 Feb. 1, 1993
James L. Hancock, District Manager

Appeals Process

Within 30 days of the receipt of this decision, you have the right to protest to the Bureau of Land Management State Director and there after appeal to the Board of Land Appeals, Office of the Secretary, U.S. Department of the Interior, in accordance with the regulations of 43 Code of Federal Regulations 4.400. The Protest to the State Director must be filed in writing in the Oregon State Office of the Bureau of Land Management, 1300 N.E. 44th Avenue, P.O. Box 2963, Portland, Oregon 97208. If no protests or appeals are filed, this decision will become effective and be implemented in 30 days.



Table 1 - Summary of Long Term Impacts to All Resources by Alternative¹

<i>Managing:</i>	<i>Pref. Alt.</i>	<i>Alt. 1</i>	<i>Alt. 2</i>	<i>Alt. 3</i>	<i>Alt. 4</i>
Soil	+M	+L	-L	+M	+H
Water	+M	+L	+L	+M	+M
Vegetation	+M	+L	-L	+M	+M
Livestock Grazing	CL	-L	-L	+L	-L
Cultural Values	+M	+M	-L	+M	+H
T & E Species	+M	-L	-L	i-hi	+H
Scenery	+M	+M	-L	+M	+M
Overall Recreational Use					
Quantity of Use	+L	+M	+M	-L	-M
Quality of Experience	+L	-L	-M	+L	+M
Access	+M	+M	-L	+M	+L
Economic Values	+M	+H	+H	-L	-H
Law Enforcement and Emergency Services	+M	-L	NC	+L	+M
Fire	+M	-L	-L	+L	+M
Public Safety	+L	+L	-L	+L	+L
Private Land & Property Rights	+L	-L	NC	+L	+L
¹ <div style="display: flex; justify-content: space-between; align-items: flex-start;"> <div style="margin-right: 20px;"> + Beneficial - Adverse NC No Change </div> <div> H High M Moderate L Low </div> </div>					





II. Introduction

A. Background and River Corridor Boundaries

The Planning Area

In 1970, the lower 100 miles of the Deschutes River were designated by voter initiative as a component of the Oregon State Scenic Waterways System. By law, the boundary for this State Scenic Waterway is 1/4 mile from the bank on each side of the river. In October 1988, this same 100-mile segment from the Pelton Reregulating Dam to its confluence with the Columbia River was designated by the U.S. Congress as a National Wild and Scenic River and classified as a recreational river area. The National Wild and Scenic River has a variable boundary which averages approximately 1/4 mile on either side of the river, unlike the uniform 1/4-mile boundary in the State Scenic Waterway. The final National Wild and Scenic River boundary has been developed with public input to include and protect or enhance the outstandingly remarkable values that caused the river to be designated.

River Segments

The river has been divided into four segments based on geographical features, public road access and recreational use patterns as shown on Maps 1 and 2. The upper part of Segment 1 is the 13-mile segment from Pelton Reregulating Dam to Trout Creek. It offers both vehicular and hiking trail access. Except for the community of Warm Springs, the river canyon appears natural in character. This portion of the river offers outstanding trout fishing. Boating opportunities exist, but are restricted to nonmotorized craft and are of limited quality to whitewater boaters due to the lack of whitewater. A person visiting the area can generally expect to encounter low to moderate numbers of people.

The lower part of Segment 1 is the 28-mile segment from Trout Creek to the Deschutes Club locked

gate. It is accessible to the public primarily by boat with some point access by vehicles. While this portion of the river is paralleled by the railroad, it is still relatively remote and natural in character. Whitewater boating and trout fishing opportunities are outstanding. Some motorized boat use occurs in the lower ten miles of this segment. Low to moderate levels of use generally occur with higher numbers of users visiting the area on peak summer weekends.

Segment 2 is the 15-mile segment from the Deschutes Club locked gate to Sherars Falls. It is accessible by a paved or gravelled road along the east side of the river for the entire length of the segment. The railroad also parallels the river. The community of Maupin is located in the middle of the segment. While the area still possesses high scenic quality, it is the most developed and highly used section of the lower Deschutes. This river segment is used primarily for day use by whitewater boaters during the summer and by trout and steelhead anglers at other times of the year. Several challenging rapids and easy access make this area extremely popular with whitewater enthusiasts. Relatively low levels of motorized boat use occur in the upper portions of this segment. The experience a person has when visiting this area on a summer weekend is one of high density use and a "splash and giggle" attitude. Weekday and off-season use (mid-October to mid-May) occur at a moderate level.

The 21-mile river Segment 3 from Sherars Falls to Macks Canyon is paralleled by a gravel road on one side and a railroad on the other throughout its length. Except for the road, railroad and a few developed and semi-developed campgrounds, the area is essentially natural appearing. Relatively low levels of use occur in this area with fall steelhead fishing and summer whitewater boating being the primary activities. Both motorized and nonmotorized boat use occur.

Segment 4 is the segment extending from Macks Canyon, 23 miles downstream to the confluence of the Deschutes with the Columbia River. The railroad parallels the river throughout its length. Public access is limited primarily to boat or foot access. The character of the canyon is natural appearing and relatively remote. Fall steelhead fishing is the predominate use with lesser amounts





of whitewater boating and trout fishing. Most use in this segment is by motorized boat. Use levels are generally low to moderate except during the late summer / fall steelhead fishing season when high numbers of anglers crowd into the area.

Land Ownership

The planning area contains 41,367 acres of land located in Jefferson, Sherman and Wasco Counties. Land ownership by county is shown in Table 2 and on Maps 1 and 2. Table 3 shows riverbank ownership by segment.

Table 2 - Lower Deschutes River Acreage by County and Ownership

County	BLM	State ¹	Warm Springs Tribe	Private	Total ²
Jefferson	4,010	137	3,255	922	8,324
Sherman	4,951	3,654	0	1,392	9,997
Wasco	11,680	1,015	3,674	7,677	23,046
Total	20,641	4,806	5,929	9,991	41,367

¹The State of Oregon through the Division of State Lands, claims ownership of the bed and banks (up to ordinary high water) of the river within the planning area (other than reservation lands).

²The planning area includes lands within the State Scenic Waterway and the final National Wild and Scenic River boundaries. Where these boundaries do not coincide, the wider of the two is used as the planning area boundary.

Table 3 - Approximate Riverbank Ownership (in miles) Along the Lower Deschutes River*

	Private Land	Public Land	Total
<i>Segment 1: Warm Springs to Locked Gate</i>			
East Side	22	19	41
West	35	6	41
Totals	57	25	82
<i>Segment 2: Locked Gate to Cherars Falls</i>			
East Side	5	10	15
West Side	7	8	15
Totals	12	18	30
<i>Segment 3: Sherars Falls to Macks Canyon</i>			
East Side	6	16	21
West Side	6	15	21
Totals	11	31	42
<i>Segment 4: Macks Canyon to Columbia River</i>			
East Side	0	23	23
West Side	5	18	23
Totals	5	41	46

*Private land includes Tribally-owned and allotted lands. Public land includes land managed by Bureau of Land Management and State of Oregon.

B. Purpose and Need for the Plan

Passage of Oregon HB 3019 and SB 202 initiated an extensive planning effort by the Governor-appointed Deschutes River Management Committee and the various managing agencies which make up the Deschutes River Policy Group. Several groups of volunteers contributed large amounts of time and effort in the initial stages of developing this plan. When the lower 100 miles of the Deschutes River was designated by Congress as a National Wild and Scenic River in October 1988, the planning process was modified to incorporate the Federal requirements.

Consistency

This plan is consistent with the plans, programs and policies of other Federal agencies, the Confederated Tribes of Warm Springs and State and local governments.

The Lower Deschutes River Management Plan Record of Decision satisfies Federal planning requirements. It meets the requirements of the National Environmental Policy Act and the Oregon Omnibus Wild and Scenic Rivers Act of 1988. It is consistent with the Bureau's Two Rivers Resource Management Plan which was developed in accordance with the Federal Land Policy and Management Act of 1976.

Implementation

Decisions in this document were developed through the Lower Deschutes River planning process which involved 11 Federal, State and local government agencies and a 9-member governor-appointed advisory group. The purpose of this document is to comply with Federal requirements regarding BLM planning decisions. BLM must publish a Record of Decision indicating which decisions in the Final Lower Deschutes River Management Plan will be implemented by BLM. Other decisions in the Final Lower Deschutes River Management Plan will be implemented by various State agencies or local governments. For example,

BLM is responsible for implementing decisions regarding livestock grazing on BLM-managed land while Oregon State Parks and Recreation Department and Oregon Department of Fish and Wildlife are responsible for implementing decisions related to establishment of an instream water right for fish, recreation, pollution abatement, etc. The Oregon State Marine Board is responsible for implementing motorboat regulations while Jefferson, Sherman and Wasco Counties are responsible for coordination of search and rescue efforts.

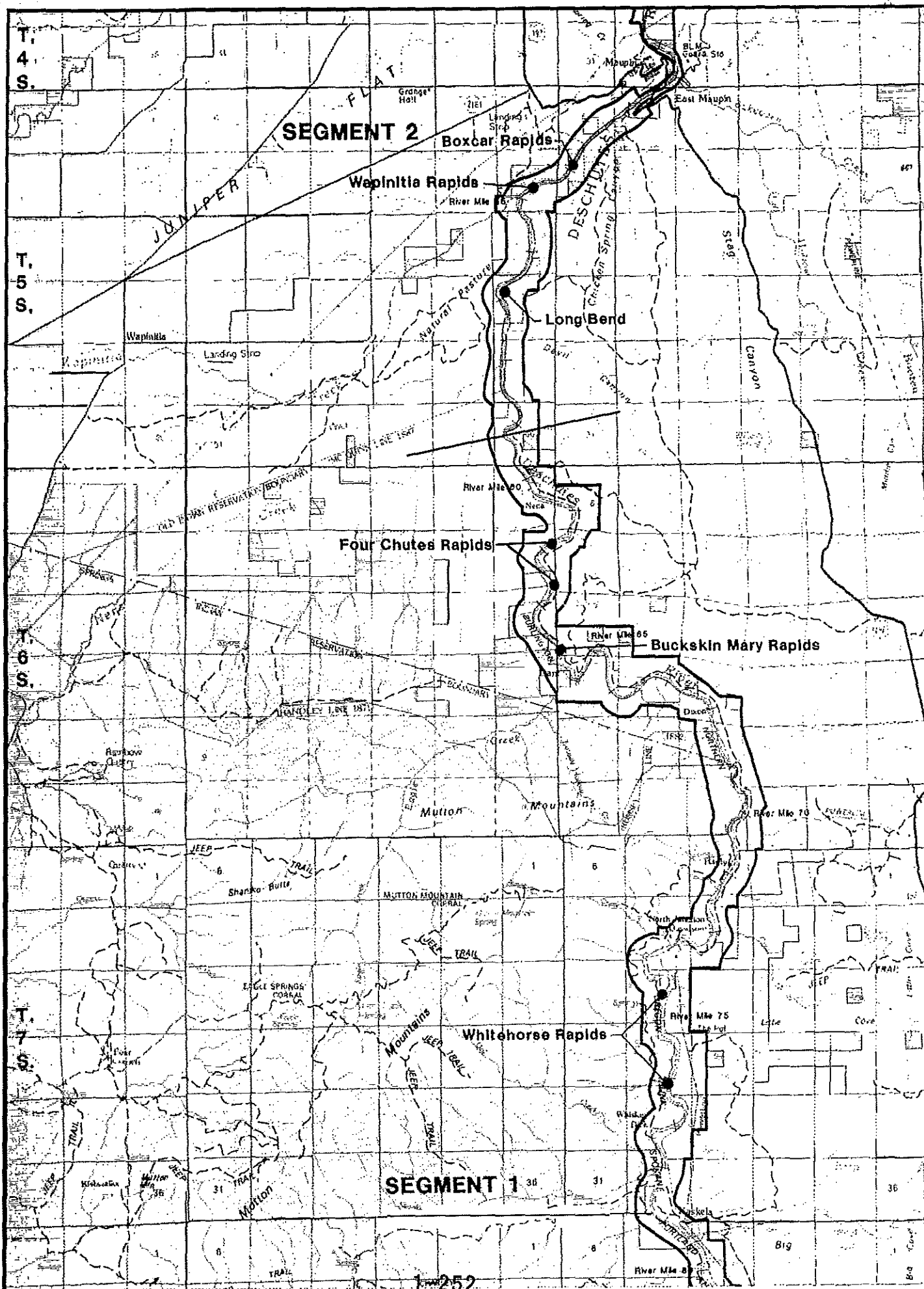
Decisions which are BLM's responsibility will not be affected by appeals to decisions which are the responsibility of a particular State or local government entity and vice versa. Decisions in this plan will be implemented over a period of years and are tied to the BLM budgeting process. Priorities for each program will be reviewed annually to help develop the work plan commitments for the coming year.

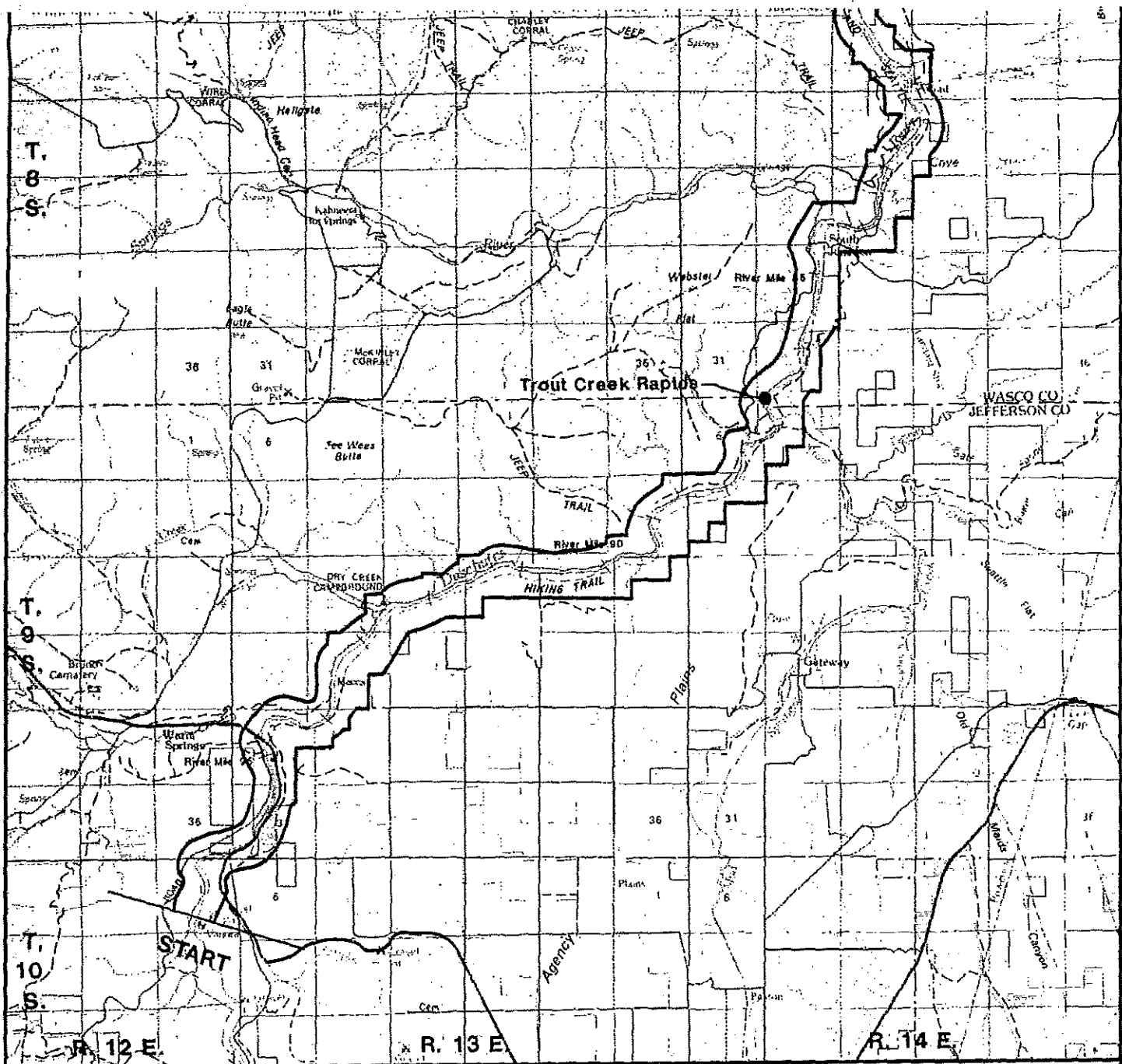
Valid Existing Rights

This plan will not repeal valid existing rights on public lands. Valid existing rights are those claims or rights to public land that take precedence over the actions in this plan. Valid existing rights may be held by other Federal agencies or by private individuals or companies. Valid existing rights may pertain to mining claims, oil and gas leases, rights-of-way and water rights.

Administrative Actions

Various types of administrative actions will require special attention beyond the scope of this plan. Administrative actions are the day-to-day transactions required to serve the public and to provide optimal use of the resources. These actions are in conformance with the plan. They include issuance of permits for commercial recreation activities; lands actions, including issuance of grants, leases, permits and resolution of trespass; facility maintenance; law enforcement and monitoring of permit stipulations; cadastral surveys to determine legal land ownership; and engineering support to assist in mapping, designing and implementing projects. These and other administrative actions will be conducted at the resource area, district or state level.





LEGEND

- Public Lands (Admin. by BLM)
- State Lands
- National Grassland
- Tribal Lands
- Private Lands
- Planning Area Boundary

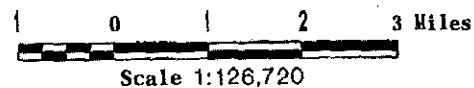
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Bureau of Land Management

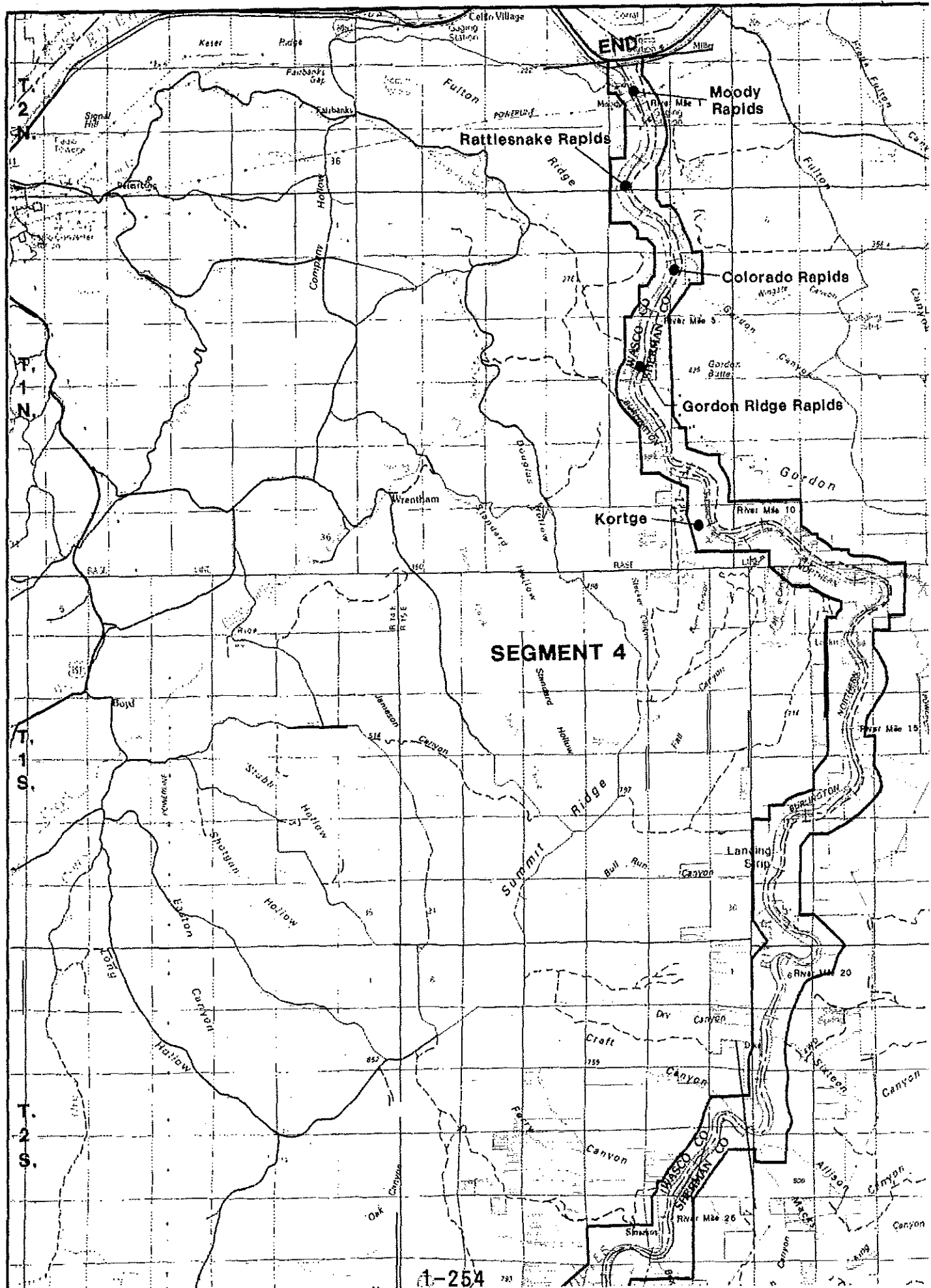
LOWER DESCHUTES RIVER

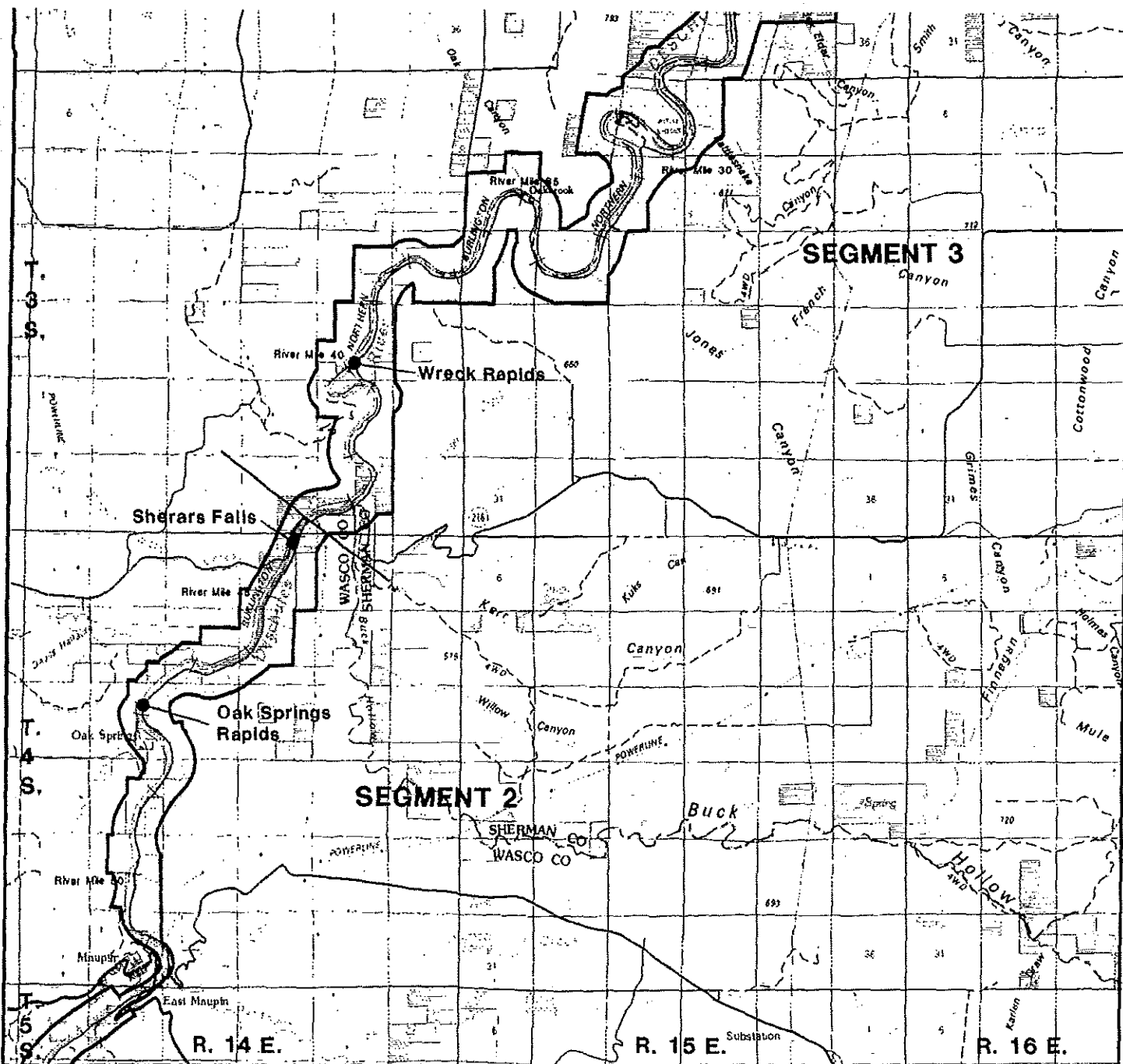
PLANNING AREA

Prineville District






1992







LEGEND

-  Public Lands (Admin. by BLM)
-  State Lands
-  Tribal Lands
-  Private Lands
-  Planning Area Boundary

U.S. DEPARTMENT OF THE INTERIOR
Bureau of Land Management

LOWER DESCHUTES RIVER

PLANNING AREA

Prineville District

1992



Scale 1:126,720



The degree to which these actions are carried out will be based upon BLM policy, available personnel and funding levels.

Public Participation and Document Availability

Public participation has been sought throughout the planning process and is summarized below as well as in Volume 2 of the Final Plan/EIS. Partial lists of persons, agencies and groups involved in the public participation process are also included in Volume 2.

Copies of the Final Lower Deschutes River Management Plan and EIS are available upon request from the Prineville District Bureau of Land Management and Oregon State Parks and Recreation Department in Salem.

In addition, copies are available at selected local and university libraries.

Public Involvement

In 1988, the Deschutes River Management Committee and the managing agencies developed a planning process utilizing consensus decision making and extensive public involvement. A series of meetings were held to begin identifying issues for each river segment. Many members of the public participated in these early scoping meetings. All phases of the plan were developed in an open public forum.

A Memorandum of Understanding (MOU) for the Lower Deschutes River Planning Area was signed by the members of the Deschutes River Policy Group in late summer, 1989. Among other things, this MOU outlined the planning and decision-making process to be followed during the development of this plan.

The Policy Group then developed the scoping document, "Issues and Alternatives for the Management of the Lower Deschutes River". The document was released in January 1990 and six public meetings were held to listen to the public's response. Attendance at these meetings reflected a high level

of interest. The comment period began January 17 and extended to March 28, 1990. An independent consultant analyzed the comments received from a total of 1,087 individuals. See Volume 2 of the Final Lower Deschutes River Management Plan and Environmental Impact Statement for a summary of these comments.

Following the public meetings, the Policy Group met to discuss the public response to the identified issues and alternatives and to develop the Preferred Alternative. The Draft Lower Deschutes River Management Plan and Environmental Impact Statement was released in June 1991 for a 120-day public comment period. Ten public hearings were held throughout the state. Summaries of hearing testimony and written public comments, along with policy group responses, are contained in Volume 2.

An additional issue regarding public access upstream from the Deschutes Club locked gate was identified in preparation of the final management plan. A supplement to the draft management plan was prepared and a 60-day public comment period with two public hearings was provided. Public comment analysis on this issue is also contained in Volume 2.

C. Summary of Alternatives

Five multiple use alternatives for the management of public lands in the Lower Deschutes River Planning Area were developed and analyzed in the Draft Lower Deschutes River Management Plan and Environmental Impact Statement. This analysis was in accordance with BLM's planning regulations issued under authority of the Federal Land Policy and Management Act of 1976 and the Omnibus Oregon Wild and Scenic Rivers Act of 1983.

The alternatives responded to major issues identified through the planning process. They include protection/enhancement of natural and cultural resources, management of recreational activities and providing for public safety and services. The purpose of the alternatives were to present and evaluate various options for managing, protecting and enhancing public resources.

Environmental Preferability of the Alternatives

Environmental preferability is judged using the criteria in the National Environmental Policy Act of 1969 (NEPA). Title 1, Section 101(b) of NEPA establishes the following goals:

1. Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
2. Assure for all Americans a safe, healthful, productive and esthetically and culturally pleasing surroundings;
3. Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
4. Preserve important historic, cultural and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports a diversity and variety of individual choice;
5. Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
6. Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

The Preferred Alternative in the EIS ranked first in overall environmental preferability. It was considered to be in compliance with all NEPA goals, especially goals 1, 3, 5 and 6. The Preferred Alternative was followed by Alternatives 3 and 4 respectively. While Alternatives 3 and 4 were in greater compliance with goal 2 than the Preferred Alternative, they did not comply as well as goals 5 and 6.

Alternative 1 was in greatest compliance with goal 6 and to a lesser degree goals 1 and 5 because of its emphasis on economic and commodity production. Alternative 2, the Continue Existing Management or No Action Alternative, was in compliance with goals 2 and 4 because it maintains current conditions. This alternative was not in compliance with goals 1, 3, 5 and 6 since it makes no attempt to enhance environmental quality of diversity and

does not improve social or economic well being. Analysis in the Supplement to the Draft Lower Deschutes River Management Plan/EIS resulted in some revisions to the proposed decision, however, it did not affect the environmental preferability of that alternative.

III. Lower Deschutes River Management Plan Decisions for the Bureau of Land Management

This section describes implementation responsibilities for the portion of the Final Lower Deschutes River Management Plan under the responsibility of the Bureau of Land Management. The decision provides protection and enhancement to the river's outstandingly remarkable values while providing adequate levels of recreation use and diversity of opportunities. Management actions were selected on the basis of their ability to resolve issues raised during the planning process, satisfy planning criteria and public input, mitigate environmental consequences and provide for the best management of public land resources in the planning area.

A. Management Goals and Standards

For many years, the Deschutes River has provided a wide range of recreation opportunities in a generally natural but roaded environment.

Goal for the Planning Area:

The goal of this plan is to manage the lower 100 miles of the Deschutes Canyon on a segment-by-segment basis to protect and enhance the river's outstandingly remarkable and related values while allowing the continuation of compatible existing uses, including a wide range of public outdoor recreation opportunities and minimizing user conflicts. These recreation opportunities will be provided in a manner that does not substantially impair the natural beauty of the river canyon, diminish its esthetic, fish and wildlife, scientific and recreational values and take into account the rights and interests of private landowners and Tribal treaty rights.



Recreation Management Goals by River Segment

Segment 1 (Pelton Reregulating Dam - Trout Creek)

Goal:

This river segment will be managed to maintain or enhance the high quality trout fishery. Management will provide primarily for day use and nonmotorized boating opportunities at a relatively moderate use level.

Segment 1 (Trout Creek-Deschutes Club Locked Gate)

Goal:

This segment will be managed primarily to maintain or enhance the high quality trout fishery and nonmotorized boating opportunities. Occasional encounters with other users will occur. While some day use will continue, most activities during the primary use season will involve overnight camping.

Segment 2 (Deschutes Club Locked Gate-Sherars Falls)

Goal:

This river segment will be managed for relatively high levels of nonmotorized whitewater boating day use as well as trout and steelhead fishing.

Management will focus on achieving a higher level of environmental and social ethics. Management actions will emphasize resource protection, public health and safety, and reduction of user conflicts and crowding.

Segment 3 (Sherars Falls-Macks Canyon)

Goal:

This river segment will be managed primarily to provide moderate levels of dispersed use by boaters, anglers and overnight campers with vehicles.

Segment 4 (Macks Canyon-Mouth)

Goal:

This area will be managed primarily for fishing and will provide access for motorized and nonmotorized boats, with opportunities for hiking, mountain bike and horseback riding. Management will be toward dispersed recreational opportunities. Management actions will reduce social conflicts among users.

Overall Minimum Standards for the Entire Planning Area

Management actions will be taken to prevent, stop or reverse the following unacceptable conditions in the planning area.

1. Any riparian-wetland area that is not functioning properly¹ by 1997. The overall objective is to achieve an advanced ecological status, except where resource management objectives, including proper functioning condition, would require an earlier successional stage.
2. Any riverbank that is actively eroding at such a rate that water quality and fish habitat are adversely affected.
3. Any significant natural feature or recreational value that is eroding or being irreparably damaged by human use to the point that it is in danger of being lost.
4. Any significant health hazard caused by human use.
5. Any damage to threatened or endangered species or damage to individual plants or animals or the

¹Riparian-wetland areas are functioning properly when adequate vegetation is present to dissipate stream energy associated with high water flows, thereby reducing erosion and improving water quality; filter sediment and aid floodplain development; improve floodwater retention and groundwater recharge; develop root masses that stabilize streambanks against cutting action; develop diverse ponding and channel characteristics to provide the habitat and the water depth, duration and temperature necessary for fish production, waterfowl, breeding and other uses; and support greater biodiversity. The functioning condition of riparian-wetland areas is a result of interaction among geology, soil, water and vegetation.

habitat of any candidate species which would cause them to become listed as either threatened or endangered due to human use.

6. Any damage to or significant deterioration of prehistoric/historic sites.

7. Any significant degradation of water quality due to human use, including both point and nonpoint sources within and outside the river corridor.

B. Planned BLM Management Actions Under the Plan

This section describes the planned actions and determines priorities for implementing those actions. The management actions will be used to resolve the planning issues identified. Unless otherwise noted, management direction, implementation, monitoring and support needs apply to the entire planning area.

The priorities were established based on Deschutes River Policy Group direction, Deschutes River Executive Review Board decisions, public input, administration policy and Department of the Interior and BLM directives.

Strategies, Roles and Interagency Relationships

Successful implementation of the Lower Deschutes River Management Plan will require coordination and cooperation between all of the managing agencies. The Omnibus Oregon Wild and Scenic Rivers Act requires the Secretary of the Interior to enter into a cooperative management agreement with the State of Oregon and the Confederated Tribes for plan development and subsequent implementation. Each managing agency will make its own decisions under applicable Federal, State, local or Tribal procedures which may offer either additional public comment or decision appeal rights. It is important to note the distinction between an agency's support for a decision to be implemented by another agency, versus an agency-specific action such as site development or protection on their own lands.

A standing interagency committee will be created with the mandate to assure that the decisions in this plan will be implemented and issues addressed and resolved in a coordinated ongoing fashion. This committee will utilize public involvement as they review all land acquisitions, funding expenditures, facility development proposals, data collection as well as monitoring and evaluation and changes in management policy.

Land Acquisition and Public Access Strategy

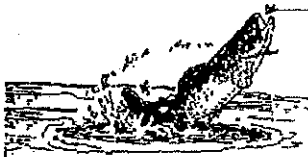
The managing agencies will form an interagency committee to coordinate acquisitions of property and access rights within and adjacent to the planning area. Each agency will develop and maintain an acquisition plan. All acquisitions will be reviewed by the committee for consistency with existing management and the goals of the plan. A determination of which agency will assume title and management responsibility for the acquired land will be made on a case-by-case basis. Acquisition and lead management responsibility will generally be based with the predominant or contiguous land management agency in an area. The lead agency on proposed acquisitions will be responsible for funding, required analysis, supplemental resource inventories or clearances, appraisals, etc. The lead agency will also be the one which will acquire ownership. Potential lead agencies to acquire land within the planning area include:

USDI, Bureau of Land Management
Oregon State Parks and Recreation
Oregon Department of Fish and Wildlife
Confederated Tribes of Warm Springs

Land exchanges will be used wherever possible to increase public land holdings within the planning area. If a land exchange is not feasible, outright purchase will be pursued.

When a property becomes available for sale or lease which is of interest to more than one agency, the committee will consider dividing or sharing the acquisition in a manner that meets the needs of the agencies and the general public.





The interagency acquisitions committee will identify a list of priority acquisitions for public use. In developing a list of priorities, the agencies will consider the following needs:

- Private lands now being used by the public
- The need for access to public lands (by easement across private lands)
- Critical wildlife habitat
- Parking areas for river access
- Trails
- Important cultural resource sites
- Out-of-corridor camping opportunities
- Acquisition of grazing rights from private property owners

A specific timetable for acquisition will be developed by BLM after acquisition sites have been identified and prioritized by the managing agencies. The BLM will seek funding through its budget and appropriations process on a schedule that targets the completion of all key acquisitions by the year 2000. Other acquisitions will be ongoing. Acquisitions will begin immediately as willing sellers and funds become available or exchange participants can be identified.

Strategy for Expenditure of Funds

Limited funding and staff will be available to the managing agencies to implement the decisions of this plan. Because the amounts and types of funds are not always predictable and because it will be necessary to await the event to determine which management actions are most urgently needed, it is not possible to prioritize expenditures at the time of plan adoption. However, some general guidelines can be established to help guide managers' actions in allocating funding and staff time.

Generally, the highest priority will be given to those actions necessary to ensure that natural and cultural resources (especially outstandingly remarkable values) within the planning area are maintained within management standards. Law enforcement, emergency services, public information and education, and other measures necessary to protect public safety will also receive the highest priority.

High priority will also be given to developing baseline data that is necessary to effectively implement, monitor and adjust the plan using the Limits of Acceptable Change process.

Facility development and capital improvements will be part of an overall resource strategy. Improvements will be consistent with the need to protect the natural resources of the river and control or manage use consistent with plan objectives. Developments will be based on resource needs, health and safety concerns and not change the physical character of the river or the desired recreational experience. Capital improvements will be prioritized based on protection of the river's outstandingly remarkable values and other costs of plan implementation.

Land acquisition ranges from high priority to low priority.

Data Collection, Monitoring and Evaluation Strategy

Priority funding will be allocated to collection of baseline data needed to implement, monitor and adjust the Deschutes River Plan. The Limits of Acceptable Change process is the underpinning of the entire Lower Deschutes River Plan. Without adequate baseline data it becomes virtually impossible to monitor the changes necessary to determine whether or not the Limits of Acceptable Change required by the plan are exceeded. Objective baseline data is necessary to determine whether or not the implementation of plan provisions is having the desired effect.

Baseline data will be gathered as expeditiously as possible beginning in the 1993 boater season. Data to be gathered will include, but not necessarily be limited to the following:

1. A habitat map will be developed to inventory biological resources and the terrain in which they exist. Flora and fauna present and their densities will be plotted on a topographic map along with the resources upon which they are dependent (e.g. spawning gravel for fish populations). A habitat map will be prepared for both land and instream habitat.



2. A comprehensive all user survey will be developed and implemented to determine the characteristics of the users of the Deschutes River, their opinions about the Deschutes River and the size of the user population.

3. User fee information and registration will be implemented where feasible to increase individual accountability and gather desired data. In Segments 3 and 4, self-registration will take place at Buckhollow, Kloan, Heritage Landing and the Deschutes State Park. Data to be obtained will include, but not be limited to, name, type of use, date and time use begins.

4. A comprehensive archaeological resource survey will be completed to determine sites and conditions of archaeological resources.

5. A comprehensive study on the identification, location and condition of all threatened and endangered species within the planning area will be done.

6. A definitive study on the effect of motorboats and other user actions on instream habitat and the fishery will be completed.

C. Bureau of Land Management Implementation and Jurisdiction Responsibilities and Priorities

Bureau of Land Management decisions will become effective 30 days after publication of this Record of Decision and final plan.

Protection and Enhancement of National Wild and Scenic River Related Natural and Cultural Resources

1. Fish Habitat/Water Quality and Quantity

a. Issue: How should riparian areas be managed to protect water quality?

1) Problem: Loss or degradation of vegetation and soil due to livestock grazing has resulted in damage to fish habitat.

Proposed Decision -

The following vegetative goals will be the primary consideration in the development of any system for livestock grazing management.

1. Riparian plant communities on BLM lands will be managed to maintain or achieve a minimum of 60 percent of the ecological vegetative potential within 15 years, and ultimately the long-term goal of achieving full vegetative potential. Vegetative potential will vary significantly, depending on specific site characteristics.

2. The riparian vegetative goal is to maintain or restore the corridor along the river margin with a variety of tree, shrub, grass and sedge species. A desirable riparian plant community would likely include the following species: white alder, willow, red birch, mock orange, rose, chokecherry, serviceberry, reed canarygrass, elderberry, cattails, various sedges and rushes, and cottonwood. The intent of this goal is to protect or restore diverse terrestrial wildlife populations, enhance the aquatic environment, and naturally armor the riverbank with sufficient root mass to prevent erosion.

3. Upland vegetation on BLM lands will be managed to maintain or achieve an ecological status between 51 and 75 percent of the plant composition found in the natural plant community (late seral or good ecological condition).

The period of livestock use within the planning area will generally be between November 1 and May 1, unless there is a site specific rationale for an exception, such as use in a non-riparian pasture. Potential fall/winter/early spring (November 1 - May 1) grazing in riparian areas will occur in a manner which provides sufficient residual vegetative cover to prevent erosion and potentially trap flood-born sediments.

A number of management actions will be employed to accomplish vegetative objectives for upland and riparian areas. The timing, duration of use, and number of livestock will vary. Fences may be used to control livestock movement, divide pastures, or





exclude livestock use. Water developments may be used to replace existing watering locations or redistribute use. Livestock grazing allotments may be operated in combination to increase flexibility, provide periods of no livestock use, or solve practical problems. Coordinated resource management plans, like the plan developed by the Lower Deschutes Coordinated Resource Planning Group for the lower 24 miles of river in 1983, may be used to develop practical management approaches to attaining vegetative goals, while considering other resources and uses.

Consultation will occur with livestock operators and affected interests as livestock grazing systems are designed and associated livestock project development (e.g., fencing, water) is planned. Grazing systems will be developed while considering resource objectives, associated costs for the livestock operators, as well as other economic, social and environmental issues. Resource management agencies will work with private landowners and managers to reach ecological objectives through initiation of cooperative range enhancement projects (e.g., fencing, seeding, planting, water development), that may include appropriate incentives (e.g. funding or materials) for the private individuals. Intensive monitoring studies (e.g., actual use, photo points, ecological condition and trend, nested frequency, riparian and water quality) will be implemented to measure progress in meeting the riparian and upland standards on public lands. Similar monitoring may be conducted on private and allotted lands where landowners and managers are agreeable. If, after five years, studies do not indicate a positive trend toward meeting vegetative standards, temporary or permanent livestock exclusions will be implemented on public lands and encouraged or recommended on private and Tribal allotted lands. If livestock operators consistently fail to comply with specific conditions of the grazing agreements on public lands, appropriate enforcement action will be taken, including potential loss of grazing privileges. Operator compliance on public lands will specifically include moving livestock to appropriate pastures at predetermined dates and stocking pastures at predetermined levels.

BLM will cooperate with other resource management agencies to establish demonstration trial areas that will use different livestock grazing manage-

ment systems in a variety of sites to better determine the most effective techniques for restoring upland and riparian vegetative communities. BLM will work with the other managing agencies to develop and use a consistent technique for evaluating vegetative change throughout the river canyon.

In instances where BLM lands are a small or isolated portion of the livestock pasture, the BLM will attempt to develop livestock management actions that are consistent with private land management, while striving to reach overall riparian and upland vegetative objectives.

BLM lands east of the railroad right-of-way fence from which livestock use has been excluded, will continue to be utilized as livestock enclosures. Areas of riparian vegetation presently in good or excellent condition will be maintained.

Existing livestock riparian enclosures at Mecca, Davidson Flat, from Cove Creek to the Deschutes Club Locked Gate, at Beavertail and Macks Canyon Campground will be maintained.

If a positive trend toward meeting the vegetation standards is not accomplished within five years, the following improvements will be constructed in areas with continuing problems:

Segment 1:

New livestock fencing will be constructed to exclude livestock from the riparian corridor of the river and tributaries on public land between Trout Creek Campground and Mecca Flat. Livestock watering access to the river and tributaries will be restricted to controlled points and only where upland watering alternatives do not exist or cannot be developed. Livestock riparian fencing will be constructed upstream from Trout Creek Campground above the east bank trail to reduce conflict with recreational access to the river.

Segment 2:

New livestock fence will be constructed to exclude livestock from BLM lands in the corridor between the east bank access road and the river until vegetative recovery has occurred. Livestock watering access to the river on BLM managed lands will occur at small controlled sites only when alternative upland water sources are unavailable.

Segment 3:

Additional livestock fence will be constructed above the Macks Canyon Road to exclude livestock from BLM managed lands within the river corridor during riparian recovery. New boundary fencing will be constructed between private and public lands at Sinamox, Ferry Canyon and Box Elder Canyon to prevent livestock from entering the riparian corridor on public land. New upland watering sources will be developed to eliminate the need for livestock access to the river.

Segment 4:

New livestock fencing will be constructed to exclude livestock from sections of riverbank not currently within established riparian livestock exclosures. Livestock access to the river or tributaries for water will be provided at controlled access points if upland watering sites are not available.

Projects will be constructed where they are consistent with site specific allotment objectives, and will include consultation with affected interests.

In areas of extensive blocks of private or allotted lands, the BLM will encourage implementation of livestock management systems that will result in riparian and upland plant communities reaching the management standards. The management agencies may work cooperatively with individual private landowners to assist in the development of grazing systems and construction of livestock management facilities.

Subject to availability of funding, the BLM will develop a consistent and well coordinated inventory, management plan implementation, and monitoring program for riparian areas along the Deschutes River and its tributaries to ensure that management objectives are met. (See Monitoring and Evaluation section of the Final Management Plan.)

Programs or measures will be implemented which promote cooperation and education in the process of achieving the plan's vegetative standards. This information will be directed at the managing agencies as well as livestock operators and the public.

2) Problem: Loss or degradation of vegetation and soil due to motor vehicle use has resulted in damage to fish habitat.

Proposed Decision -

The BLM will continue to implement decisions relating to off-road vehicle management in the Two Rivers Resource Management Plan. This includes closure or limitation of vehicle use in riparian areas to protect vegetation.

Motor vehicles will be restricted to designated roads, parking and launching areas.

Motor vehicle routes not designated will be closed and rehabilitated. Supplemental vegetative seeding or planting will be provided to speed vegetative recovery of areas previously degraded by vehicle use.

Parking areas will be provided on BLM lands outside of the riparian areas at Mecca, Trout Creek, Little Sandy Beach, Pine Tree, Beavertail and Macks Canyon, as well as other smaller roadside pull-off sites.

The BLM will avoid sidecasting material that could enter the river or cover riparian vegetation during road maintenance activities. The BLM will recommend to other agencies and private landowners that road maintenance activities adjacent to the river not result in sidecasting material into the river or onto riparian vegetation.

Rock or wood post barriers will be installed to prevent unauthorized vehicle access into riparian areas at sites such as Devil's Canyon, Long Bend, Oak Springs, Handicap Ramp, Little Sandy Beach, Pine Tree, Jones, Rattlesnake and Ferry Canyons, as well as Sinamox and other roadside sites.

3) Problem: Loss or degradation of vegetation and soil due to human use associated with activities such as parking, overnight camping and boating has resulted in damage to fish habitat.

Proposed Decision -

Undeveloped campsites will be managed to protect and enhance outstandingly remarkable values



Identified in the plan with the following objectives in mind:

1. Overnight camping will be managed with the least restriction and regimentation on campers necessary to ensure the protection and enhancement of the values identified in the plan.
2. The most favored means of management will be informational measures by which campers can voluntarily achieve management standards.
3. Site stabilization measures which change the physical appearance of the natural river corridor will be minimized.
4. Positive steps will be taken to protect the rights of the private property owner while at the same time encouraging private property owners to make accommodations for the public benefit.
5. Signing will be done in a manner to cause the least visual disruption in the planning area.
6. In general, signing will be used to designate areas where overnight camping is prohibited as opposed to where overnight camping is allowed.

Basic site protection measures will be provided as needed to stabilize sites and minimize impacts. Unstable riverbanks at heavily-used campsites will be stabilized. The preferred methods will be through bank sloping, revegetation and other nonstructural techniques. Campsites exhibiting heavy or extreme impacts will be actively rehabilitated and if necessary, closed until levels of impacts have been reduced to at least a moderate level (see Monitoring and Evaluation section of the Final Management Plan for definitions and criteria). If private land can be acquired and alternative camping facilities are provided at off-river sites at Maupin, Buckhollow or other suitable locations, overnight camping will be phased out on a case-by-case basis from Harpham Flat to Sherars Falls.

No new parking or overnight camping facilities will be constructed in riparian areas. Existing boat launch sites will be managed as described in the Access: Roads, Trails and Launch Sites section of the Final Management Plan.

b. Issue: How should water quality and water flows be managed to protect or enhance fish habitat?

1) Problem: Water quality and quantity have been adversely affected by various other uses.

Proposed Decision -

The BLM, along with the other managing agencies, will recommend to the Oregon Department of Environmental Quality, Soil Conservation Service and North Unit Irrigation District, that irrigation water returns to the Deschutes River be reduced through better management of water flows within the canal system and/or the construction of settling ponds or other devices to reduce or eliminate the transport of silt and agricultural chemicals into the Deschutes River.

The BLM will support the State of Oregon in establishing water quality standards in the Deschutes Basin and agrees to monitor water quality in the area in cooperation with the other managing agencies. Management objectives will include reducing siltation and agricultural chemical introductions into the Deschutes River.

The BLM will participate in the Federal Energy Regulatory Commission's relicensing process for the Pelton-Round Butte Project to ensure that identified outstandingly remarkable values within the planning area are maintained and enhanced. The BLM in cooperation with the other managing agencies will develop an emergency response plan dealing with the transportation of hazardous materials within or through the Lower Deschutes River canyon as a high priority.

The BLM will support the State of Oregon in the following:

- The Oregon Department of Fish and Wildlife, State Parks and Recreation Department, Department of Environmental Quality and the Water Resources Department will establish an instream water right for the lower 100 miles of the Deschutes River for fish, recreation, pollution abatement and protection and enhancement of other identified outstandingly remarkable values after Tribal negotiations on their water rights are completed.

•The management of the Deschutes River under this plan recognizes the pre-existing private property rights of landowners in waters within the Deschutes River Basin as adjudicated by the State of Oregon.

2) Problem: There is a lack of flow fluctuation to clean spawning gravel.

Proposed Decision -

The BLM will support the Oregon Department of Fish and Wildlife in the following:

- Each year, approximately 250 cubic yards of suitable gravel will be mechanically placed in primary fish spawning beds in the three miles of river immediately downstream from the Pelton Regulating Dam.

- As part of the periodic power project relicensing procedures, the BLM, along with the other managing agencies, will recommend to the Federal Energy Regulatory Commission to periodically increase releases of water through Pelton Dam, especially in the early spring months, to provide for natural cleaning of silt from spawning gravel beds. Releases will be monitored to determine the effect on spawning beds as well as other downstream values, such as bank stability and riparian vegetation.

2. Wildlife Habitat/Vegetation

a. Issue: How should wildlife habitat/vegetation and conflicts between recreational users and wildlife be managed?

1) Problem: Degradation of wildlife habitat due to livestock grazing has resulted in a reduction of wildlife populations and a loss of certain types of habitat.

Proposed Decision -

Same as Fish Habitat/Water Quality and Quantity discussion.

Cooperative agreements for wildlife habitat improvements will be sought with private landowners.

The BLM will work with the other managing agencies to increase public land holdings in the Deschutes River Canyon through exchange or other means and as a result, manage to increase/improve overall wildlife habitat.

The BLM will improve overall coordination of wildlife habitat inventories and management efforts to ensure that management objectives are met. (See Monitoring and Evaluation section of the Final Management Plan.)

The BLM will coordinate and cooperate with county weed control officers on a regular basis in the control of noxious weeds. Control methods will be proposed consistent with the Record of Decision on BLM's Northwest Area Noxious Weed Control Program EIS. Control methods will then be subjected to site specific environmental analyses consistent with that EIS. Control will be considered by the managing agencies on BLM lands where efforts are coordinated with owners of adjoining infested, non-public lands. Proper grazing management will be emphasized after control to minimize possible re-infestation.

Off-reservation treaty rights related to plants and animals with traditional significance to the Tribes will be recognized by BLM. No management actions which would adversely affect identified root digging areas, medicine gathering areas or animal species such as otter, eagles and certain waterfowl will occur.

The BLM will initiate informal and formal consultation with the U.S. Fish and Wildlife Service (USFWS) on all proposed actions which may affect any Federally listed or candidate threatened or endangered species. Consultation will be done in accordance with Section 7 of the Endangered Species Act, as amended.

Supplemental vegetative seeding and planting of the best suited plant species in riparian and upland areas will be provided to speed vegetative recovery of degraded areas and increase wildlife habitat diversity.

2) Problem: Human activities including overnight camping, vehicle use and motorboating have damaged vegetation and wildlife habitat and have disturbed, harassed and displaced wildlife.





Proposed Decision -

Overnight camping will be restricted or if necessary, prohibited in sensitive wildlife areas and areas in need of rehabilitation as determined by Limits of Acceptable Change criteria. Supplemental watering will be used to establish new tree and shrub growth of the best-suited species around these sites.

Existing sensitive waterfowl nesting and resting areas, as well as small game and nongame habitat, will be enhanced at some sites through plantings and other vegetative manipulation.

The BLM will support the State of Oregon in the following:

- All dogs will be required to be kept on a leash except while actually hunting during established hunting seasons.
- Former native species of wildlife such as California bighorn sheep and sharptailed grouse will be reintroduced if transplants can be obtained.

Campsites within the riparian zone in the vicinity of Devil's Canyon, Handicap Ramp, Oak Springs, Steelie Flat, Homestead Flat and Robertson Flat and other sites will be stabilized, rehabilitated or temporarily closed to allow vegetative recovery as needed.

Degraded campsites needing rehabilitation will be closed and actively rehabilitated until vegetative recovery has occurred. Once rehabilitation is complete, human activities such as overnight camping and vehicle use may be allowed if the areas are capable of sustaining use and that use is consistent with management objectives.

New overnight camping facilities will be located outside of riparian areas and away from sensitive wildlife habitats. They will be located in sites or areas that are suitable for overnight use and where other concerns such as fire hazard either do not exist or can be adequately mitigated.

The BLM will continue to implement decisions relating to off-road vehicle management in the Two Rivers Resource Management Plan. This includes total closure or limiting vehicle travel to existing or designated roads to protect or enhance wildlife habitat and other values.

The BLM will work with the other managing agencies in the development of a coordinated public information and education program which utilizes interpretive signs, brochures, maps and other material to gain public understanding of wildlife and other natural resources in the Deschutes River Canyon.

Artificial structures such as osprey nesting platforms will be erected and maintained at some sites to enhance habitat for nesting birds and other animals.

Prescribed fire will be used as appropriate to maintain or achieve desired ecological condition. It will be coordinated with the Oregon Department of Forestry and consistent with the BLM Two Rivers Resource Management Plan and "Vegetation Treatment on BLM Lands" EIS and ROD.

3. Historic/Prehistoric Resources

a. Issue: How should prehistoric/historic resources be managed in conjunction with other uses?

1) Problem: Recreational use impacts prehistoric/historic resources.

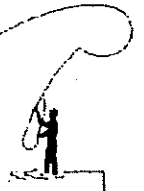
Proposed Decision -

Public information and education efforts through brochures, signs, information stations and visitor contact points will be implemented to increase awareness and appreciation of cultural resources.

Use by humans and domestic animals will be managed, restricted or closed by signing or fencing if damage to significant sites occurs.

The BLM will conduct a cultural resource survey or resurvey of all BLM lands. Cultural resource sites identified will be evaluated for significance and will be managed and/or protected in accordance with applicable laws. If permission can be obtained from the landowner, identified, significant cultural resources on private land will be managed and protected through cooperative agreements with the landowner.

The BLM will continue to inventory lands and evaluate cultural resource properties under their



jurisdictions in accordance with Section 106 of the National Historic Preservation Act of 1966, as amended.

Stabilization of significant sites will be implemented if feasible. If stabilization of a disturbed or threatened site is not feasible, the site will be further evaluated and salvaged to the greatest degree possible.

The BLM will cooperate with the other managing agencies to manage the cultural resources within the Deschutes River canyon through a coordinated plan of goals and objectives common to BLM, Tribally-owned and State land. Private landowners will be encouraged to participate in this process.

The BLM will compile and maintain a cultural resource database/atlas for BLM lands, incorporating known and/or recorded historic/prehistoric resource sites (including information gleaned from ethnographic and historic sources and oral histories). In addition, overlay maps documenting all cultural resource inventory information will be maintained. This information is exempt from the Freedom of Information Act (5 U.S.C. 552) and not available for public distribution.

The BLM will routinely consult with, and invite the participation of, the Tribes in the early planning stages of all development or other proposed surface-disturbing activities.

The BLM will coordinate fire control plans with the other managing agencies as they relate to cultural resource concerns (e.g. aggressively fighting fire to protect historic structures).

The BLM will protect and/or stabilize cultural resource sites from human-caused or natural sources of accelerated erosion or deterioration on BLM lands.

The BLM, in cooperation with the other managing agencies, will increase emphasis on enforcement of established laws, regulations and policies related to the protection and preservation of historic/prehistoric resource values. A monitoring plan will be developed and implemented to document changes (natural and human-caused) and ensure adequate protection.

The BLM will work with the other managing agencies to develop and implement a public information/education program aimed at increasing public awareness of and appreciation for the significance of prehistoric/historic resources.

The BLM will conduct an appropriate level of inventory on BLM lands to identify historic and prehistoric sites or features in areas proposed for surface-disturbing projects (e.g. range developments, road or trail construction, land sales [if any] and land exchanges). Sites discovered will be evaluated for significance following National Register of Historic Places criteria in connection with the State Historic Preservation Office. BLM considers the effect of any proposed undertaking on sites which meet the National Register criteria by following regulations of the Advisory Council on Historic Preservation or a memorandum of agreement negotiated with the Council.

In some cases, proposals will be found to have effects on National Register eligible sites. These sites will be avoided by relocating ground-disturbing activities. Where relocating a planned project is not feasible, the project will either not be allowed or mitigation of adverse effects to significant cultural values may be necessary. Mitigation will usually be an attempt to extract and preserve those attributes of a site which qualify it for the National Register. For example, many prehistoric sites are significant for the information they may provide about ancient Indian life ways and cultural adaptations. Various levels of site recording, excavation and analysis can often retrieve the important information, preserving it in records and reports.

Sites with socio-cultural values or recreational values suitable for public interpretation may be more difficult to mitigate by data recovery. Decisions about the treatment of such sites will be made on a case-by-case basis in consultation with the State Historic Preservation Officer and Advisory Council on Historic Preservation and Warm Springs Tribes, as appropriate.





2) Problem: Vandalism of prehistoric/historic resources

Proposed Decision -

Landowners will be given the opportunity to become better educated concerning existing cultural resource laws, regulations and law enforcement/investigation procedures. Aerial surveillance and remote sensing devices will be utilized to monitor vandalism at significant sites, given cost effectiveness.

Surveillance of sites which are easily accessible and/or in high recreation use areas will be conducted by field personnel, law enforcement people and/or volunteers on a regular basis. (See Monitoring and Evaluation section of the Final Management Plan.)

Efforts to increase public awareness and appreciation of cultural resources and solicitation of public support in the protection of those resources through outreach and education programs will be implemented.

Cultural resource sites will continue to be protected under current laws, regulations and policies. Detection of damage will trigger mitigation activities and/or law enforcement investigations.

3) Problem: Livestock grazing impacts to prehistoric/historic resources

Proposed Decision -

Livestock grazing will be managed to eliminate impacts to prehistoric/historic sites from trampling or other damage. All range development projects will continue to be evaluated for effects to prehistoric/historic resources on BLM lands in accordance with Section 106 of the National Historic Preservation Act of 1966, as amended.

Recreational Activities

1. Use Levels

a. Issue: How should recreation use levels be managed?

1) Problem: Increasing levels of use and congestion.

Proposed Decision -

Overall boating use (motorized and nonmotorized) during the primary use season (May 15-September 15 in Segments 1, 2 and 3 and May 15-October 15 in Segment 4) will be managed at approximately 1990 seasonal levels while redistributing daily peak weekend use to weekday or other weekend periods where daily boating use is less than management target levels (see graphs). Use levels for each segment during the primary use season will be managed as follows:

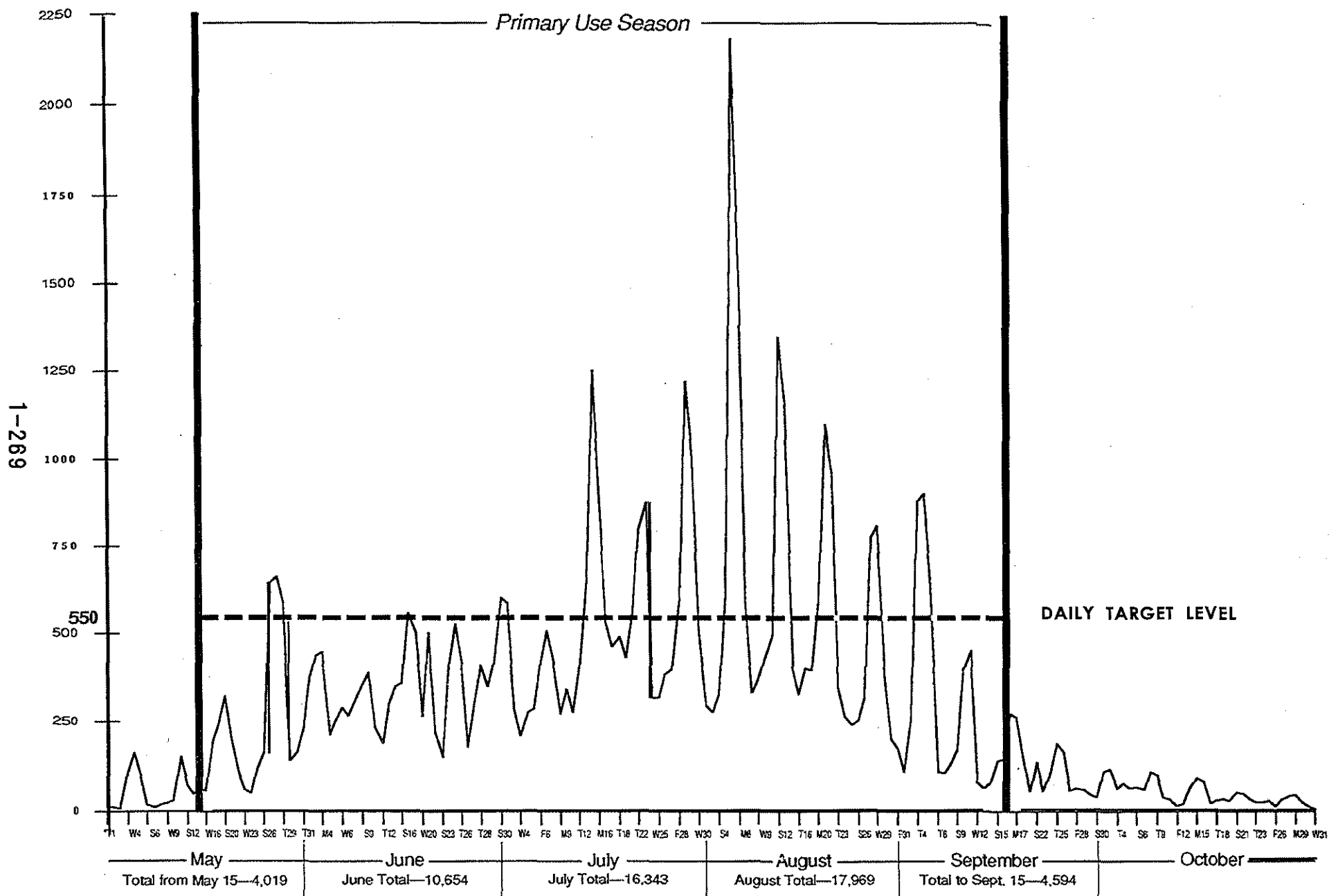
Segment	Boater Use Targets ¹	
	Daily Target (Boaters)	Seasonal Target (Boaters) ²
1 (Warm Springs-Trout Creek) - (Trout Creek-Deschutes Club Locked Gate)	220 330	21,400 32,200
2 (Deschutes Club Locked Gate - Sherars Falls)	1,700	74,100
3 (Sherars Falls-Macks Canyon Campground)	250	13,900
4 (Macks Canyon Campground-Mouth)	325	19,600
	Total	161,200

¹ The primary consideration in establishing daily and seasonal boater numbers is the mandate of the National Wild and Scenic Rivers Act to protect and enhance the outstandingly remarkable values associated with the river. They include the recreational, fishery, wildlife, cultural, archaeological, historic, geologic, scenic and botanical values as identified and described in the plan. In determining how to best protect and enhance outstandingly remarkable resource values, members of the policy group considered a wide variety of factors, including, but not limited to the number and capacity of suitable campsites, existing resource condition, user levels, past visitor and resource surveys and inventories, as well as comparisons with other river systems.

² Source - Actual use according to 1990 Deschutes Boater Pass Data during primary use season by segment and rounded to nearest 100.

Indirect or voluntary management actions will be given a 3-year period after the date of approval of the final plan to achieve these boating use targets. Several management actions will be considered by the managing agencies beginning with those which are the least restrictive and if necessary utilizing increasingly restrictive actions to achieve management objectives. They include:

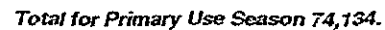
Segment 1 - Number of Boaters by Day — 1990



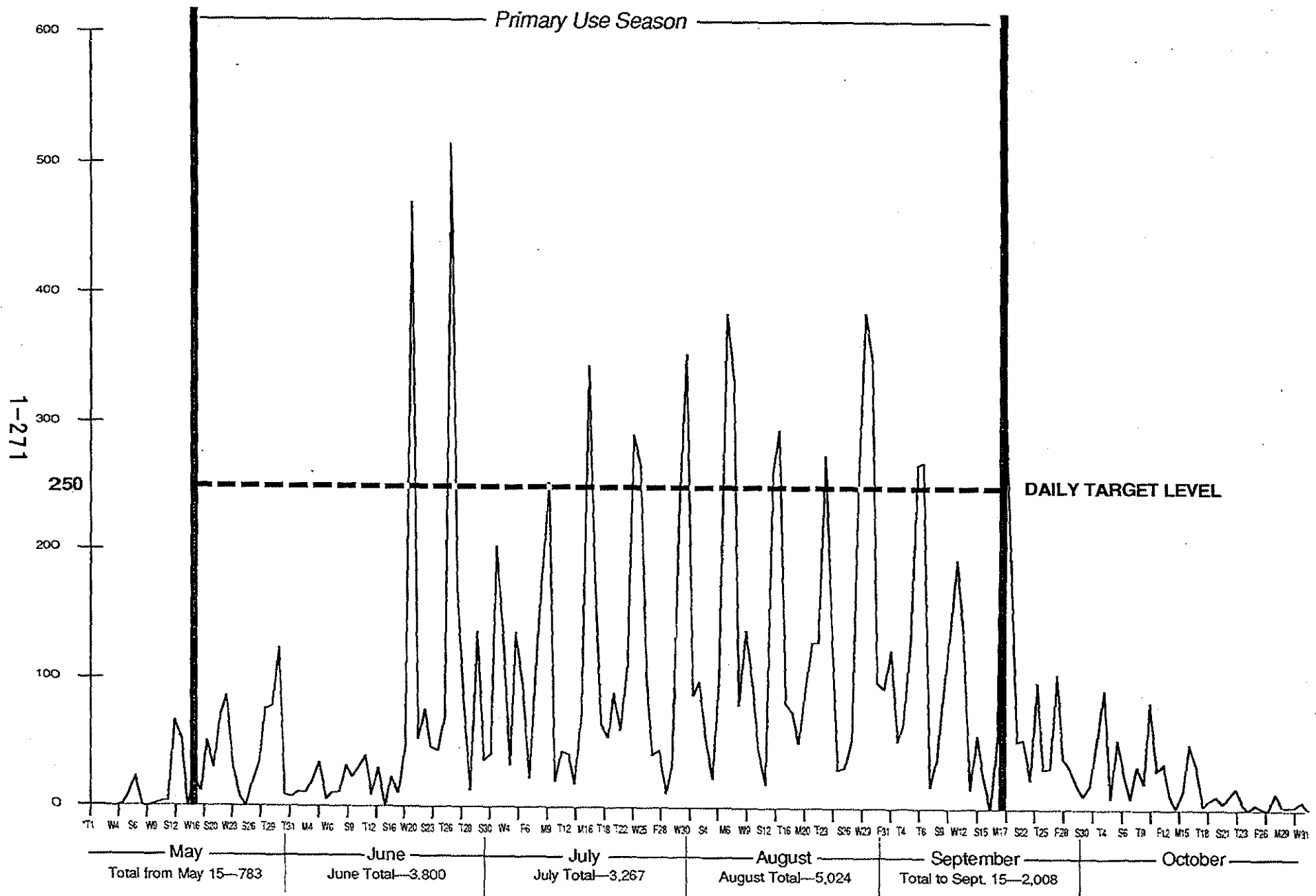
*items listed on value axis above months represent day of the week and date for the year 1990.

Total for Primary Use Season 53,579.

1-270



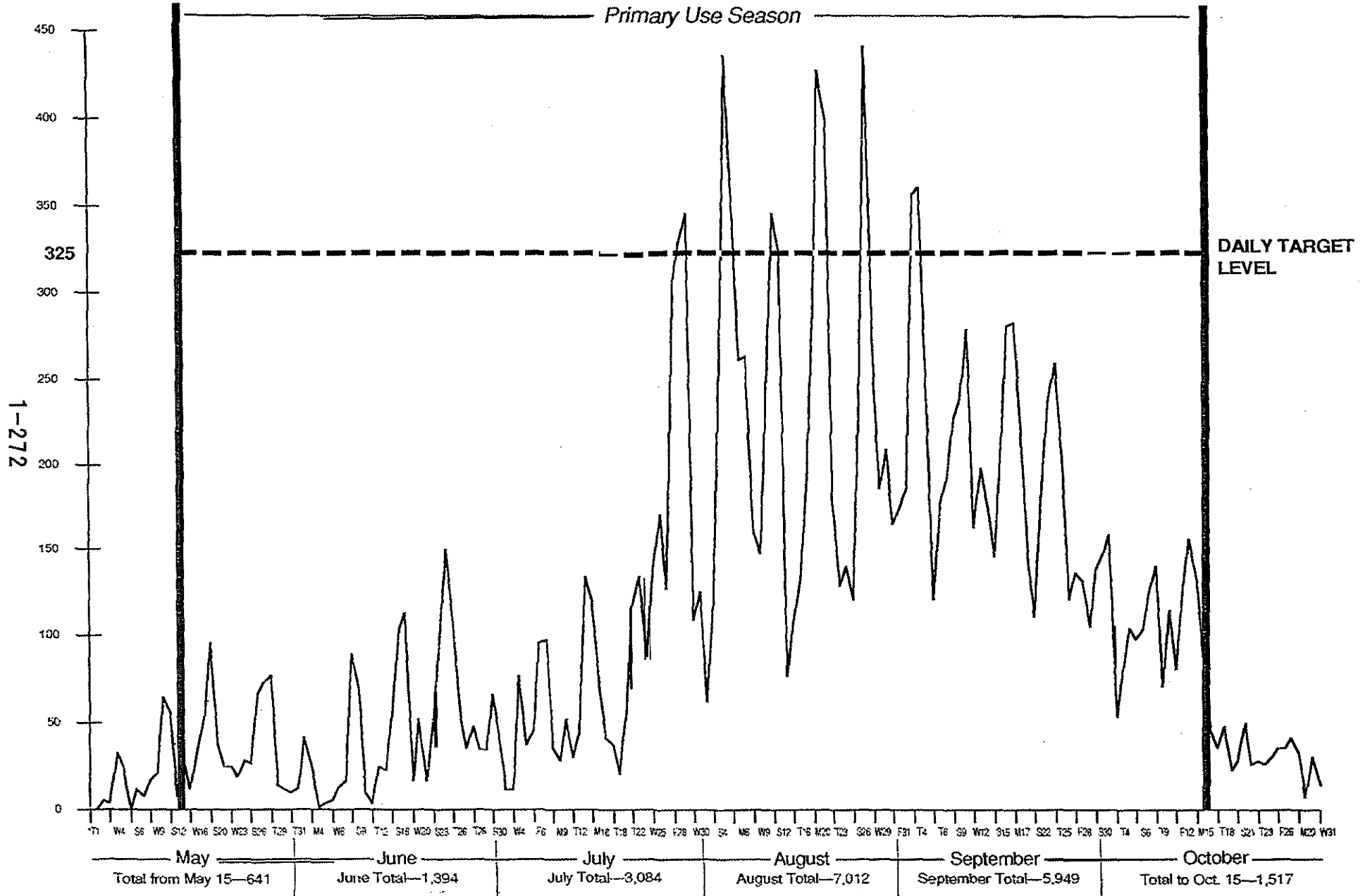
Segment 3 - Number of Boaters by Day — 1990



*items listed on value axis above months represent day of the week and date for the year 1990.

Total for Primary Use Season 13,882.

Segment 4 - Number of Boaters by Day — 1990



*items listed on value axis above months represent day of the week and date for the year 1990.

Total for Primary Use Season 19,597.

Entire river -

High Priority

- Develop and implement comprehensive user information/education program including staffed visitor contact stations at major entry/launch sites.
- All project design plans where facilities will be constructed will consider protecting or improving resource condition, reducing user conflicts and improving public safety rather than increasing the capacity of the site to accommodate use.
- Confine vehicle parking for raft rentals to designated spaces.
- Implement voluntary campsite registration system.
- The BLM will support the State of Oregon in the following:
 - Ban alcohol/open containers at boat launch sites. Alcohol ban may be expanded to additional specific sites if required as a result of social conflicts and to improve public safety.
 - Phase in vehicle size (passenger capacity) restrictions.
 - Require boaters to be certified.

Moderate Priority

- Regulate guided launch times and number of launches per day.
- Limit overnight camping length of stay to 24 hours.
- Designate suitable undeveloped campsites and confine boat-in camping to those areas.
- Implement a campsite reservation system.

The BLM will support the State of Oregon in the following:

- Implement 6-people-per-day punch card system for motorized boats.

- Further reduce nonmotorized boating party size to ten people in Segments 1, 3 and 4 and 14 people in Segment 2.

- Charge a higher fee for boater passes on peak weekend periods or in high use areas.

- Replace boater pass system with day passes for specific river segments.

Segment 1 -

- Redesign Trout Creek boat launch site and do not improve Mecca or South Junction launch sites.

The BLM will support Jefferson County in:

- Continuing the "no alcohol" policy at Warm Springs Launch Site.

Segment 2 -

- Utilize information/education techniques to encourage vehicle-based campers to stay in Segment 3.
- Confine vehicle parking to designated areas off the road. Expand existing areas to better accommodate parking.
- If private land can be acquired and alternative camping facilities are provided at off-river sites at Maupin, Buckhollow or other suitable locations, overnight camping will be phased out on a case-by-case basis on public land between Harpham Flat and Sherars Falls.

The BLM will support the Tribes in the following:

- Control vehicle traffic and recreation use at Harpham Flat by banning all overnight camping, designating vehicle parking areas, requiring parking fee/permit, not allowing alcohol/open containers and providing public information/education facility.

- Ban overnight camping at Sandy Beach and do not allow alcohol/open containers.

The BLM will support the City of Maupin in:

- Banning alcohol at Maupin City Park.



Segment 3 -

- Improve boat launch facility at Pine Tree.

The BLM will support the Tribes in:

- Banning non-Tribal overnight camping at Sherars Falls if/when alternate off-river camping areas are provided at Buckhollow.

Segment 4 -

The BLM will support the State of Oregon in:

- Banning alcohol/open containers at Heritage Landing.

If the above actions or other similar techniques developed by BLM and the other managing agencies are successful in reaching use level targets after three years of implementation and it is determined that use level targets can be met through voluntary and indirect methods in the future, no limited entry system will be implemented. If voluntary and indirect methods are not successful, as a last resort, a limited entry system will be phased in as follows:

In the first year of the limited entry system, if daily and/or seasonal use levels by segment exceed target levels, daily use levels will be reduced by no more than ten percent below 1990 use levels distributed among those days in which the actual use level exceeded the targeted level for that segment. (See examples of various scenarios in the Final Management Plan.)

Permits will only be required when it appears that peak use will exceed target levels. If targets are only expected to be exceeded on weekends, a limited entry system will only be implemented on weekends during that month. In addition, if targets are expected to be exceeded on weekdays, the system will be expanded to include weekdays. During the off season and other times during the primary use season on segments of the river where use levels do not exceed user targets, no permit will be required.

Use levels will be closely monitored to determine the degree to which daily use levels shift from days in which target levels are exceeded to less crowded times or segments and what, if any, additional dates or river segments are receiving use in excess of

target levels. When overall use on a river segment approaches seasonal use limits and it is predicted that 1990 seasonal use levels will be attained or exceeded during the upcoming year, an additional ten percent reduction in daily use levels in excess of target levels will be made. If, as peak use levels are reduced, a disproportionate increase in nonpeak use levels still occurs, the reduction in peak use in excess target levels in the next year will be increased beyond ten percent to the point necessary to maintain overall use for that segment at 1990 levels. If, however, after a ten percent reduction in peak use, overall use levels in that segment during non-peak periods do not increase to at least 95 percent of overall 1990 levels, then additional reductions in peak use will be deferred until such time as overall use during the primary use season in a given year does reach that level, provided that such deferral does not adversely impact the outstandingly remarkable resource values of that segment. This process of redistributing use to reach target levels will continue until both daily and seasonal targets are achieved. Indirect or voluntary management actions will also be used to supplement the limited entry system as needed to further encourage redistribution of use.

The effects of this system of bringing user levels within daily and seasonal standards on the outstandingly remarkable resource values will be monitored and evaluated using the limits of acceptable change process. Seasonal and/or daily use targets may be raised or lowered through this process as discussed in the Monitoring and Evaluation section of the Final Management Plan.

Non-boating use levels will also be managed to the same standards as those outlined for boating. Suitable levels of use will be determined as necessary data becomes available (see Fisheries, Camping and Other Recreational Users description under Limits of Acceptable Change section of the Final Management Plan).

2. Use Allocation

a. Issue: If a limited entry system is implemented, how should use be allocated?

1) Problem: No allocation system to regulate recreation use has been established.

Proposed Decision -

No allocation methods using a permit system will be implemented for a period of three years after the date of final plan approval. Other management techniques will be emphasized to resolve user conflicts, reduce environmental effects, and maintain seasonal use at 1990 levels. The BLM, in cooperation with the other managing agencies, will aggressively pursue all reasonable measures during the 3-year period to avoid the need to implement a permit system. Management techniques to be employed are discussed in more detail in the Use Levels section of the Final Management Plan.

Immediately following the end of the 3-year period, a report will be published detailing the use management actions taken, monitoring data and trends, and an evaluation of the success of non-permit measures. As ongoing monitoring identifies areas of concern, direct actions will be taken to manage use in those areas. Success of non-permit techniques will be evaluated based on three primary criteria:

1. All outstandingly remarkable values must be maintained or enhanced. Each river segment must have demonstrated improvement in the composition, vigor and function of riparian vegetation present. The overall trend in all high use recreation sites must be static or upward, with no evidence of significant deterioration due to recreation use. Baseline data will include the BLM campsite inventory photographs, vegetation monitoring, other remote sensing products and additional data contributed by other agencies.

2. Use pressure problems must be declining. Camping longer than the camp stay limit, camping on public lands closed to camping and vegetation damage related to vehicle use off existing roads, pioneering of new campsites and boat launch/landing sites must be declining on all river segments.

3. Seasonal use levels must be at or below the 1990 level on each segment and daily use levels for the last 2 years of the 3 year period must be no more than ten percent over target levels on any day during the primary use season. If use exceeds the 1990 level for the last two seasons of the 3-year period (or any subsequent 2-year period), a permit system will be indicated for at least a portion of the

season. The 1990 use level threshold for instituting a permit system may only be modified by agreement of all the managing agencies, with public review and clear rationale based on the above criteria.

Any instance where daily use targets are not met for two consecutive years will indicate more restrictive measures are required. Permit types of allocation techniques, beyond the existing State boater pass, will not be used to respond to fluctuations in use relative to daily use targets unless seasonal use limits are exceeded, the above criteria are not met, or non-permit measures have been unsuccessful.

Over the first two years of the 3-year period, the design of a permit system will be developed by BLM in cooperation with the other managing agencies. The proposed Deschutes River allocation system will be published for public review and comment together with all supplemental analyses. At least 60 days of public comment opportunity will be provided.

This will allow some allocation issues to be resolved by gathering more factual information or conducting additional analysis. This information will be displayed with the proposed permit system. Additional data collection and analysis will include:

1. Cost of implementation for various allocation methods,
2. Combination of methods which best fits the Lower Deschutes River,
3. Desirability of quantifying public use privileges (guided and nonguided) on the Lower Deschutes River,
4. Desirability of tracking individuals on each permit rather than trip leader or party,
5. The effects of various allocation methods on different segments of the user public, and
6. Criteria identified in the Draft Lower Deschutes River Management Plan/Environmental Impact Statement, other factors identified before or during the information gathering and analysis process.

The allocation decision will be made before the end of the 3-year period and adopted as part of the final plan.



3. Boating: Motorized

a. Issue: How should motorized boating be managed?

1) Problem: Congestion and user conflicts

Proposed Decision -

The BLM will support the Oregon State Marine Board in implementing the following:

- The existing motorboat deadline at the northeast edge of the Confederated Tribes of Warm Springs which extends upstream to Pelton Dam will not be modified.
- From the existing motorboat deadline downstream to the mouth of Buckhollow Creek (just downstream from Sherars Falls) motorboat use will not be allowed from May 15 to October 15. From October 16 to May 14, motorboat use will be allowed for three years. A maximum of five boats per day will be allowed on a first come-first served basis. Three years after the date of approval of the final plan, the seasonal closure will become a year-round ban in this area. From the mouth of Buckhollow Creek to Macks Canyon Campground, motorboat use will not be allowed from June 15 to September 30. Motorboat use will be allowed from October 1 to June 14. From Macks Canyon Campground to Heritage Landing, motorized boat use will be allowed year-round except from June 15 to September 30 motorboat use will be allowed ten days out of every 14-day period. On alternating Thursday, Friday, Saturday and Sunday periods, motorboat use will not be allowed.
- Motorized boat use, when and where allowed, will be regulated within the use levels and by the same allocation method described in the Use Levels and Allocation sections.
- During the periods when motorboats are allowed, they will be allowed to operate from legal sunrise to legal sunset.
- When allowed, each motorboat will be able to make up to two round trips from Heritage Landing or Macks Canyon per day, except for emergencies.
- Each motorboat will be allowed to carry a maximum of six people, including the operator.
- The bans and restrictions on motorized boats in any segment will not apply to motorized craft used for necessary landowner access, administrative uses and emergency services. Landowner access by motorized boat will be allowed to continue in the same manner and degree as in the past to provide reasonable access to private land. Other than direct ingress and egress, motorized boat use by private landowners will be subject to the same conditions and restrictions as apply to other motorized boat users.
- All floating craft, except float tubes, will observe a pass-through zone from the no-wake zone at Moody Rapids to the upstream end of Rattlesnake Rapids, and motorized boat users will not be allowed to camp on the west side of the river from Free Bridge to Sharp's Bar.
- One U.S. Coast Guard certified tour boat with a maximum of 16 passengers with a permit to be issued on the basis of an annual bid and prospectus will be allowed in Segment 4 during periods when motorboats will be allowed. This use will be for day use sightseeing and picnicking only.
- Ensure that State noise standards for motorboats are enforced.

All commercial outfitters and guides will continue to be subject to a Special Recreation Use Permit administered by the BLM.

Public use brochures and a map to inform and educate boaters on how to avoid peak use periods, reduce user impacts and utilize less crowded sections of the river during open periods will be developed.

The BLM, along with the other managing agencies, will emphasize the development of a coordinated public information and education program which utilizes signs, brochures, maps and other material to gain public understanding of motorboating use regulations, campsite availability and access to the river so as to disperse use, promote good outdoor manners, respect for other users while operating a motorboat and public safety.

The managing agencies will increase and better coordinate enforcement efforts regarding laws and administrative rules.

The BLM will work with the other managing agencies to develop a cooperative system for gathering and analyzing motorized boating data to maintain accurate monitoring information to ensure that management objectives are met.

4. Boating: Nonmotorized

a. Issue: How should nonmotorized boating be managed?

1) Problem: Crowding and User Conflicts

Proposed Decision -

Nonmotorized boat use will be regulated within the use levels and by the same allocation method described in the Use Levels and Allocation sections.

Public use brochures and a map will be published to inform and educate boaters on how to avoid peak use periods, reduce user impacts and utilize less-crowded sections of the river.

The BLM will support the State of Oregon in implementing the following:

- All floating craft, except float tubes, will be required to display a boat identification tag.
- Party size will be limited to 16 people in Segments 1, 3 and 4 and 24 people in Segment 2.
- All floating craft, except float tubes, will be required to observe a pass-through zone from the no-wake zone at Moody Rapids to the upstream end of Rattlesnake Rapids.
- Ban the use of mechanized "water cannons".

The BLM, along with the other managing agencies, will emphasize the development of a coordinated public information and education program which utilizes signs, brochures, maps and other material. The purpose will be to gain public understanding of boating use regulations, availability of campsites and access to the river so as to disperse use and promote good outdoor manners and public safety.

The BLM will work with the other managing agencies to increase and better coordinate enforcement efforts regarding laws and administrative rules.

The BLM will cooperate with the other managing agencies to develop a cooperative system for gathering and analyzing nonmotorized boating data to maintain accurate monitoring information to ensure that management objective are met.

5. Fishing

a. Issue: How should a quality fishing experience be maintained or enhanced?

1) Problem: Competition for fishing areas.

Proposed Decision -

Basic site protection measures will be provided at major fishing areas to better accommodate use. Riparian enhancement measures will be implemented to increase the number of desirable angling sites. Public easements for angling access will be acquired on private lands on a willing seller basis. Additional public access will be provided through land exchanges, purchase or other means as opportunities arise which are consistent with the goals and objectives of this plan.

A hiking and mountain bike trail will be developed on the east side of the river from Trout Creek to North Junction to better distribute anglers. Additional roadside vehicle parking areas will be provided adjacent to the Deschutes Access Road between the Deschutes Club Locked Gate and Macks Canyon.

Walk-overs or walk-throughs will be installed and maintained in the riparian livestock enclosure fences to facilitate angler access to the river. The Eastside Access Road will connect Harris Canyon and Deschutes State Park with a hiking, mountain bike and horse trail. The river between Moody Rapids and Rattlesnake Rapids will be designated for hike-in and bike-in anglers only.

The BLM will work with the other managing agencies to emphasize the development of a coordinated public information and education program which utilizes interpretive signs, bro-



chures, maps and other material to gain public understanding of the Deschutes River fishery, good outdoor manners, public safety, angling rules and regulations as well as to better disperse angling and non-angling uses along the river.

The BLM will continue to coordinate enforcement of regulations and administrative rules with the other managing agencies. Level of enforcement will be increased on a cooperative basis.

Improved on-the-ground identification of BLM lands along the river will be completed to reduce trespass.

The outstandingly remarkable fishery values in the Lower Deschutes River will be managed for protection and enhancement in compliance with the Oregon State Scenic Waterways Act and the National Wild and Scenic Rivers Act. The BLM will support the Oregon Department of Fish and Wildlife in management of the Lower Deschutes River fishery with the following major objectives:

Species	Total Return	Harvest	Spawning Escapement
Spring chinook	8,500-12,000	5,500- 8,000	3,000- 4,000
Fall chinook	10,000-12,000	4,000- 5,000	6,000- 7,000
Summer steelhead	16,000-22,000	6,000-12,000	10,000
Rainbow trout	managed as wild fish, maintained at a total population indicated by 1,500-2,500 fish per mile larger than eight inches in the Nena Creek area with 30 percent of these 1,500-2,500 fish per mile being over 12 inches		
Bull trout	maintain existing population		
Sockeye	develop and maintain a self-sustaining run when and if technology is developed to successfully pass juvenile and adult fish over the Pelton-Round Butte Hydroelectric Complex		

The BLM and other managing agencies involved with fisheries management will develop a cooperative system for gathering and analyzing angling data to maintain accurate monitoring information to ensure that management objectives are met.

6. Camping

a. Issue: How should overnight camping be managed?

1) Problem: Campsite availability, quality of facilities and environment.

Proposed Decision -

Undeveloped campsites will be managed with the following objectives in mind:

1. First and foremost is the protection and enhancement of the resource and public values identified in the plan.
2. Overnight camping will be managed with the least restriction and regimentation on campers necessary to ensure the protection and enhancement of the resource and public values identified in the plan.
3. The most favored means of management will be informational measures by which campers can voluntarily achieve management standards.
4. Site stabilization measures which detract from the physical appearance of the natural river corridor will be minimized.
5. Positive steps will be taken to protect the rights of the private property owner while at the same time encouraging private property owners to make accommodations for the public benefit.
6. Signing will be done in a manner to cause the least visual disruption in the planning area.
7. In general, signing will be used to designate areas where overnight camping is prohibited as opposed to where overnight camping is allowed.

Sanitation facilities (toilets) will be constructed at heavily used boat-in campsites to be determined on a site-by-site basis for resource protection and visitor safety. The density of new toilet placement will generally not exceed one every two miles.

Campers will be required to pack out all human waste and garbage from sites with no sanitation or garbage facilities. Sanitation disposal facilities will be provided at boat landings.

Degraded campsites needing rehabilitation will be closed and actively rehabilitated until vegetative recovery has occurred. Once rehabilitation is complete, overnight camping may be allowed if the campsites are capable of sustaining use and that use



is consistent with management objectives. (See Monitoring and Evaluation section of the Final Management Plan).

Undeveloped sites where significant conflicts exist with cultural, riparian and/or wildlife values will be closed and rehabilitated if the conflict cannot be mitigated. Basic site protection measures will be provided as needed to stabilize sites and minimize impacts to soil and vegetation.

Overnight camping will continue to be prohibited on all islands.

Developed/semi-developed campgrounds will be managed under the following objectives:

If private land can be acquired and alternative camping facilities are provided at off-river sites at Maupin, Buckhollow or other suitable locations, overnight camping will be phased out on a case-by-case basis from Harpham Flat to Sherars Falls.

Those areas where a water system exists will have waste water disposal facilities for "gray water" provided.

Campsites and other developed facilities in roaded segments of the river will be designed for access and use by the handicapped.

New overnight camping facilities will be located outside of the riparian areas and away from sensitive wildlife habitats.

Overnight camping fees will be charged for all campsites on public land which are accessible by vehicle.

Vehicle camping will be limited to designated campsites only.

Other management actions to be taken are:

Public brochures and maps will be developed to inform and educate campers on how to avoid peak use periods and utilize less crowded sections of the river.

The BLM will work with the other managing agencies to develop a cooperative system for gathering and analyzing overnight camping data to

maintain accurate monitoring information to ensure that management objectives are met. (See Monitoring and Evaluation section of the Final Management Plan.)

Overnight camping group size will be determined by the size and capability of the site; however, in no case will group size exceed 16 people per site in Segments 1, 3 or 4 and 24 in Segment 2. Larger parties will be discouraged. Overnight camping length of stay will be limited to four nights in undeveloped sites and 14 nights in developed sites on BLM lands. Motorized boats will be limited to seven nights between May 15 and October 15 in those areas where they are allowed. All camping equipment and personal property will then be removed from the area and cannot be relocated within 1/4-mile of the same site for a period of at least 14 nights.

If overnight camping use levels exceed site capacity on a regular basis, the length of stay will be reduced to two nights in undeveloped sites and seven nights in developed/semi-developed campgrounds and if necessary, further reduced to one night and four nights respectively during peak use periods.

As a last resort, if overnight camping use levels exceed site capacity, a campsite reservation system will be implemented during peak use periods.

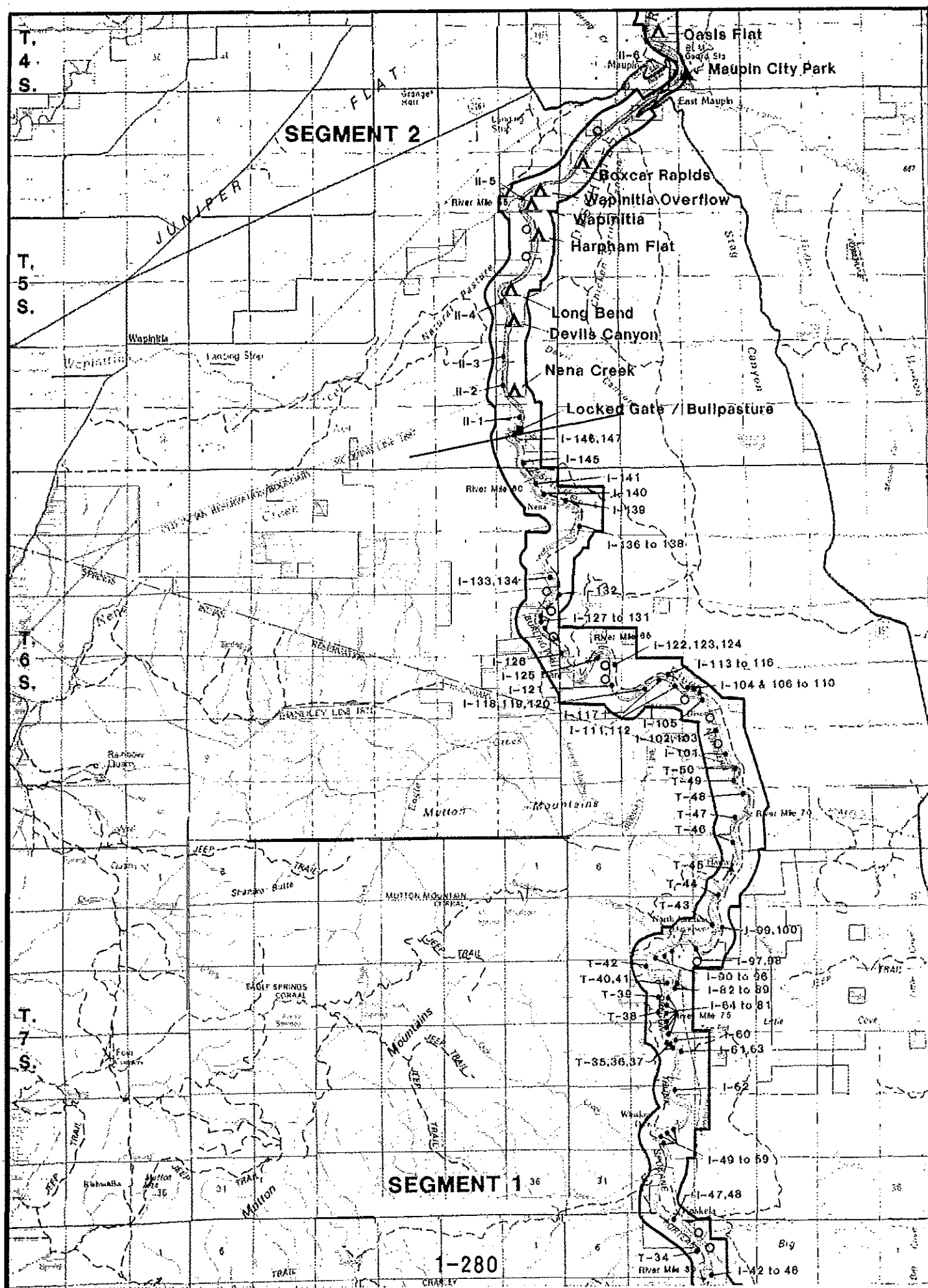
Segment 1 - 143 sites (public land) - 140 undeveloped/primitive non-vehicle access sites and three developed/semi-developed campgrounds with 70 individual campsites.

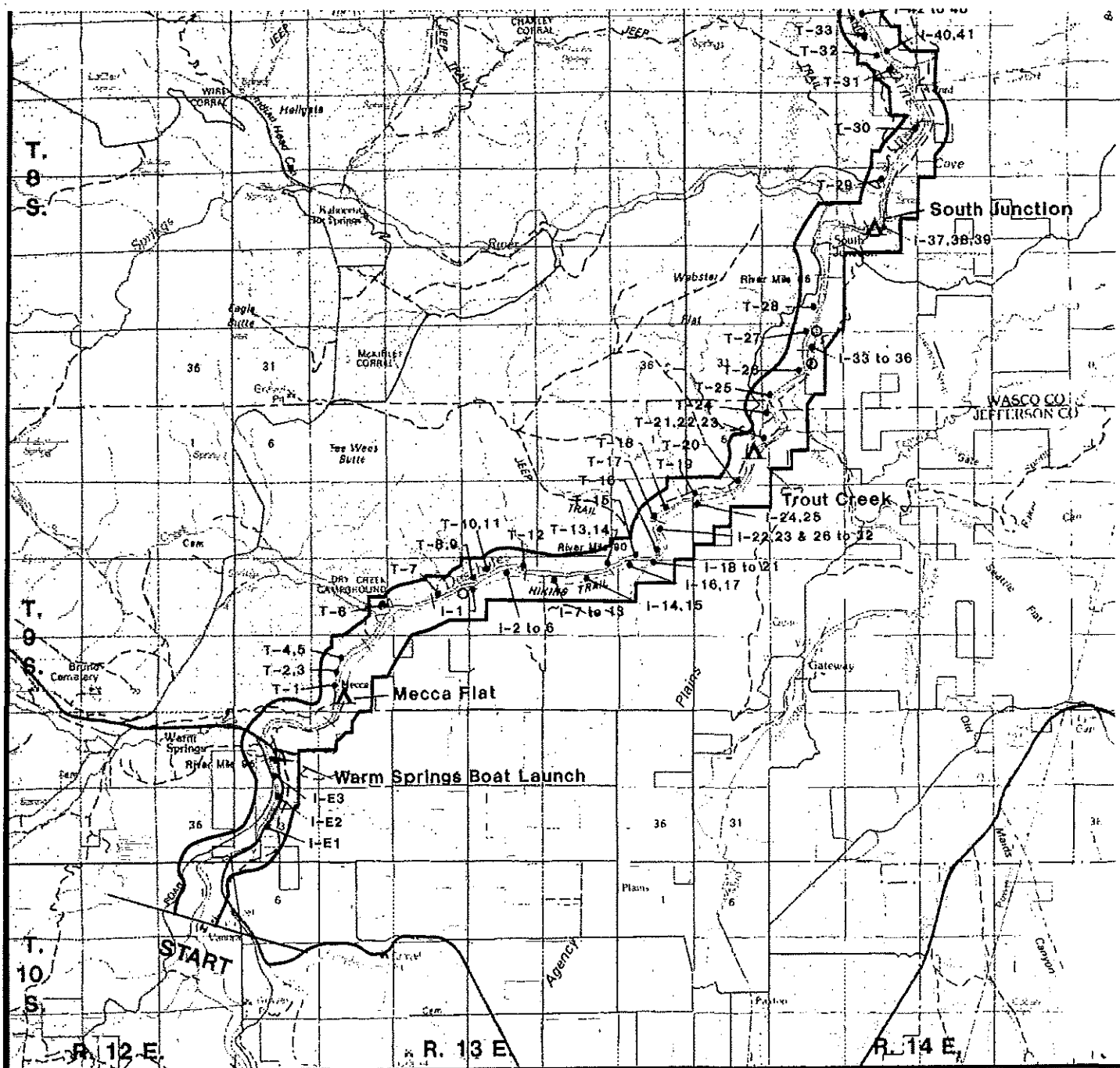
Segment 2 - 14 sites (public land) - six undeveloped/primitive non-vehicle access sites and eight developed/semi-developed campgrounds with 48 individual campsites.

Segment 3 - 40 sites (public land) - 32 undeveloped/primitive non-vehicle access sites and eight developed/semi-developed campgrounds with approximately 67 individual campsites.

Segment 4 - 142 sites (public land) - 135 undeveloped/primitive non-vehicle access sites, six undeveloped/primitive drive-in/boat-in sites and one developed campground at Deschutes State Park with 34 individual campsites.

See Maps 3 and 4 for locations of camping areas.





LEGEND

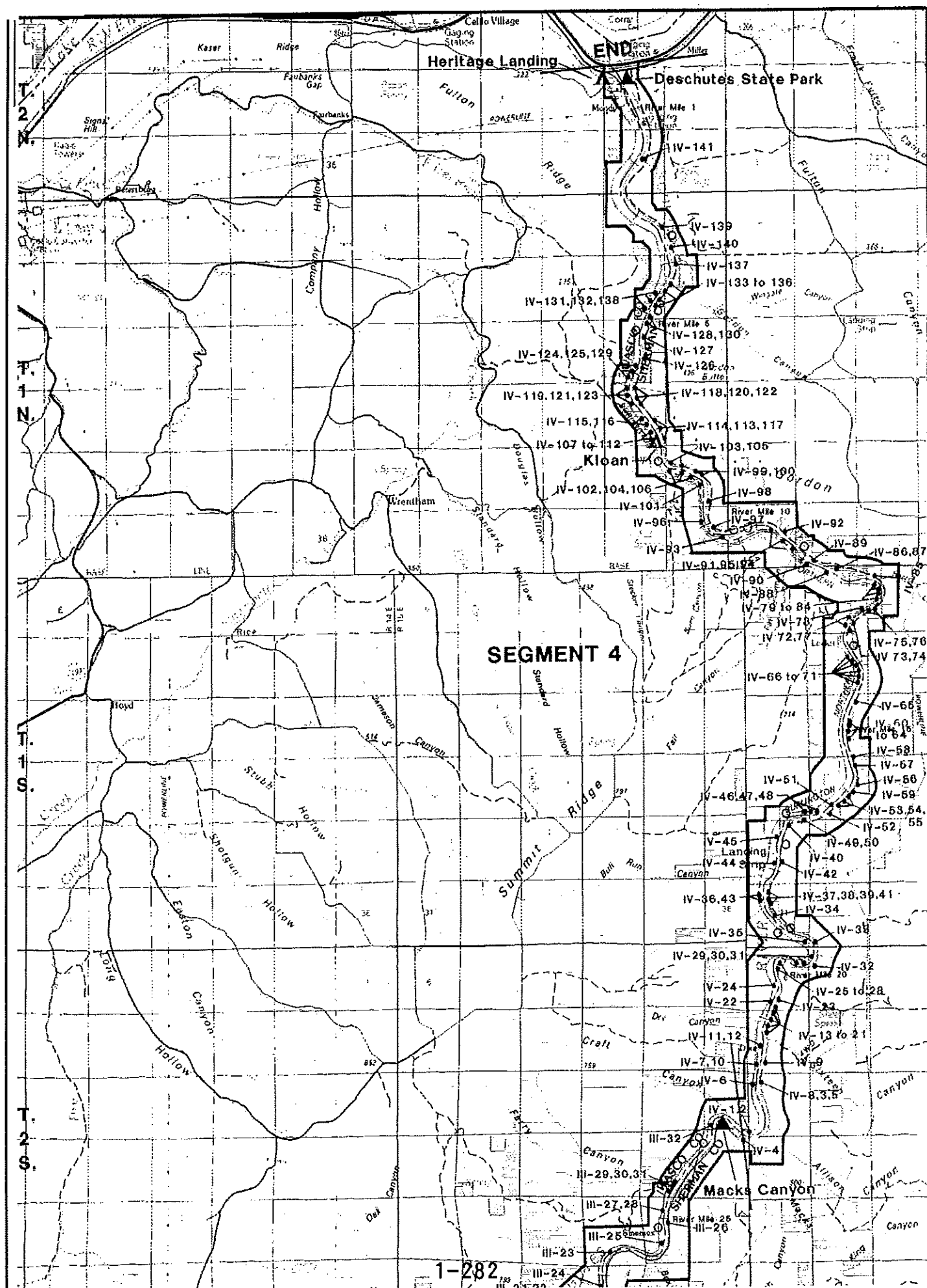
- A. Developed Campground
- △ Semi-Developed Campground
- I - 6 0 Undeveloped Campsites
- o Undeveloped Campsites
Needing Further Review

U.S. DEPARTMENT OF THE INTERIOR
Bureau of Land Management

LOWER DESCHUTES RIVER CAMPING AREAS Prineville District

1992

1 0 1 2 3 Miles
Scale 1:126,720





Additional overnight camping facilities will be constructed as follows:

Segment 1: Three developed/semi-developed campgrounds with approximately 70 sites will be provided on BLM and Tribally-owned lands. The existing campground at Trout Creek will be improved to include new toilets. An additional launching/landing ramp may be provided or the existing ramp expanded if needed to adequately protect resource conditions. South Junction will have gravel parking areas and necessary barriers to confine parking and camping to designated areas. New toilet facilities will also be provided. Dry Creek will receive minor site rehabilitation.

Segment 2: Eight developed/semi-developed campgrounds with 48 sites will be provided. The existing camping areas at Nena Creek, Devil's Canyon, Long Bend, Wapinitia, Oasis, Grey Eagle, Blue Hole and Oaksprings will be stabilized and specific campsites designated. Harpham Flat will be developed for day use and boat launch and landing if long-term public access and management control can be established. Site stabilization including gravel, barricading and toilets will be provided. Alternate launch/landing sites may also be considered as substitutes for the primary launch location. Maupin City Park will continue to be administered by the City of Maupin. It will be converted to a day use and boat launching and landing area if off-river facilities are provided at Maupin. The City will attempt acquisition of adjacent private land for expansion.

White River will also be developed for day use and Sandy Beach will be developed into a major landing facility with upland parking, day use and group area providing long-term public access and management control can be established. If private land can be acquired and alternative camping facilities are provided at off-river sites at Maupin, Buckhollow or other suitable locations, overnight camping will be phased out on a case-by-case basis from Harpham Flat to Sherars Falls.

Segment 3: Eight developed/semi-developed campgrounds with approximately 67 units will be provided on BLM lands. Buckhollow will include a campground with space for recreation vehicles if private land can be acquired. Pine Tree launch site will be upgraded and only boat launching/landing

and day use allowed. Boulder Flat will be opened to day use only. Overnight camping areas at Twin Springs, Oakbrook, Gert and Jones Canyon and Upper and Lower Rattlesnake will be stabilized with designated camping sites. Beavertail and Macks Canyon Campgrounds will have increased maintenance.

Segment 4: Bank stabilization and toilet facilities will be provided at Kloan. One developed campground at Deschutes State park with 34 sites will continue to be provided.

7. Guided and Outfitted Services

a. Issue: How should guided and outfitted service be managed?

1) Problem: User Crowding.

Proposed Decision -

Guided and outfitted services will be regulated in the same manner and to the same degree as is discussed in the Use Levels, Use Allocation and Motorized and Nonmotorized Boating sections.

All commercial outfitters and guides will be required to obtain a Special Recreation Use Permit. The system will be administered by BLM.

Group size for nonmotorized guides will be limited to 16 people per party per day in Segments 1, 3 and 4 and 24 in Segment 2. Motorized guides will be limited to six people per boat per day, including operator, with no more than two round trips per day from either Macks Canyon or Heritage Landing.

The BLM, along with the other managing agencies, will continue to coordinate permit requirements and regulatory controls including development and implementation of a uniform and consolidated system for the issuance, administration and enforcement of permits in the entire planning area.

The BLM will work with the other managing agencies to emphasize the development of a coordinated public information and education program utilizing guided and outfitted services as dispensers of brochures, maps and/or other material to gain better public understanding of

individual stewardship responsibilities while using the Deschutes River.

The BLM will work with the other managing agencies to ensure that shuttle services are in compliance with PUC rules and regulations. A permit will be required for all commercial services utilizing BLM roads and public lands or facilities.

2) Problem: Guide Certification

Proposed Decision -

The BLM will support the State of Oregon in requiring that all guides and outfitters be certified for operation on the Deschutes River. Certification requirements will be developed and administered by a committee made up of representatives from BLM, State Parks, Oregon State Police, Oregon Department of Fish and Wildlife, Oregon State Marine Board and the guiding industry.

8. Access: Roads, Trails and Launch Sites

a. Issue: What actions should be taken with regard to public access?

1) Problem: Safety and traffic volume on roads.

Proposed Decision -

Motor vehicles will be restricted to designated roads, parking and camping areas. Routes not designated will be closed and rehabilitated.

The BLM, in cooperation with the other managing agencies, will pursue acquisition and/or development of safe vehicle access to Whiskey Dick, Jersey Flat, Whitehorse, Frog Springs and North Junction for administrative, maintenance and emergency use only. No new public vehicle access roads will be constructed.

The BLM, along with the other managing agencies, will develop a coordinated transportation and road classification system with designated speed limits and design standards for all existing access roads and trails. Speed limits will be enforced.

The BLM will continue to implement decisions relating to off-road vehicle management in the Two Rivers Resource Management Plan. This includes

closure or limitation of vehicle use in riparian and upland areas to protect vegetation.

The BLM will work with the other managing agencies to prohibit the landing of aircraft on existing primitive strips on public lands or on the river within the Lower Deschutes River Canyon except for emergency and administrative purposes. Airstrip development or the landing of aircraft on private land will be discouraged.

Roads and parking on BLM lands will be defined at Mecca Flat, Trout Creek, South Junction and Devil's Canyon as well as at other smaller areas. Motor vehicle parking along the Deschutes Access Road will be limited to designated areas.

Brochures, maps and other material available to the public will contain information on access roads, parking, launching sites and trails.

The BLM will support the State of Oregon in limiting vehicle traffic to vehicles designed to carry 25 passengers or less on all roads, except State and Federal highways.

Some decisions regarding public access were developed by BLM in response to an Executive Review Board decision that BLM should pursue alternative public access between the Deschutes Club locked gate and the present motorboat deadline and that motorboat use on Segments 1 and 2 should be eliminated after three years. The following decisions were not completed using the Policy Group portion of the planning process where consensus of those signing the plan was reached. Accordingly, some of those signing the Final Lower Deschutes River Management Plan/EIS may not agree to or support the following:

1. The access road from Maupin to the Deschutes Club locked gate will be upgraded to meet minimum safety standards based on regulated traffic volumes resulting from implementation of this plan. This will include acquisition of public easements for vehicle access, maintenance and other public uses.

2. The road between Maupin and Harpham Flat or an alternative Segment launch site will be widened in unsafe sections and that segment will be oil surfaced on a gravel base. The road from the





primary Segment 2 launch site to the Deschutes Club locked gate and from Buckhollow to Macks Canyon will be maintained as a gravel road. Guard rails will be installed along narrow sections.

3. Administrative access for BLM along the river road between the Deschutes Club locked gate and North Junction will be acquired to provide for continued fire protection and maintenance of public facilities. A road easement or right-of-way would cover legal access and maintenance for the Deschutes Club and public lands upstream from the locked gate.

4. BLM has decided to pursue legal public access for walk-in users to public lands between the Deschutes Club locked gate and the present motorboat deadline near Two Springs Ranch. General public access into the Wild and Scenic River corridor between the locked gate and the present motorboat deadline would be by river and foot travel along the existing river road or from the rim. A hiking trail would be established with the preferred alignment being along the road from Criterion Summit to the Deschutes River. A short segment of this route may be altered to avoid the Dant ferry location. Alternative trail alignments will seek to avoid public liability and cost associated with use of the existing tunnel along the river road near Dant.

5. Public access on the road downstream from the locked gate may be acquired through resolution of the status of the "Smart Cabin", a house built in trespass on public lands upstream from the locked gate. Short-term leases have been authorized by the BLM for use of the cabin in recent years. One of three options will be employed to resolve the trespass: 1) exchange of the homestead (public lands) for Deschutes Club lands at Devil's Canyon and easements on two road segments near Maupin, 2) relinquishment of the improvements (house, etc) in their present condition, or 3) elimination of the buildings and facilities with reclamation of the lands to a natural appearing condition.

6. Access to public lands upstream from the Deschutes Club locked gate may be facilitated by acquisition of a public use trail easement through direct purchase or exchange. A possible exchange would involve the BLM-owned right-of-way

segments between Windy Flat and Two Springs Ranch. These fee-owned right-of-way segments would be deeded to the Deschutes Club or Two Springs Ranch, reserving administrative access and a public use trail easement to BLM. In addition, BLM would grant a road right-of-way to the Deschutes Club across public land as referenced above. In the exchange, the Deschutes Club would grant to BLM a public use trail easement and administrative-use-only road easement across their land for fire protection, public facility maintenance, monitoring, and use supervision.

7. The BLM has decided to pursue completion of a proposed acquisition with Criterion Interests, Inc. Access to the acquired public lands would be from Highway 197 either through surface ownership or easement. Upon acquisition, management of acquired public lands outside the river corridor would be evaluated to assess the most appropriate public uses, with attention to providing recreation opportunities and access to replace those foregone over time along the river (e.g., jetboat fishing). Obviously, recreation uses on the acquired parcel will be different. A possible range of opportunities includes a scenic overlook with picnicking or more primitive uses such as hiking and hunting.

2) Problem: Inadequate and unsafe parking areas and pullouts.

Proposed Decision -

If needed and where feasible, existing parking and roadside pullouts outside of riparian areas or other sensitive wildlife habitats will be redesigned/reconstructed to better accommodate vehicle parking, reduce congestion, protect resources, disperse recreation use and improve public safety.

Other parking areas and unsafe roadside pullouts will be closed and rehabilitated.

Parking areas on BLM lands will be developed or improved adjacent to Highway 26 upstream from Warm Springs as well as at Mecca Flat, Trout Creek, South Junction, Devil's Canyon, Long Bend, Wapinitia, Boxcar Rapids, The Pine Tree and other suitable areas between Maupin and Sherars Falls.

3) Problem: Safety, congestion and resource damage at launch and landing sites.

Proposed Decision -

The launch site at Warm Springs will be redesigned to provide a larger staging area.

A launch facility will not be constructed at Mecca Flat, however raft launching will not be prohibited. The launch facility at Trout Creek will be upgraded or a separate launch and landing area may be constructed if needed to adequately protect resource conditions.

South Junction will not be managed as a launch site. The launch sites on BLM lands at Nena and Wapinitia will be upgraded for better access to the river as well as bank protection. The BLM supports the Tribes in improvements to be made for the launching and landing sites on Tribally-owned land at Harpham Flat and Sandy Beach. The Sherars Falls landing will be closed when alternate facilities are provided at Sandy Beach.

The launch sites at Little Sandy Beach, Pine Tree, Beavertail and Macks Canyon Campground will be improved to provide better bank protection and to enhance watercraft safety. The Pine Tree launch site will be upgraded so as to be able to accommodate trailered boats.

The BLM supports the State of Oregon redesigning Heritage Landing to better accommodate boat use including separate landing sites for motorized and nonmotorized boats.

4) Problem: Inadequate foot access.

Proposed Decision -

Foot access trails within riparian areas will be stabilized if necessary, but will be allowed as traffic dictates. Trails will, however, be closed if stabilization efforts are not effective. Hiking and mountain bike trails will be improved and/or developed from Mecca Flat to North Junction on the east side of the river and from Macks Canyon to Deschutes State Park with consideration for safety, wildlife and riparian habitat, as well as historic and prehistoric resources. Access through or over enclosure fences will be provided. Necessary easements across

private land will only be acquired from willing landowners. Additional public access will be provided through land exchange, purchase, or other means as opportunities arise which are consistent with the goals and objectives of the Final Management Plan. Mountain bike use will be allowed on all roads and trails with public access, however, easement boundaries on private land will be clearly posted and trespass laws will be aggressively enforced. Mountain bike use off established and suitable trails on public land will be discouraged and if necessary, prohibited. The BLM will support the State of Oregon in the following: 1) Trail and fishing access facilities for the handicapped will be provided in the vicinity of Heritage Landing, and 2) Horseback use will be allowed on a day-use basis on the abandoned railroad grade between Deschutes State Park and Harris Canyon from March 1 to April 30. Horses will not be allowed onto the riverbank or canyon slopes. If, after two years, no problems with horseback use have developed, the use season will be extended to June 30. The number of horses will be limited to a maximum of ten per day. A check-in system for riders will be developed to enforce daily limits and a monitoring system for noxious weeds will be implemented. A fee will be charged horseback users to construct, improve and maintain loading, watering and resting facilities. No commercial horseback use by outfitters/packers will be allowed.

9. User Fees

a. Issue: How should user fees be levied for public use of the Deschutes River?

1) Problem: Inequitable and inadequate funding.

Proposed Decision -

User fees will be collected for use of the Deschutes River where the collection of the fee is cost effective and administratively feasible. This will include site specific access points, overnight camping and parking in developed or designated sites or areas, as well as boating use. The Deschutes Boater Pass system will continue until the BLM and other managing agencies can implement a dedicated fund supported by an all-user fee. The boater pass fee will be increased to \$2 per person per day or \$15 per person for an annual pass. An annual family pass for immediate family members will be available for





\$25. Receipts will be dedicated to use on the Deschutes. Landowner access passes will continue to be issued on an annual basis.

BLM will continue to collect camping fees in developed camping areas. The BLM will collect fees from guides and outfitters in accordance with established policies.

Public Safety and Services

1. Emergency Services

a. Issue: How should emergency services be managed?

1) Problem: Inadequate services.

Proposed Decision -

The BLM will increase fire suppression capabilities and assume lead responsibility for coordinating all fire suppression with other entities for fires starting within or threatening the National Wild and Scenic River area. BLM will develop agreements with affected private landowners and the other managing agencies for fire suppression activities.

The BLM will increase emphasis on the prevention and suppression of wildfire to protect public values, such as vegetation, visual resources and adjacent private property.

Open fires and charcoal will be prohibited from June 1 to October 15 with increased surveillance and enforcement on the entire river. Smoking will be limited to buildings, closed vehicles or boats on the water. Periods of fire closure may be extended if conditions warrant.

The BLM will work with the other managing agencies to resolve overlapping jurisdictions and increase enforcement of fire regulations and enhance fire prevention and suppression efforts. The managing agencies will also increase individual accountability for all river users in areas with high economic values at risk during periods of high and extreme fire hazard.

The BLM will support the State of Oregon in the following:

- User fees will contribute to the funding of emergency services.
- The discharge of firearms within the planning area boundaries from the third Saturday in May through August 31 will be prohibited.

The removal or burning of any living, dead or down vegetation on BLM lands will not be allowed. This does not include prescribed burning carried out to achieve vegetation management objectives.

The BLM will work with the other managing agencies to encourage cooperation between and establish joint annual training exercises for agencies, fire districts, the railroad and private individuals.

The BLM, along with the other managing agencies, will develop a coordinated public information and education program which explains fire regulations, individual liability and fire hazard within the planning area.

The BLM will cooperate with the other managing agencies to improve coordination efforts in dispatch and carrying out search and rescue efforts and response to potential natural and human-caused emergencies in the Deschutes River canyon.

The BLM, along with the other managing agencies, will communicate and coordinate with the appropriate State, Tribal and Federal agencies responsible for carrying out the provisions of the Hazardous Materials Transportation Act (20 USC 1804, et seq.) to ensure that appropriate steps have been taken to minimize the danger of hazardous material spills in the Lower Deschutes River canyon.

The BLM will cooperate with the other managing agencies as they seek to enter into an MOU with Burlington Northern Railroad to do the following:

- Improve fire prevention measures such as better maintenance of a vegetation free zone along the tracks. Require all trains to carry basic fire suppression equipment during the summer months. Establish communication and coordination measures for fire suppression efforts.



- Establish a coordinated and effective communication system with common radio frequencies with the railroad. Make communication line and call boxes on the railroad communication system available to the public and law enforcement officials.
- Meet minimum standards for maintenance and construction activities by the railroad involving the sidelaying of material, vegetation cutting and herbicide spraying in riparian areas.
- Provide for the cleanup of discarded materials within the railroad right-of-way.
- It is imperative that State, local, Tribal and Federal governments initiate; first, cooperation from the railroads to accomplish these ends; and second, failing in that endeavor, use the powers of government to compel compliance.

2. Law Enforcement

a. Issue: What actions should the managing agencies take to effectively provide law enforcement on BLM, State, Tribally-owned and private land?

1) Problem: Inadequate law enforcement

Proposed Decision -

The BLM will support the State of Oregon and local governments in the following:

- Funding for increased law enforcement will be provided through a user fee. Two full-time officers will be provided during the primary use season for the entire river with special emphasis on Segment 2. Aircraft and motorboat use for law enforcement will be increased.
- A uniform communication network available to all law enforcement officials will be established.
- All floating devices except float tubes, will be required to display an identification tag.

The BLM will work closely with adjacent private landowners to enforce trespass laws and regulations within the Deschutes River canyon.

The BLM will work with the other managing agencies to improve coordination of law enforcement efforts by establishing uniform regulations throughout the river area to enforce Federal, State, Tribal and local laws.

The BLM will work with the other managing agencies to develop uniform and operating methods for dealing with various enforcement and court situations in Federal, State and Tribal jurisdiction areas. The existing law enforcement agreement with Wasco County may be continued and an agreement with Jefferson and/or Sherman Counties may be established if determined to be efficient and effective.

The BLM will cooperate with the other managing agencies to develop a coordinated public information and education program which emphasizes the laws and regulations in effect in the Deschutes River canyon and the rationale and penalties behind them.

The BLM will cooperate with the other managing agencies to work with the courts in establishing innovative penalties for violations that would serve as a greater deterrent than low fine levels. This could include changes in bail schedules, community service, improvement work along the Deschutes, forfeiture of equipment and/or increased penalties.

The BLM will work with the other managing agencies to develop an information sharing mechanism to identify repeat offenders.

The BLM will cooperate with the other managing agencies to establish uniform and effective traffic regulations in the Deschutes River canyon. Enforcement of all laws and regulations will be increased through additional Federal, State, County, Tribal and local law enforcement personnel.



3. Information and Education

a. Issue: How should public information and education be handled?

1) Problem: Lack of public information and education.

Proposed Decision -

Signs and bulletin boards displaying information and a brochure dispenser will be placed at boat launch and landing sites and at the beginning of the road upriver from Maupin.

On BLM lands, Sherars/Buckhollow and Trout Creek will have information stations staffed by volunteers or seasonal agency employees during peak use periods. The stations will be self-service in the absence of personnel.

Certain wildlife viewing areas and suitable historic and prehistoric features will be identified by informational/interpretive signs. A Deschutes River Visitor Center will be developed in Maupin at the historic railroad station. The railroad station will be restored and additional facilities built to house educational and informational displays.

Guides and outfitters will provide information to their clients about points of interest, good outdoor ethics and no-trace camping, as well as laws and regulations on the Deschutes. User passes will include similar brief summaries.

The BLM will emphasize the development of a coordinated public information and education program which utilizes large scale map signs in key locations and detailed user maps that show public/private landownership. The BLM will cooperate with the other managing agencies to publish a comprehensive map with all points of interest, landownership, major campsites, toilet facilities, access roads and trails, launches and landings, major plant and animal species identified. Where helpful, descriptive information about facilities and standards of access roads, launches and campsites will be provided. The map will also have no-trace camping requirements, riparian and upland protecting practices for recreational users, emergency communication network outlined and laws and regulations.

The BLM will sign all BLM lands within 1/4 mile of the river. Signs will be visible from the river except in upland areas. All signs will be placed in somewhat predictable places. Old or damaged signs will be replaced as needed.

The BLM will work with the other managing agencies to develop a coordinated sign plan and design for the Deschutes River canyon. All signs including those at boat launching, landing and camping sites used for identification or information will be of the same sign standards, color, type of print, material, size, symbols and placement, etc. so that all signs in the canyon are identified with the recreation area. Major campsites, launch sites and parking areas will be signed with uniform signs to direct users to specific areas for specific activities. For example: launch sites will have clearly signed staging areas, parking areas and launch areas as well as places set aside for overnight camping. An on-the-ground rivermile marking system will also be developed and implemented. This system may incorporate the existing railroad mile post markers.

The BLM will cooperate with the other managing agencies to develop a coordinated public information and education program which utilizes interpretive signs, brochures, maps and other material to gain public understanding of the following elements:

- a. Fish and wildlife habitat
- b. Water quality
- c. Riparian and upland ecosystems
- d. Land, water and air use practices
- e. Off-reservation treaty rights related to plants and animals of traditional significance to the Tribes
- f. Threatened and endangered species
- g. Historic, prehistoric and cultural sites
- h. Enforcement of established laws, regulations and policies
- i. Boating use regulations
- j. Availability, location and quality of campsites
- k. Access to the river
- l. Good outdoor manners including no-trace camping and stewardship responsibilities
- m. Public safety and emergency services, including fire regulations
- n. Courtesy toward other users
- o. Deschutes River fishery
- p. Angling rules and regulations

- q. Identification of landownership - public, private and Tribal
- r. Volunteers and campground hosts
- s. User fees, passes and guided and outfitted services permits and fees
- t. Road and trail identification and use guidelines
- u. Noxious weeds (including hay used by horses)
- v. Horseback safety
- w. Proper mountain bike use

The BLM will actively recruit volunteers to assist in public information/education programs as well as clean-up, resource rehabilitation work and campground hosts.

A Deschutes newsletter will be sent twice a year to Deschutes users. It will contain articles about laws and regulations, preservation and protection of the Deschutes River Recreation Area, how volunteers can become involved, new personnel and user statistics.

Other Resources and Uses

1. Soil, Water and Air

The inventory and evaluation of soil, water and air resources on public lands will continue. Soils will be managed to maintain productivity and to minimize erosion. Corrective actions will take place, where practicable, to resolve erosive conditions. Water sources necessary to meet program objectives will be developed and filed on according to applicable State and Federal laws and regulations. Water quality of perennial streams will continue to be monitored and climatological data will continue to be gathered.

2. Fire Management

The main emphasis of the fire management program in the Lower Deschutes River Planning Area will continue to be prevention and suppression of wildfire to protect public values such as vegetation and visual resources. Prescribed fire may be used to reach multiple use objectives. When prescribed fire is considered under various programs, it will be coordinated between agencies, with adjacent landowners and carried out in accordance with approved fire management plans and appropriate smoke management goals and objectives.

3. Noxious Weed Control

Infestations of noxious weeds are known to occur on some public and private lands in the planning area. These weeds are easily spread by wind, water, horses, motor vehicles, recreation users, wildlife and livestock. The most common noxious weeds are diffuse, spotted and Russian knapweed, yellow star thistle, dalmation toadflax, skeleton weed, scotch thistle, whitetop and poison hemlock. Control methods on BLM-managed lands will be proposed consistent with the Record of Decision on BLM's Northwest Area Noxious Weed Control Program EIS. Control methods will then be subjected to site specific environmental analyses tiered to that EIS. Control will be considered on BLM lands where efforts are coordinated with owners of adjoining infested, non-public lands. Proper grazing management will be emphasized after control to minimize possible re-infestation. Coordination and cooperation with and between county weed control officers will continue on a regular basis.

4. Utility and Transportation Corridors

All utility/transportation corridors identified by the Western Regional Corridor Study of May 1986 prepared by the Ad Hoc Western Utility Group are currently occupied and have been designated on BLM lands. Corridor widths vary, but are a minimum of 2,000 feet. No additional crossing sites on the BLM-managed portions of the Deschutes River will be permitted. Any new utility or transportation corridors that impose into or cross the river on other ownerships, (e.g. below ordinary high water) will require an easement from the Division of State Lands. In addition, existing facilities will require an easement at such time as they undergo major structural alteration, replacement or relocation. No facilities will be allowed parallel to the railroad right of way in the Deschutes Canyon. Applicants will be encouraged to locate new facilities (including communication sites) adjacent to existing facilities to the extent possible. All rights-of-way applications to BLM will be reviewed using the criteria of following existing corridors wherever practical and avoiding proliferation of separate rights of way. Recommendations made to applicants and actions approved will be consistent with the goals and objectives of this plan. BLM lands will continue to be available for local rights of way, including multiple use and single use utility/transportation





corridors following existing routes, communication sites and roads. Issuance of leases and/or patents under the Recreation and Public Purposes Act and other permits or leases to public entities for development of public lands will also continue with

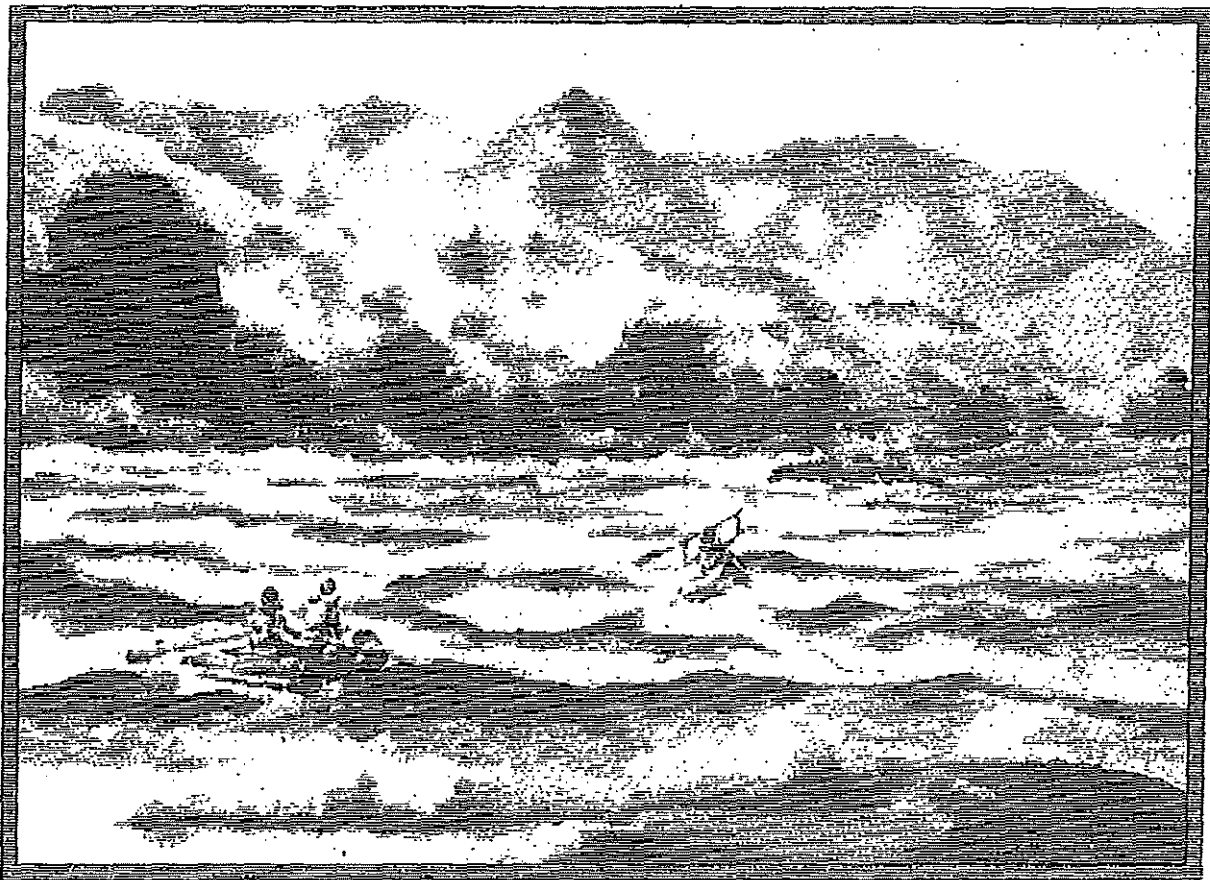
involvement of the other managing agencies. Applications will be reviewed on an individual basis for conformance with the Final Management Plan as well as other plans to minimize conflicts with other resources or users.



SUPPLEMENT TO THE LOWER DESCHUTES RIVER MANAGEMENT PLAN

Final Decision

Lower Deschutes River Allocation System



**Bureau of Land Management
Bureau of Indian Affairs
Confederated Tribes of the Warm Springs Reservation
State of Oregon**

June 1997

Dear Deschutes River User:

The various agencies having management responsibilities along the lower 100 miles of the Deschutes River Canyon completed a comprehensive plan for the river in 1993, but deferred the decision on allocation of boating use. This document completes the plan and provides the framework for a permit system along the Lower Deschutes River, should it become necessary.

The plan was prepared with joint participation and consultation among federal, state, tribal and local government agencies. As required in the plan update and amendment process, the supplement ensures continued progress toward plan objectives. The supplement is based on assessment of impacts and provision of mitigating measures, particularly concerning potential economic effects. The supplement is consistent with the plans and policies of federal, state and local governments and of the Confederated Tribes of the Warm Springs. The BLM Supplemental Record of Decision, as required under the National Environmental Policy Act for this Decision is included in Appendix A.

Public workshops were held in March 1996 for the supplement and in February 1997 for the proposed decision. Hearings were held in April of 1996. A 60 day public comment period was provided in 1996 and a draft proposed final decision was provided in advance of the 1997 workshops.

A working group for the Lower Deschutes River comprised of river users and agency staff was established by the Deschutes Provincial Advisory Committee, an advisory group to the Bureau of Land Management and the Forest Service, in February 1997. The working group provides recommendations to the agency managers for implementation of the management plan for the Lower Deschutes River.

Allocation has been a contentious issue along the Lower Deschutes River. The supplement brings the issue to a resolution after considerable public dialogue. The supplement allows for continued public involvement in the implementation of non-permit measures and any future permit system. We thank you for your continued interest and participation in management along the Deschutes River.

Bureau of Land Management

Bureau of Indian Affairs

Confederated Tribes of Warm Springs

Oregon Parks and Recreation Department

Oregon Department of Fish and Wildlife

Oregon Marine Board

Oregon State Police

Local Government Representative
for the City of Maupin, Jefferson County, Sherman County and Wasco County

James J. Hancock
William A. Smith
Charles K. Pelica
Robert E. Meinen
Mark R. Foley
Paul Donheffer
Lindsay H. Ball
Sharon Holliday

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CHAPTER 1 -- INTRODUCTION

A. Background

In a state known for its stunning variety of finely sculptured landscapes, the Lower Deschutes River canyon is considered a masterpiece of nature. Native Americans have held the river in reverence for thousands of years. Oregonians rallied in support of the Deschutes with statewide voter approval of scenic waterway status, and a massive campaign to finance the purchase of riverfront property.

People are lured to the Deschutes as a cool and refreshing escape from the surrounding desert, but more importantly they are drawn to the river by a silver ribbon of wild fish. For as long as anyone can remember, Indians with long handled dip nets have swept the narrow chutes below Sherars Falls, probing the submerged cliffs to locate salmon and steelhead on their trip home from the Pacific. The netters stand on platforms perched along a jagged edge of volcanic rock and reveal age old secrets to their sons and grandsons while awaiting the telltale thump of a fish that is vital to their timeless ceremonial and subsistence way of life.

Sportsmen come to wade the shallow riffles and cast flies or spinners over broad-shouldered native trout they affectionately call "redsides," and boaters flock to the scene with inflatable boats and shiny oars that slide through the rapids in heart-stirring rhythms. Through close and repeated interactions with the river environment, people learned to recognize and appreciate the unique qualities which shape its character. For many, the feelings grew passionate, and the passion cultivated an ethic intolerant of threats to the Lower Deschutes.

The federal government is obligated by its treaty and trust responsibilities with the Tribes of Middle Oregon, and mandates of the National Wild and Scenic Rivers Act, to protect the Deschutes River for present and future generations. The Confederated Tribes of Warm Springs exercised their rights and expressed an eternal interest by designating the Lower Deschutes a Tribal Wild and Scenic River. The State of Oregon also has a responsibility to protect the Deschutes as mandated by the State Scenic Waterways Act.

The joint agencies, recognizing the importance of these responsibilities, completed and signed The Lower Deschutes River Management Plan (plan) in 1993. The plan incorporates input from all user groups and lays the groundwork for long-term protection of the river. The plan also provides guidelines for compatible recreation and establishes use limits for boaters, alleviating the potential for environmental abuse, overcrowding and user conflict. Use limits evolved from a growing need to safeguard the public interest and from a preference for recreational experiences emphasizing an inter-generational bond and appreciation for natural resources. This plan is jointly administered by the signatory governments under a cooperative management agreement.

The Lower Deschutes River is divided into four segments for management purposes. Segment 1 is from the Pelton Re-regulating Dam to the Deschutes Club locked gate. Segment 2 is from the Deschutes Club locked gate to Sherars Falls. Segment 3 is from Sherars Falls to Macks Canyon

and Segment 4 is from Macks Canyon to the confluence with the Columbia River. Management goals for each of the four river segments are listed in the plan. Natural resource values and environmental integrity are not to be compromised in any segment of the Lower Deschutes.

It was determined that in order to maintain a healthy environment, and continue a standard of high-quality recreation opportunities, use levels would need to be limited. The plan also determined the best way to limit use, if non-permit measures are unsuccessful, would be through an allocation system.

With regard to allocation, the plan states the following:

"No allocation methods using a permit system will be implemented for a period of three years after the date of final plan approval. Other management techniques will be emphasized to resolve user conflicts, reduce environmental effects and maintain seasonal use at 1990 levels. The managing agencies will aggressively pursue all reasonable measures during the 3-year period to avoid the need to implement a permit system.

Immediately following the end of the 3-year period, a report will be published detailing the management actions taken, monitoring data and trends, and an evaluation of the success of non-permit measures. As ongoing monitoring identifies areas of concern, direct actions will be taken to manage use in those areas. Success of non-permit techniques will be evaluated based on three primary criteria:

- 1. All outstandingly remarkable values must be maintained or enhanced. Each river segment must have demonstrated improvement in the composition, vigor and function of riparian vegetation present. The overall trend in all high use recreation sites must be static or upward, with no evidence of significant deterioration due to recreation use. Baseline data will include the BLM campsite inventory photographs, vegetation monitoring, other remote sensing products and additional data contributed by other agencies.*
- 2. Use pressure problems must be declining. Camping longer than the camp stay limit, camping on public lands closed to camping and vegetation damage related to vehicle use off existing roads, pioneering of new campsites and boat launch/landing sites must be declining on all river segments.*
- 3. Seasonal use levels must be at or below the 1990 level for the last two years of the 3-year period on each segment. Daily use levels must be no more than ten percent over target levels on any day during the primary use season. If use exceeds the 1990 level for the last two seasons of the 3-year period (or any subsequent 2-year period), a permit system will be indicated for at least a portion of the season. The 1990 use level threshold for instituting a permit system may only be modified by agreement of all the managing agencies, with public review and clear rationale based on the above criteria.*

Any instance where daily use targets are not met for two consecutive years will indicate more restrictive measures are required. Permit types of allocation techniques, beyond the existing boater pass, will not be used to respond to fluctuations in use relative to daily use targets unless seasonal use limits are exceeded, the above criteria are not met, or non-permit measures have been unsuccessful.

Over the first two years of the 3-year period, the design of a permit system will be developed by the managing agencies. It should be noted that the Confederated Tribes in adopting this management plan, have also adopted a "Freedom of Choice" allocation system. The managing agencies will attempt to reach consensus on the allocation issue. The proposed Deschutes River allocation system will be published for public review and comment together with all supplemental analyses developed by the managing agencies. At least 60 days of public comment opportunity will be provided.

This will allow some allocation issues to be resolved by gathering more factual information or conducting additional analysis. This information will be displayed with the proposed permit system. Additional data collection and analysis will include:

- 1. Cost of implementation for various allocation methods;*
- 2. Combination of methods which best fits the Lower Deschutes River;*
- 3. Desirability of quantifying public use privileges (guided and non-guided) on the Lower Deschutes River;*
- 4. Desirability of tracking individuals on each permit rather than trip leader or party;*
- 5. The effects of various allocation methods on different segments of the user public; and*
- 6. Criteria identified in the Draft Lower Deschutes River Management Plan/Environmental Impact Statement, as well as other factors identified before or during the information gathering and analysis process.*

The Supplement to the Lower Deschutes River Management Plan was released for public review and comment in March, 1996. It evaluated all of the above criteria and also analyzed three management alternatives for allocating use.

The plan further states, "the allocation decision will be made before the end of the 3-year period and adopted as part of the final plan." (plan, pages 55-56) This decision document fulfills that requirement of the plan.

B. Purpose and Need for the Decision

The issue of allocation was surrounded by controversy during the planning process. For this reason, the plan distinguishes the design of an allocation system and its implementation as two separate issues. The purpose of this decision is threefold. One purpose is to design an allocation system that ensures the natural, social and economic objectives of the plan are achieved.

A second purpose is to institute a formal process to manage boating levels and make timely reductions in peak day use levels to reach daily targets prescribed in the plan. In other words, the second purpose is to describe how and when the allocation system will be implemented. The need to implement an allocation system is based on conformance with three criteria described on pages 2 and 3. If these criteria are not met within three years following plan approval, the plan calls for implementation of an allocation system.

The third purpose of this decision is to amend the 1993, final Lower Deschutes River Management Plan element describing how reductions in peak day use are to be made (plan, pages 51-54).

The goal of the Lower Deschutes Management Plan is:

"To manage the lower 100 miles of the Deschutes River canyon on a segment-by-segment basis to protect and enhance the river's outstandingly remarkable and related values while allowing the continuation of compatible existing uses, including a wide range of public outdoor recreation opportunities and minimizing user conflicts. These recreation opportunities will be provided in a manner that does not substantially impair the natural beauty of the river canyon, diminish its esthetic, fish and wildlife, scientific and recreational values and take into account the rights and interests of private landowners and Tribal treaty rights." (plan, page 26)

Decisions in the plan related to use levels are designed to accomplish three primary objectives. The objectives were formulated to:

1. Provide a quality recreation opportunity that is consistent with the character of a particular river segment.
2. Reduce adverse impacts to soil, water, vegetation and other resources caused by large numbers of people.
3. Reduce crowding and competition.

As decisions were made regarding use levels, the managing agencies recognized that daily and seasonal boating use levels had to be addressed. Daily use levels are important because they determine the degree of competition that will be faced at launch ramps, campsites, fishing holes and throughout the recreational experience. Peak weekend use levels will be capped at daily target levels. Midweek days may eventually be capped at a lower daily level in order to meet seasonal use targets. This will generally provide an opportunity for less crowded conditions on weekdays. Seasonal limits maintain the opportunity for boaters to avoid large crowds of people on weekdays

and other times when use levels are below daily target levels during the boating season. Neither daily or seasonal use limits presently apply to the late fall, winter or early spring months.

The plan directed the managing agencies to consider implementing indirect and voluntary actions over a 3-year period (1993-1995) in an attempt to avoid having to implement an allocation system. As described by the plan, the intent of those actions is to: 1) maintain or enhance all outstandingly remarkable values; 2) reduce user conflicts and adverse environmental impacts; and 3) maintain boating use at 1990 levels.

Relative to use levels, the plan describes two factors that can initiate use limits on the Lower Deschutes. One is daily use levels and the other is seasonal use levels. The three scenarios in which user allocation is imposed are:

1. Daily use targets are exceeded by more than 10 percent on multiple days in any segment, and seasonal use levels are not exceeded; or
2. Seasonal use levels are exceeded by any amount in any segment and daily use targets are not exceeded; or
3. Both daily and seasonal use levels are exceeded.

The plan indicates that fluctuations up and down in daily use levels does not in and of itself warrant implementing an allocation system. The intent of the plan is to deal with daily and/or seasonal use levels that exhibit an upward trend over at least a two year period. Therefore, if seasonal use levels are not exceeded and daily use levels do not exceed the target by more than 10 percent, a limited entry system is not necessarily required.

Seasonal use levels have direct economic effects. Every visitor to the Lower Deschutes River contributes to the local economy through the purchase of goods and services. Local business owners are not so concerned with a decrease in business on a peak-use weekend, so long as off-setting increases occur during the non-peak use periods of the boating season. The intent of the plan is to maintain the economic base associated with boating on the Lower Deschutes River, while encouraging boaters to visit during non-peak periods so that undesirable social and environmental impacts caused by existing use patterns can be alleviated.

C. Public Involvement

In January 1993, the Lower Deschutes River Management Plan was completed and signed by the managing agencies after a long and extensive planning process. Many opportunities for public input and involvement were provided through public work groups, meetings and hearings. With the preparation of this Supplement to the Lower Deschutes River Management Plan, additional public input has been and will continue to be sought.

In January, 1995, Oregon State Parks and Recreation Department, through a contract with EDAW, a private consulting firm, produced a report entitled "Reservation Systems for Boating on the

Lower Deschutes River." This report provides part of the analysis supporting decisions in this document. In preparing its report, EDAW obtained public input from a representative cross-section of boaters on the Lower Deschutes River.

The Bureau of Land Management, released a separate report entitled "Draft Lower Deschutes River Split Allocation/Permit System Study" in December 1995. It also solicited input from selected river users and river managers.

The Deschutes River managing agencies held a series of public workshops and hearings designed to provide river users and managers the opportunity to discuss the use allocation process. Public workshops were held in Warm Springs, Maupin and Portland between March 19 and 21, 1996. Public hearings were held in Madras, The Dalles and Portland between April 16 and 18, 1996. The public comment period closed on May 6, 1996.

After the close of the public comment period the managing agencies evaluated the public comments. Some prominent examples of how public comment influenced the decision are:

1. The agencies' willingness to pursue non-permit measures as an alternate means to control boating use levels.
2. The creation of a working group with representation of both guided and non-guided interests.
3. The agreement by the agencies to phase into a common pool allocation system over a three-year period to ensure the ability of guides to adapt their business practices.

The public comment response analysis prepared by the agencies is included in Appendix B.

CHAPTER 2 -- LIMITED ENTRY SYSTEM DECISION

A. Background

During public workshops and hearings in the spring of 1996, many boaters requested the managing agencies to place greater emphasis on non-permit techniques to control use on the Lower Deschutes River. In an attempt to defer implementation of a limited entry system, the managing agencies agreed to the boaters request and further agreed that no limited entry system will be implemented before July 1, 1997.

Implementation may be further delayed by public response to non-permit measures to limit and redirect use during peak weekends. Adequate public response to interim, non-permit measures shall be determined according to the criteria listed below. The non-permit techniques described on page 63 of the Supplement to the Lower Deschutes River Management Plan (March 1996) will be implemented to attempt to limit recreation use along the Lower Deschutes River. Measures which directly reduce use will be implemented on segments where use levels are at or near use level targets or where appropriate to maintain resource conditions or reduce user conflicts. Additional measures including, but not limited to, informational letters and educational flyers will also be developed. These measures will also be used to complement an allocation system if implementation of the system becomes necessary. The managing agencies will review resource conditions, user conflicts and use levels, as described on pages 2 and 3 of this document, on an annual basis in order to decide if a permit system will be applied in the following year.

1. In order to defer implementation of the allocation system in 1998, there must be at least a 5 percent reduction in overall, peak-day use in excess of the segment daily target in Segments 1 and 2 during the 1997 primary use season when compared to overall, peak-day use in excess of the segment daily target in the same segments for the 1995 primary use season. The basis for comparison of use will be boater pass data.
2. In order to defer implementation of the allocation system in 1999, there must be at least a 5 percent reduction in overall, peak-day use in excess of the segment daily target in Segments 1 and 2 during the 1998 primary use season when compared to overall, peak-day use in excess of the segment daily target in the same segments for the 1997 primary use season.
3. In order to defer implementation of the allocation system in 2000 and beyond, there must be at least a 10 percent reduction in overall, peak-day use in excess of the segment daily target in Segments 1 and 2 during the 1999 and each following year's primary use season (until the daily target is met in a given segment) when compared to overall, peak-day use in excess of the segment daily target in the same segment for the preceding year's primary use season.
4. The requirements in 1, 2 and 3 above are segment specific. Failure to meet these requirements in either segment means the allocation system will be implemented the

following year and from then onward in that segment. If daily and seasonal use levels fall far below target levels mandated by the Lower Deschutes River Management Plan, the allocation system may be suspended until use levels begin to approach target levels identified in the plan.

5. The formula for calculating compliance with the requirement in 1 and 2 above is as follows:

Use in excess of the segment daily target for all peak-use days in a given segment for the previous year's primary use season will be added together and multiplied by .05. The product will be the 5 percent reduction target in boater days that must be achieved in the following year's peak-use days.

6. The formula for calculating compliance with the requirement in 3 above is as follows:

Use in excess of the segment daily target for all peak-use days in a given segment for the previous year's primary use season will be added together and multiplied by .10. The product will be the 10 percent reduction target in boater days that must be achieved in the following year's peak-use days.

7. The total number of peak-use days exceeding the daily target for a given segment and the amount by which those days exceed the daily target shall have no bearing on allocation deferral the following year provided the overall percent reduction target for a given segment is met each year.
8. Failure in any one year, to meet the requirements in 1, 2 and 3 above, for a given segment, means that boater use will be regulated through the allocation system in that segment in the following year and all subsequent years.
9. If daily target levels for a given segment are reached successfully under non-permit measures, they must be maintained forward in time. However, conditions described in the Lower Deschutes River Management Plan, January 1993, at page 56, concerning fluctuations in use relative to daily-use targets, shall apply. This means that occasional fluctuations in daily-use above the daily-use target for a given segment shall not of itself be reason to implement allocation for that segment in following years.
10. If daily targets for a given segment are reached in advance of the time they would otherwise be reached in compliance with the provisions of 1, 2 and 3 above, they must be maintained forward in time. Reaching the daily-use target for a given segment at an accelerated rate does not permit daily-use target exceedence and reattainment in future years within the schedule of attainment that otherwise would have occurred.
11. The goal of non-permit measures on Segments 3 and 4 shall be to maintain use levels at or below the daily and seasonal targets prescribed in the plan. Non-permit measures shall be used to manage use levels on Segments 3 and 4 to the extent daily use targets are not exceeded on more than 5 days per primary use season by a margin of 10 percent over the

daily target. If daily targets for Segments 3 and 4 are exceeded on more than 5 days by more than 10 percent during the primary use season or if seasonal targets are exceeded on either segment, the allocation system will be implemented on that segment the following year and all subsequent years.

B. Implementation Strategy Decision

1. A working group will be created and chartered through the Deschutes Province Advisory Committee (PAC) to provide advice to the Lower Deschutes Managers Group (the managers), as described in the charter, regarding the success of interim, non-permit techniques and, if necessary, the implementation of the allocation system. The organization and purpose of this group will be as follows:
 - The working group will be comprised of the interagency implementation team (IIT) representatives from the Bureau of Land Management, the Confederated Tribes of Warm Springs and Oregon Parks and Recreation Department. Other state agencies may join the group from time to time to provide expertise on technical issues under consideration by the working group. Other members of the group will be four representatives of guiding/outfitting interests and four representatives of non-guided boaters. The managers will consider the recommendations of the working group, as described in the charter, in establishing term limits for the non-agency members of the working group.
 - Non-agency members will be selected by the managers from nominations from the various boating interests.
 - Non-agency representatives will be selected based on their demonstrated willingness and ability to work together to solve problems rather than defend a particular position.
 - The working group will focus on non-permit techniques and the implementation and monitoring of the permit allocation system.
 - The working group charter will define the working relationship of the members of the group and the relationship between the working group and the managers and the PAC.
 - The working group may consider various permit management techniques to meet the use targets established in the Lower Deschutes River Management Plan.
2. If non-permit techniques and voluntary reductions fail to achieve use targets described above, the allocation system will be implemented. The working group will be asked to monitor and provide advice to the managers, as described in the charter, on the successes, failures or problems with the various elements of the allocation system. If problems are encountered as the allocation system is implemented, the working group will be asked to

make recommendations to the managers, as described in the charter, regarding adjustments in the system or amendments to the allocation decision. The working group will review and develop recommendations on adjustments to the elements of the allocation system during the implementation phase.

3. As recommendations are made by the working group to the managers, as described in the charter, the managers may adopt, modify or reject the recommendations. The managers will be the final decision making authority.

Elements of the allocation system may be adjusted by the managers group if determined to be necessary. Adjustments consistent with the plan and the intent of this decision will not require further public review. Major changes or plan amendments would undergo the same public review process as the original allocation proposal.

C. Allocation System Decision

Allocation Mechanics

The Lower Deschutes River Management Plan (pages 51 and 52) is hereby amended as described below:

1. There must be at least a 5 percent reduction in overall, peak-day use in excess of the segment daily target in Segments 1 and 2 during the 1997 primary use season when compared to overall, peak-day use in excess of the segment daily target in the same segments for the 1995 primary use season. The basis for comparison of use will be boater pass data. This reduction in boating use will be attempted through non-permit measures.
2. There must be at least a 5 percent reduction in overall, peak-day use in excess of the segment daily target in Segments 1 and 2 during the 1998 primary use season when compared to overall, peak-day use in excess of the segment daily target in the same segments for the 1997 primary use season. This will be attempted through non-permit measures. However, if non-permit measures in 1997 are unsuccessful, the allocation system will be implemented in 1998. The first year's reduction in boating use under the allocation system will be 10 percent.
3. There must be at least a 10 percent reduction in overall, peak-day use in excess of the segment daily target in Segments 1 and 2 during the 1999 and each following year's primary use season (until the daily and seasonal targets are met in a given segment) when compared to overall, peak-day use in excess of the segment daily target in the same segment for the preceding year's primary use season. This will be attempted through non-permit measures. However, if non-permit measures in 1997 or 1998 are unsuccessful, the reduction will be achieved through implementation of the allocation system.

4. Non-permit measures will be used to manage use levels on Segments 3 and 4 to the extent daily use targets are not exceeded on more than 5 days per primary use season by a margin of 10 percent over the daily target. If daily targets for Segments 3 and 4 are exceeded on more than 5 days by more than 10 percent during the primary use season or if seasonal targets are exceeded on either segment, the allocation system will be implemented on that segment the following year and all subsequent years. If daily and seasonal use levels fall far below target levels mandated by the Lower Deschutes River Management Plan, the allocation system may be suspended until use levels begin to approach target levels identified in the plan.
5. Failure, in any one year, to meet the requirements in 1, 2 and 3 above, for a given segment, means that boater use will be regulated through the allocation system in that given segment in the following year and all subsequent years. If daily and seasonal use levels fall far below target levels mandated by the Lower Deschutes River Management Plan, the allocation system may be suspended until use levels begin to approach target levels identified in the plan.
6. If or when an allocation system is implemented, peak-day use will be reduced by 10 percent per year until the daily target for a given segment is met. Seasonal use targets for each segment will continue to be based on 1990 seasonal levels as prescribed by the plan.
7. It is the intent of the managing agencies to minimize the economic impacts on the city of Maupin from peak day use reductions in segment 2 resulting from either non-permit measures or a permit system. Segment 2 annual reductions in peak day use described in 1, 2, and 3 above from non-permit measures, or described in 6 above from permit measures, shall only be made as long as seasonal use levels do not fall below 69,000 boater days.

Allocation of Permits

Once the allocation system is implemented, issuance of permits will be through a common pool. A minimum phase-in period of 3 years will be provided to allow guides time to adjust to obtaining permits through the common pool. All permits will eventually be allocated from a common pool on a first-come, first-served basis. Guided and non-guided boaters will compete equally for access to the river. Guides and rental outfitters will be allowed to apply for permits and obtain boater passes on behalf of their clients.

The phase-in mechanism for guided boaters will be as follows:

- In the first year of implementation of the allocation system, individual guides will be granted two-thirds of their historic use on those peak days where permit limitations are in place. Proceeding to each successive year of the phase-in assumes the allocation system and any adjustments are working as planned. In the second year of implementation of the

allocation system, permits granted to individual guides will be reduced to one-third of what their historic use has been on those peak use dates. This provides the guides the assurance they will have reliable start dates for a significant part of their business during the first two years of implementation while adjustments to the system or amendments to the decision are made. It also provides an incentive and the opportunity to begin to work with the common-pool allocation system. In the third year of implementation, guides will compete for all of their permits in the common pool.

- Non-guided boaters will begin to compete for permits in the common pool from the outset of the allocation system.

The managing agencies will closely monitor the implementation of this allocation system through the working group. Segment specific use levels, impact on different sectors (guided/ outfitted and non-guided), individual identification, accessibility for different sectors, quality of guide/outfitter service, administrative efficiency and other pertinent factors will be monitored. The managers and working group will review the phase-in every year and make their findings available for public review. If the allocation system is not meeting the criteria and objectives established in the Lower Deschutes River Management Plan, the phase-in period or the elements of the allocation system may be adjusted at the manager's discretion or amended to insure compliance with the criteria and objectives established in the Lower Deschutes River Management Plan.

Number of Permits Available

The numbers of permitted boaters are the same as those established in the Lower Deschutes River Management Plan.

Limited Entry Dates

The allocation system will be implemented beginning in the first year after use level reductions are not achieved through non-permit techniques. Restrictions on the river segment where use level targets are exceeded will be implemented on all weekends (Friday through Sunday) from July 1 to Labor Day. The river segments and period of time when permits are required, both days of the week and months of the year, will be expanded as necessary to prevent overall use from exceeding daily and/or seasonal levels mandated by the Lower Deschutes River Management Plan.

Opening Date

Permits may be obtained up to one year in advance of the launch date for single or multiple day trips on a first-come, first-served basis. The release of permits will be scheduled throughout the year to accommodate long-range, mid-range and short-range planners. Initially, the available permits for any given restricted use day will be released according to the following schedule:

Period In Advance of Launch Date	Percent of Permits Available
1 Year	15%
6 Months	25%
30 Days	30%
14 Days	15%
2 Days	15%

Persons obtaining permits six months or more in advance of the designated launch date, must confirm the trip 45 - 30 days in advance of the launch. If less than the original number of boaters specified on the permit are confirmed, money is forfeited and the unused spaces go back into the pool. Penalties can be avoided by cancelling unused trips 48 hours in advance of launch.

Accessibility

Permits may be obtained over the phone and service shall be available on a 24-hours-a-day basis. Mail-in applications may also be accepted. Confirmations will be mailed to the individual(s) obtaining the permit. The working group will consider and evaluate vendor bids based on the feasibility and cost of providing these and other services and present its recommendations to the managers as described in the charter.

Permits may be obtained for individuals or groups, by a group leader, a rental outfitter or a BLM guide permittee on behalf of their clients. Party size is set on the permit at the time of issuance and may not be increased.

If the permit is for a private, non-guided trip, a group leader must be identified on the permit. One or more alternate group leaders may also be identified on the permit at the discretion of the group leader at the time of application. The number of alternate group leaders listed on the permit could range from zero to the total number of individuals in the boating group. The group leader, or one of the originally named alternates, must be present at launch check-in or the permit is forfeited. If none of the individuals originally named on the permit are able to go on the trip, the permit is forfeited. Substitutions for all but one of the originally named individuals may be made up to the time of launch. Substitute boaters do not need to be named.

If the permit is for a guided trip, the permit must list the name of at least one paying client. The name of the BLM guide permittee must also be shown on the permit. The BLM guide permittee

may only obtain a permit on behalf of one or more identified clients. Additional clients may be named on the permit at the discretion of the BLM guide permittee at the time of application. Both the BLM guide permittee and at least one of the originally named clients must be present at launch check-in or the permit is forfeited. If none of the originally named clients are able to go on the trip, the permit is forfeited. Substitutions for all but one of the originally named individuals may be made up to the time of launch. Substitute boaters do not need to be named.

An individual can only be named on one limited entry permit at a time. A BLM guide permittee may be identified on multiple limited entry permits at a time. If a non-guided group decides to use the services of a guide, the guide must be added to the permit prior to launch. The originally named individuals on the permit and the party size must remain unchanged. The guide must be a BLM permittee on the Deschutes River.

Boater Pass

Boater passes will continue to be required. If the permit system is implemented, the daily and annual boater pass will only be valid on non-limited entry dates for river segments where a limited entry system is in effect. Daily and annual boater passes will be valid on all days for segments where a limited entry system is not in effect. On dates when a permit is not required and on segments where a limited entry system is not in effect, boater passes will continue to be available over-the-counter from local vendors. Permits issued for limited entry dates will also serve as the boater pass. The permitting entity will be the only authorized boater pass vendor issuing boater passes for limited entry dates on segments where a limited entry system is in effect. Groups using more than one boat shall have a copy of the permit/boater pass in each boat.

Federal Use Authorization

A Federal use authorization fee for use of BLM lands and related waters within the Lower Deschutes Wild and Scenic River has been established under the Federal Pilot Fee Program. This fee has initially been incorporated into the non-permit measures to target weekend boating use during the peak use season. The fee may be modified to apply during any period and for any type of use. All fees collected under this program will be used to offset costs associated with visitor contact, maintenance and law enforcement on the Lower Deschutes River.

Reservation Policy

Issuance of permits for limited entry dates will be controlled from a central location. Permits will be issued by mail upon receipt of full payment of fees and provided enough time is available before the launch. A permit confirmation number will be provided for short notice launches allowing the permit to be picked up at a location in the vicinity of the launch.

Permits will show at least a permit number, the group leader and as many alternates as desired by the group leader or guide, the total number of people in the group, the dates the trip will be taken, and launch and take-out points (river segment).

Transferability

All permits and boater passes are non-transferable. Limited entry access permits have no inherent monetary value. Possession of a limited entry access permit is a privilege, not a right. No ownership rights accrue to those in possession of a permit. If the individual(s) named on the permit cannot go on the trip, the permit will be forfeited. No-shows will be penalized by loss of access to restricted date permits for the remainder of the current and following control season. The permit holder can retain permit privileges by canceling at least 48 hours in advance of the day of launch. The prohibition against transfer of launch permits on limited entry dates will be strictly enforced by requiring all boating groups to check-in prior to launching on limited entry dates. Positive identification of those boaters named on the permit may also be required. Affidavits will be used, as needed, at launch check-ins to ensure individuals, guides and rental companies are not abusing the system.

The managing agencies, through the working group, will closely monitor the permitting process, as well as the purchase and use of permits, to ensure the allocation system is not manipulated or abused. The managing agencies will monitor the allocation system to ensure that permits are not obtained and held for speculation. Monitoring may include but will not necessarily be limited to the following:

1. Number of permits canceled and cause for cancellation.
2. Any evidence of permits being resold or transferred on a secondary market.
3. Random sampling of permit holders to determine if a significant number of trips (to be defined by permit stipulations and regulations) have been scheduled and permits obtained on speculation for groups which have not yet committed to the trip (ghost trips).
4. The difference between the number of boaters for which the permit was issued and the number of boaters for which the permit was confirmed.
5. The difference between the number of boaters for which the permit was confirmed and the number of boaters that show up for the launch.

BLM guide permittees providing commercial guide services on a trip are subject to enforcement by BLM under the terms of their commercial permit stipulations. Violation of permit stipulations, which will include the permit system, could result in actions against the commercial permit. This includes the possible revocation of the guide permit with BLM. Non-guided boaters could be subject to penalties promulgated under the authority of ORS 390.930 to 390.940 and CFR 8351.2-1. Violation could also result in the withdrawal of the person's (guided or non-guided) ability to obtain permits (launch authorizations) for the remainder of the current and following control seasons. The identification of all members of the boating group will be considered if the managing agencies determine it is necessary to prevent manipulation and abuse of the permit system.

During the phase-in of the permit system, the BLM commercial permit authorizing guided and outfitting businesses to operate on the river will be transferrable only to existing permittees or immediate family members. When the phase-in period is completed on a given river segment, the BLM commercial permit for all river segments will become non-transferrable.

Payment Terms

Acquisition of the permit, state boater pass and any federal use authorization for limited entry dates will occur simultaneously. Full payment will be required at the time of obtaining the permit, boater pass and federal use authorization. Under current state rules, the boater pass fee is \$2.00 per boater per day. Initially, an additional federal fee estimated at \$3.00 per boater per day will also be charged.

The fee associated with the use permit will include three elements; the state boater pass, the federal fee and the permit transaction fee. The state boater pass fee and federal fee shall be dedicated to the Lower Deschutes River and will continue to provide funds to supplement the cost of basic visitor services such as facility maintenance, law enforcement, public information, resource protection and restoration and facility development. The permit transaction fee will cover only the cost of administering the permit system. The managers will consider the recommendations of the working group, as described in the charter, in determining the structure and amount of permit system fees.

Permits may be issued for blocks of time combining both restricted and non-restricted days. The fee for such permits will be the same for non-restricted days as for restricted days.

The following examples are presented for purposes of demonstrating how the fees under the permit system would be assessed.

Fee Example 1: A group of five private boaters decides to float for three days, Thursday, Friday and Saturday, in mid-August in segments 1 and 2. Boater passes must be purchased for Thursday. Permit fees, boater passes and federal fees must be paid for Friday and Saturday. The boater pass fee for Thursday is 5 boaters x \$2/boater per day x 1 day = \$10.00. The permit fee for Friday and Saturday is a flat rate, one time transaction cost (estimated at \$8 for this example) = \$8.00. The boater pass fee for Friday and Saturday is 5 boaters x \$2 / boater /day x 2 days = \$20.00. The federal fee applies only on Saturday in this example and is 5 boaters x \$3/boater/day x 1 day = \$15.00. Total cost for permits, boater passes and federal fees is:

Permit	\$ 8.00
Boater Pass	\$ 30.00
Federal Fee	\$ 15.00
Total	\$53.00

Fee Example 2:

A family of three decides to hire a guide to take them rafting in segments two and three on Saturday and Sunday the last week in July. Not counting the cost of the guide service, the fees they will pay are as follows. July is a permit month and segment two is a permit segment. The permit fee for Saturday is a flat rate, one time transaction cost (estimated at \$8 for this example) = \$8.00. The boater pass fee for the family is 3 boaters x \$2/boater /day x 2 days = \$12.00. The federal fee applies only to segments 1 and 2 and is 3 boaters x \$3/boater /day x 1 day (assuming only one day is spent on segment 2) = \$9.00. Total cost for permits, boater passes and federal fees is:

Permit	\$ 8.00
Boater Pass	\$ 12.00
Federal Fee	\$ 9.00
Total	\$ 29.00

Cancellation Policy

No refunds or rain checks will be provided for the permit or the boater pass. Boaters can avoid penalties related to future use by canceling trips they do not plan to take.

Waiting List

No waiting list will be established. Users hoping to obtain unallocated permits for preferred limited entry dates will have to check with the permitting entity regarding availability on a first-come, first-served basis.

Limitation on Guide Permits

Until the permit system is phased-in on a given river segment, a moratorium on the issuance of new commercial guide permits on the entire river will be established to support the implementation of non-permit measures and to facilitate transition toward a common pool. When the permit system is implemented on any river segment, the moratorium on the entire river will be removed.

The overall number of commercial guide permits will not be administratively capped. However, the number of new guide permits issued per year will not exceed 5 percent of the previous year's total guide number. Reduction in guide permit numbers will be determined by market conditions. This is expected to reduce the size of the guide pool. The issuance of commercial permits to guides or outfitters will continue, subject to agency policies and regulations. Consideration will be given to applicants for a new permit who have purchased an existing business.

The appropriate agencies will review commercial guide permittee operations to insure compliance with appropriate state and federal regulations.

D. Consistency with Management Plan Analysis Factors and Criteria

The Lower Deschutes River Management Plan (plan, page 56) identifies six analysis factors to be used in making the plan decision on allocation. Those six factors also incorporate 11 criteria described in the Draft Lower Deschutes River Management Plan. Any allocation method selected for the Lower Deschutes River is intended, to the extent possible, to meet these factors and criteria.

The proposed decision is evaluated below against the factors and criteria identified in the plan. Some of the factors and criteria overlap. The combined list of factors and criteria are as follows:

1. Cost of implementation.
2. Combination of methods that best fits the Lower Deschutes River.
3. Desirability of quantifying guided and non-guided use privileges.
4. Desirability of tracking individuals on each permit rather than trip leaders.
5. Effects of various allocation methods on different segments of the user public.
6. Treat all outfitted and non-outfitted publics equitably.
7. Be designed to minimize disruption to guided and outfitted services.
8. Not create a private property value out of a public resource.
9. Accommodate all types of boaters (long-term planners, as well as short-term and spontaneous users).
10. Foster a high quality of outfitted services.
11. Minimize cost of access to the river by the public.
12. Provide an efficient system (minimize no shows and make unused trips available to others).
13. Make the system as easy to use as feasible.
14. Penalize cheaters.
15. Provide a system that is flexible as possible to accommodate individual changes in plans based on weather, water levels, quality of fishing, etc.
16. Be able to be defended to diverse groups.

Cost of Implementation

Cost of implementing and operating a permit system can vary widely depending on the features the system incorporates. Cost of operating the permit system affects the fee that boaters must pay.

The following actions were taken to keep costs lower:

- Minimize the number of contacts required to apply for and obtain a permit and enforce compliance.
- Keeping the application process simple by using a central permitting entity and minimizing the amount of information to be tracked.
- Deferring and limiting permit system implementation as long as non-permit measures are effective.

Combination of Methods that Best Fits the Lower Deschutes River

A working group has been established to work with the managing agencies to assist in implementation of the permit system. Annual reviews are planned to review any implementation problems and to allow for adjustments. With these features the permit system will evolve over time into one that best fits the Lower Deschutes River.

Desirability of Quantifying Guided and Non-guided User Privileges

The permit system begins with a quantified amount of guided use which is phased toward a common pool system. This allows the opportunity to gradually test the effects of the permit system.

Desirability of Tracking Individuals on each Permit Rather than Trip Leaders

In order to keep costs low, the permit system does not require the identification or tracking of all individuals in the group. Identification and tracking of individuals will be considered if there is a demonstrated need during implementation. The requirement for advance payment of all fees, check-ins at launch, and affidavits (when needed), reduce the potential for manipulation of the system. This issue will be monitored by the working group.

Effects of Various Allocation Methods on Different Segments of the User Public

This permit system, like any permit system, will result in some boaters not getting their desired launch dates. The system is designed to share launch opportunities in a common pool to ensure everyone an equal opportunity to compete for launch opportunities. Penalties for failure to cancel a launch should encourage cancellation and make short-term launches available. The working group may recommend a scheduled availability of launches suitable to both short-term and long-term planners, if necessary.

Treat All Outfitted and Non-Outfitted Publics Equitably

Equity is related to fairness and impartiality and can be assessed in many ways. It is not possible to create a permit system that all will consider to be equitable because the needs of different users vary and may not always match the mechanisms the system offers. The proposed system attempts to provide reasonable and fair opportunities for users.

Be Designed to Minimize Disruption to Guided and Outfitted Services

The permit system provides for a minimum three year transition with an initial guide use allocation phased toward a common pool in order to minimize disruption. The degree of disruption to guide services will be reduced because guides can make their own choices to obtain launches and may move use to a non-permitted date, like any other boater. The guide may then budget trips and assign equipment and personnel based on the decisions made. The degree of disruption to outfitted services will depend upon their success in obtaining permits on behalf of their clients. The interim moratorium on new commercial permits and the long-term limit on potential future growth of the number of permits should buffer disruptions. The working group will monitor the permitting success of all users.

Not Create a Private Property Value Out of a Public Resource

The permit system, once it is phased in, includes a prohibition of transfers thus removing any potential permit value. The opportunity for new guides to enter business on the Lower Deschutes River is available through applying directly to BLM.

Accommodate All Types of Boaters

The permit system, being first-come, first-served, may well offer advantages to those who plan ahead. The cancellation provisions will create a block of short-term launches. The working group will monitor availability of launches for short-term planners and recommend changes such as scheduled availability, if necessary.

Foster a High Quality of Outfitted Services

The interim moratorium on new guide and outfitter permits during the phase-in period should create stability while businesses are adapting to a new permit system. Limits on the potential rate of growth in the number of future permits which can be issued should also improve stability. Stability in the guide and outfitter sector is expected to foster a high quality of services. Impacts to the guide and outfitter businesses will be monitored through the working group process.

Minimize Cost of Access to the River by the Public

The cost to the boater of obtaining a launch permit is directly related to the cost of operating the permit system, as discussed above. The proposed system incorporates many features which are designed to keep costs down as much as possible while still accomplishing the goal of limiting and

redirecting use. It also allows for additional cost cutting measures to be considered through the working group process and evaluated by the managers.

Provide an Efficient System (Minimize No Shows and Make Unused Trips Available to Others)

The permit system encourages river users to be fairly certain about their planned use of the river by requiring advance payment of all fees, without the possibility of a refund or rain check. This should discourage no-shows. Cancellations are also an advantage to river users in order to keep their options open for future trips. The permit system also provides fair distribution of short-notice launches. Some launch opportunities could go unfilled where cancellations provide very short notice.

Make the System as Easy to Administer as Feasible

The items covered under cost of implementation will also apply under this criteria. The permit system will be centrally controlled for administrative efficiency. Boater pass vendors will not issue permits for limited entry dates. The initial assignment of blocks of use to the guided sector, during the three-year phase-in period, will increase efficiency by allowing a large number of users to be served through a small number of contacts. This situation will change, however, as the system phases toward a common pool. The permit system tracks group leaders and alternates and has the potential to consider other management actions to reduce cost and increase ease of administration through the working group process.

Penalize Cheaters

All launch permits will be non-transferrable, eliminating opportunity to manipulate or abuse the system. Affidavits will be used, as needed, at launch check-ins to ensure individuals, guides and rental companies are not abusing the system. Enforcement measures will include loss of ability to obtain future permits and penalties against commercial permittees. This issue will be monitored by the working group to determine the effectiveness of planned measures, and to recommend any additional measures if problems develop.

Provide a System that is as Flexible as Possible to Accommodate Individual Changes in Plans Based on Weather, Water Levels, Quality of Fishing, etc.

The restrictions of any permit system automatically reduces flexibility when compared to using the river before entry was limited. The reliance on a group leader to hold launch permits allows river users to retain flexibility concerning the composition of the group up to the launch date. The ability to identify as many alternate trip leaders as desired allows the trip to continue if the trip leader or one or more alternates cannot participate for some reason. The ability to substitute trip members up to the time of launch check-in provides flexibility comparable to what existed before entry was limited. The system does not allow for refunds or rain checks, but boaters do have the option to shift to non-restricted dates. The proposed system provides for a work group that will monitor the phase-in of the initial system and make recommendations to enhance flexibility.

Be Able to be Defended to Diverse Groups

The proposed system contains characteristics to meet different user groups' fundamental interests. The work group allows diverse groups to participate in and offer proposed modifications to meet their needs.

GLOSSARY

Allocation - The assignment and distribution of recreational use or access to users through management methods after it is determined that demand for the resource exceeds acceptable limits or established standards.

BLM Commercial Permit - Authorization given by BLM to an individual, partnership, company or other entity to guide, outfit or provide rental services on the public lands and associated waters of the Lower Deschutes Wild and Scenic River. A commercial permit may have one or more guides employed by the permittee.

BLM Guide Permittee - The individual, partnership, company or other entity or their employee, authorized by the BLM to provide commercial guide services on the Lower Deschutes Wild and Scenic River.

Boater - Any person who utilizes a floating craft or device for transportation on the surface of the river.

Boater Day - Use by a boater of any river segment for all or part of a day.

Boater Pass - A license required by state law to launch, operate or ride in any boat or engage in any camping, fishing or other activity in connection with being transported by a boat on those portions of the Deschutes River designated as a scenic waterway.

Federal Use Authorization - Authorization for use of Federal lands and related waters.

Group Size - The number of people in a boating or camping party including guides and any support personnel.

Guide - A person who provides services by leading one or more persons in outdoor recreation activities for a fee.

Guided Use - Services provided by an individual who leads one or more persons in outdoor recreation activities for a fee.

Launch Site - The riverbank location where boats are placed in the river.

Limited Entry Date - The day(s) or other specified time period during which a limited entry system is in effect.

Limited Entry System - A management system through which recreational use or access to users is assigned and distributed to control and maintain use within acceptable limits or established standards.

Lower Deschutes Wild and Scenic River Area - The area within the designated federal, state and tribal boundaries originating at Pelton Re-regulating Dam and ending at the confluence of the Deschutes and Columbia Rivers.

Monitoring - The orderly collection of data to evaluate the effects or changes on natural processes that result from management actions.

Non-guided Use - Recreational activities in which there is a bona fide sharing of the cost of the activity between all participants that does not involve the services of a guide.

Non-permit Measures - Management techniques designed to reduce or redistribute daily boating use levels by means other than a formal allocation system. These are referred to as indirect and involuntary management actions in the plan.

Outfitter - A person, who for compensation or other gain, provides equipment, supplies or materials and services for outdoor recreational activities.

Peak-day Use - Days on which boating use levels exceed target levels prescribed in the plan.

Permit - Launch authorization given to an individual or group of individuals, both guided and non-guided, to launch a boating trip on the river under an allocation system.

Primary Use Season - That period of time between May 15 and September 15 on Segments 1, 2 and 3 and from May 15 to October 15 on Segment 4.

Take Out - The riverbank location where boats are taken out of the river.

APPENDIX A

**Supplement to the Lower Deschutes River Management Plan
Record of Decision
May 1997**

Background

This Supplement Record of Decision (Supplement ROD) amends the Lower Deschutes River Management Plan (LDRMP) Record of Decision (ROD) of February 1993. The Plan ROD covered the public lands administered by the Bureau of Land Management within the Lower Deschutes Wild and Scenic River corridor. The Plan ROD is a BLM decision document required under the National Environmental Policy Act and is a distinct document from the joint agency decision document such as the LDRMP. The LDRMP was developed in cooperation with the State of Oregon, local governments and the Confederated Tribes of the Warm Springs Reservation. The plan called for preparation of a report detailing management actions taken, monitoring data and trends, and an evaluation of the success of non-permit measures during the initial three year period of implementation. The plan also called for BLM to design a permit system in cooperation with the other managing agencies. This included publishing for public review and comment, the proposed Deschutes River Allocation System.

Supplement to the Lower Deschutes River Management Plan

The above described report and proposed allocation system were published as a combined, joint agency document, entitled the Supplement to the Lower Deschutes River Management Plan, in March 1996. This supplement provided two alternative allocation systems along with a no-action alternative which was a continuation of non-permit measures.

Supplement Decision

The decision on the design of the permit system is contained in the interagency document titled Supplement to the Lower Deschutes River Management Plan, Final Decision Lower Deschutes River Allocation System, June 1997 (Supplement Decision). This interagency document is incorporated by reference as part of this BLM Supplement ROD.

The Supplement Decision amends or modifies the LDRMP in four areas (see the Supplement Decision for complete descriptions). The Supplement Decision:

1. Incorporates the Lower Deschutes Working Group composed of representatives from the managing agencies, commercial permittees and non-commercial boating interests. The Working Group is chartered under the Deschutes Province Advisory Committee (DPAC). The group is directed to consider issues involved in the design and implementation of the non-permit measures and the permit system. The charter for the working group defines its relationship to both Federal and non-Federal managing agencies.

2. Modifies the timetable for implementation of a permit system by allowing for continuation of non-permit measures to maintain or achieve target level according to a specific criteria set forth in the decision document.

3. Modifies the restrictions on implementation of the permit system to achieve daily use targets. The restriction on Segment 2 is replaced with a new seasonal floor of 69,000 boater days that affects both implementation of permit as well as non-permit measure reductions on peak-use days. The restrictions on implementation of permit system use reductions on Segments 1, 3 and 4 are eliminated in their entirety.

4. Defines an allocation and permit system that is a common pool, phased in over a minimum of three years. The phase-in will include annual reviews involving the DPAC Working Group. If the allocation system is not meeting the criteria and objectives established in the LDRMP, the phase-in period or elements of the allocation system may be adjusted to ensure compliance with these criteria and be allocated from a common pool in a first-come, first-served basis. Guided and non-guided boaters will compete equally for access to the river. The transfer of commercial permits is restricted to immediate families and existing owners of the permit. Once the permit system is fully implemented on any segment, permit transfers will no longer be allowed, but new permits may be issued up to a limit of 5% of the existing number of commercial permits.

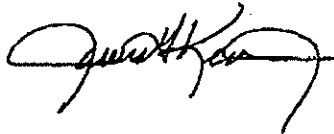
Mitigation Measures

Annual reviews and modifications of the implementation actions will be made to mitigate any adverse impacts. Monitoring and annual evaluations will indicate how effective these measures are in protecting environmental values while limiting adverse impacts to users. Implementation of use reductions may be modified to protect the environment and achieve other plan criteria and objectives.

Area Manager's Recommendation

I recommend adoption of the Supplement to the Lower Deschutes River Management Plan Record of Decision.

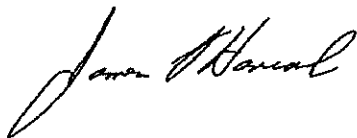
Signed/Date:



James G. Kenna, Area Manager

I approve the Supplement to the Lower Deschutes River Management Plan Record of Decision as recommended.

Signed/Date:



James L. Hancock, District Manager

Appeals Process

Within 30 days of the receipt of this decision, you have the right to protest to the Bureau of Land Management State Director and thereafter appeal to the Board of Land Appeals, Office of the Secretary, U.S. Department of the Interior, in accordance with the regulations of 43 Code of Regulations 4.400. The protest to the State Director must be filed in writing in the Oregon State Office of the Bureau of Land Management, 1515 SW 5th Ave., Portland, Oregon 97201 or P.O. Box 2965, Portland, Oregon 97208. If no protest or appeals are filed, this decision will become effective and be implemented in 30 days.

APPENDIX B

**PUBLIC COMMENT RESPONSE ANALYSIS
SUPPLEMENT OF THE LOWER DESCHUTES RIVER MANAGEMENT PLAN
PROPOSED LOWER DESCHUTES RIVER LIMITED ENTRY SYSTEM**

INTRODUCTION

In March 1996, the Supplement to the Lower Deschutes River Management Plan (Supplement) was released for a 60 day public review and comment period. The Supplement included an evaluation of non-permit, management techniques, set forth three allocation alternatives and analyzed the effects of each alternative. The Supplement was prepared by the Bureau of Land Management, Bureau of Indian Affairs, Confederated Tribes of the Warm Springs Reservation and the State of Oregon as directed by the 1993 Lower Deschutes River Management Plan. The contents of this report summarizes public comment received in response to proposals contained in the Supplement. The public comment period closed on May 6, 1996, with a total of 165 written and oral comments being offered by the public.

PUBLIC PARTICIPATION

Opportunities for public participation and comment on the proposals contained in the Supplement were provided through three public workshops and three hearings.

Workshops were held in Warm Springs on March 19, 1996, with 22 people attending; on March 20, 1996, in Maupin with 37 people attending; and in Portland on March 21, 1996, with 59 people attending. Individuals on both sides of the allocation issue took advantage of the opportunity to establish common interests and work together in mutual problem solving.

The workshop groups often formed around one of the three alternatives presented in the Supplement. Alternative 1 was the "no action" alternative and proposed to control use on the Lower Deschutes River through continuation of existing non-permit techniques. Alternative 2 was the "proposed action" alternative and proposed to control boating use through a common pool permit system. Alternative 3 proposed to control boating use through a split allocation permit system.

The groups discussing Alternative 1 generally found a great deal of common ground. Many ideas on how to improve conditions both socially and environmentally, while achieving target levels, surfaced during these discussions. Most participants in these groups came to consensus on actions that could be taken. Participants in Alternative 1 discussions developed solutions in which they had ownership and realized that they had to play a critical role in successful implementation.

In groups that discussed the two allocation alternatives, there was considerable conflict over positions that the participants took. These discussions usually broke down along guided versus non-guided positions. However, these discussions did allow participants to better understand each other's interests and concerns, even if they could not resolve their differences.

A formal public hearing was held in Madras on April 16, 1996, with 15 people attending and 11 people offering testimony. Another hearing was held on April 17, 1996, at The Dalles with 17 people attending

and 11 people offering testimony. A third hearing was held in Portland on April 18, 1996, with 43 people attending and 22 people offering testimony on the proposals contained in the Supplement.

SPECIFIC PUBLIC REACTION TO THE ALTERNATIVES

Public reaction to the three alternatives contained in the Supplement was mixed. Fifty-four individuals commented on Alternative 1, which proposed continued regulation of boating use levels through voluntary means and non-permit techniques. Forty-seven people expressed support for Alternative 1. Public support for Alternative 1 ranged from concerns about the cost associated with implementing an allocation system as described under Alternatives 2 and 3, to the feeling that non-permit techniques have not been applied adequately to determine how effective they could be in reducing boating use levels. Several people felt that because overall use levels have declined since 1990 and resource conditions have improved, there is no need to limit use at all. Some also felt, that merely limiting the number of boaters would not change the real problems that exist on the river, especially on segment two. The feeling is that bad behavior and poor outdoor ethics would not change merely by reducing boater numbers. Comments included:

"Alternatives 2 and 3 do not control or modify human behavior and it is the behavior of the users, not the number of users that needs modification."

"Alternatives 2 and 3 are very expensive to implement."

"The only requirement to properly manage the intensity of its user groups is to encourage thoughtful and reverent behavior within pristine semi wilderness environment of the river."

"Almost none of the management actions listed in chapter 2 of the supplement were ever carried out, especially the ones that were directly aimed at reducing usage of the river."

"Limitations on access are being proposed even though overall seasonal use is down from the 1990 base year figures by more than 20,000 boater days."

"Many of the rivers natural resource values have improved because of the non permit management techniques employed during the current three year study period."

Some commentators expressed concern about continuing present management as proposed under Alternative 1. Their concerns included the lack of success of past non-permit measures and the feeling that continuation of those efforts would not bring daily use levels to within target levels.

They indicated that the management plan has already allowed a three year period for those non-permit measures to be implemented and that it is now time to move forward with an allocation system that would reduce use levels as called for. Some of the comments included:

"Of the three management plans, I think that option one is the least effective. Continuing current management is ignoring the problem at hand."

"The first alternative is to continue the management plan or the so called "no action." This would be the continuation of measures that have been in effect for the last three years and have failed to achieve target levels as specified in the management plan."

"It has been more than a decade late in protecting those values on the Deschutes River. Many aspects of Alternative 1 (called the No Action alternative--which is exactly what it has been) have been tried and many have failed. And that will continue until the public develops a respect for the resource."

Fifteen comments were received which did not support or oppose a particular alternative but were more concerned that any allocation system adopted not discriminate against educational groups, such as Pacific Crest Outward Bound School. These comments proposed that measures be taken to ensure such groups were able to continue operations on the river. Two example comments are:

"Outward Bound needs to be assured continued use of the river for its educational programs which instill a "Leave-No-Trace" ethic and an awareness of native American cultural traditions which are associated with the Deschutes River and are so important to our society."

"I am concerned about the possibility of limiting the use of the river by educational groups, including Outward Bound. Although small in number, I believe these groups are in the best position of educating large numbers of youth and others to treat the river with the reverence and concern for its natural aspects."

Twelve commentators supported the proposal by the guide and raft rental companies to voluntarily reduce their use levels in segments one and two. Outfitters believe, through such efforts, they can achieve use targets in the management plan and avoid implementing an allocation system. The reasons they felt that way included the following:

"Our company as well as others have voluntarily reduced the number of rafts in our fleet to help reduce and control the number of users on the river, this along with public education and enforcement of current group sizes could easily keep us from having to implement a restrictive costly permit system, and allow us to continue to have a viable business."

"Outfitters, permitted guides, and rental companies are discussing ways to restrict use during the peak periods, limiting the number of users and boats on the Deschutes River. We feel that it is only fair the business affected by this limiting to be allowed to bring about changes that are necessary to remedy this problem."

The proposed action (Alternative 2) received the majority of public comment. Of the 108 comments received on this alternative, 57 supported or conditionally supported the proposed action and 51 opposed the action. Supporters of Alternative 2 felt it was more fair. Other comments opposed granting blocks of access permits to guides because they felt it created a private property value from a public resource. The belief that a common pool allocation system is fair, equitable and does not discriminate against either user group, was cited as a strength of the proposed action. Comments included the following:

"I support the concept that all permits will be allocated from a common pool on a first-come, first-served basis and that both guided and non-guided boaters would have equal opportunity for access to the river. It is fair and does not favor one group over another. The split allocation system on other rivers gives commercial boaters a private property right of a public resource."

"Alternative 2, the Common Pool, proposed action is the only system that offers fairness to all sectors of the public."

"For over 20 years private boaters have worked with other river users to develop an allocation system for limited access rivers that is fair, non-discriminatory and simple to implement, one that will meet the needs of all river users ... in the supplement, this fair system seems to have been chosen as the Preferred Alternative."

Conditional support for Alternative 2 was offered by several commentors provided certain changes to the proposed action occurred. One letter was especially comprehensive in covering the spectrum of changes proposed. The following lengthy excerpt from that letter captures the major proposed improvements referred to by other commentors.

1. *"Reservation permits will be issued to identified persons or to groups with identified members. Each person will be identified at the time of the reservation and positive identification may be required at time of launch."*

"Reservations would be issued on a truly first-come, first-served basis to bona fide river users, not to 'ghosts' who might want to go on a trip."

"Opportunities for manipulation and abuse would be limited. A group leader could not lock up an allocation of use for anticipated users. Each reserved space would belong only to one person and would have no market value."

"Everyone would have an equal opportunity for access, because no one could reserve blocks of access."

"Each group permit would be identified by a permit number, and if a contact person were necessary, it could be the person who made the reservation, or any other group member if that person had to cancel."

2. *"Reserved spaces are not transferable. If a member of a group permit can not go on a trip, his space will be canceled and returned to the Common pool."*

"As all members of the group permit are individually identified, the permit would belong to individuals and would not depend on one member's presence. Others would be free to make the trip even if people in the group had to cancel. More opportunities would be available from the common pool for spontaneous or short-term planners, as the spaces would be held only for people who have an individual, confirmed reservation. As the reservation could not be transferred, there would be no incentive for a person to keep his space if he could not make the trip."

3. *"No individual, either guide client or private boater, may have a reservation for more than one river use space at a time. When the reservation is used, he may apply for another."*

"When access is limited, it is not fair to allow one person to hold multiple reservations for river use spaces while others may be denied access. Limiting reservations to one at a time, will keep more spaces available in the Common Pool for later planners."

"For commercial trips, a guide could arrange for more than one group permit, but the permits would be issued in the names of his clients, who would each be allowed only one reservation at a time. The guide would not be a member of the group permit, although he would be counted toward party size limits and daily use limits, so he would need to reserve a space for himself and crew with those limits. Maximum guide and crew size for parties would be specified by the managing agencies."

4. *"Guides could apply for reservation permits on behalf of their identified clients."*

"Guided clients are apt to be less familiar with the permitting system and therefore less likely to be able to compete on an equal basis with private boaters. Allowing the guide to apply for the permit for his clients, allows him to confirm that the trip will fit into his schedule and that spaces are available through the common pool"

"As the guide would not "own" a reserved space to sell, commercial clients would be paying him only for his services."

"Reservation permits for river use allow the guide to provide a service only, and are different from the commercial permit which the guide holds."

"Allowing reservations only for confirmed, identified clients will preserve more available space in the Common Pool."

"Guides would compete freely on the open market. The growth of a guide's business would be limited only by his ability to market his services and by the quality of that service."

"The system is simple and straightforward. It is used universally by motels and airlines, by guides when booking clients and for Oregon state parks reservation."

"Allowing reservations one year in advance is a viable plan and should not be tinkered with unless it is determined that there are problems. With individual reservations, the common pool will probably rarely be completely reserved for any day."

"Accurate information is always available about "real" river users--who they are, where they come from, what sections of the river they use and whether they boat privately or with a commercial outfitter."

"Annual adjustments in the system could be easily made and would be based on accurate data. Accurate use figures would always be available for each commercial outfitter."

"Compliance with this permit system could be monitored in the same way as possession for boater passes is presently monitored."

Those who opposed Alternative 2, did so on the basis of it being an untested system which would increase competition between guided and non-guided boaters and adversely effect a guide's ability to conduct a viable business due to uncertainties and non-transferability of the commercial permit. Comments included the following:

"The proposed action in the supplement contains no mechanism for evaluating success or failure of this untried system. Further, should the proposed action fail to perform as well in reality as it may in theory, there is no mention of an alternative course of action. Is it wise to implement an untried system without providing a contingency plan in case it fails?"

"If the Deschutes River management agencies proceed with implementing an allocation system, I prefer the split allocation system (Alternative A in the "Analysis of Split Allocation Systems for the Lower Deschutes River") over the common pool proposed action to prevent competition between guided and non-guided users for available permits."

"I am very concerned for the vitality of my business and my industry. The proposed alternative gives lip service to the importance of the outfitting industry, both as an economic force and as a service industry. Indeed, our industry is very important to the region economically and to the vast majority of the American public who prefer to use guides for their river trips as opposed to going on their own or with friends. But the alternative then creates a climate that will likely make it very difficult for us to sell trips. It does not allow us certain access to the river. Under the 100% pool alternative we are expected to sell the trip first, and then procure the necessary access. We are expected to spend thousands of dollars and hundreds of hours promoting and advertising trips we don't really have, and may be unable to get. We are expected to seek and procure customers who we may well have to disappoint after selling them something we didn't have. If the outfitting industry on the Deschutes is to continue to provide quality services to the American public, outfitters need to know we can do trips on the dates we are selling in our brochures."

"I also believe the federal permits should be transferable with the sale of a business. It should be transferred with the sale of a business for a fair price of what the business has demonstrated over prior years. Would you buy an established business with a great cliental and quality equipment and showed gross receipts of \$100,000 a year, with no permit to operate? Would you buy if you didn't have a guarantee that you could continue working the river where the business was built, because you would not have a permit to do business? I think not! So why would any sane person spend several years of their life building a business that will not continue and carry on his reputation when he is done. I don't believe quality services will stay."

Alternative 3 (split allocation alternative) was specifically commented on by 55 people. Twenty-four people supported Alternative 3 with 31 people specifically opposing implementation of those types of management actions. Those supporting Alternative 3 felt that guided use did not have a significant impact on the river and that this type of system has been used successfully elsewhere. They also felt that guides provide a valuable and safe service and that they foster good outdoor ethics and should not be discriminated against through an allocation system. Several individuals felt that guides need to have

established launch dates in order to plan trips and manage staff and inventory. Comments such as the following were prevalent when discussing this point.

"I believe these guides and outfitters provide a needed and wanted public service. Secondly, I have found the guides that we have taken trips with to be very knowledgeable and conscientious with respect to safety."

"The guides and outfitters provide a needed and wanted public service and when the trips are guided, they are done very professionally and with the key issue of being safe."

"We feel the split allocation should be based on historical use provided to those who have had a base of previous use. This system is currently being used on several rivers and is dependable and cost effective."

Those opposing Alternative 3 felt that to have a non-guided allocation pool, plus a guided permit pool, would be expensive and unnecessary. The greatest concern expressed about Alternative 3 was that it would be unfair. These comments suggested Alternative 3 would favor guided boaters over non-guided boaters or would create a private property value out of a public resource. Comments on this element included:

"On most western limited access rivers, the private boater is discriminated against, while commercial guides and their clients have the guaranteed privilege of going on these rivers within any year. Guides are guaranteed access through the split allocation. Private boaters, who must apply through the lottery, may never get a permit on popular permit rivers within their lifetime."

"Common Pool is better than a split allocation system because: It is fair and non-discriminate as it does not favor any one group of river users over another. Split allocation systems create private property rights in public resources. Whenever commercial entities obtain significant proprietary interests in public resources, it becomes much more difficult to manage these resources for their natural values. Examples of this are found with grazing rights, timber sales, and mining operation on federal lands. Split allocation systems have inevitably lead to unfair allocation for permits to commercial guides, while large numbers of private boaters are denied access."

PUBLIC RECOMMENDATIONS

A number of recommendations focused on how to improve the various elements of the common pool and split allocation proposals. The comments also contained many recommendations for non-permit techniques that could be used. The most frequent non-permit technique proposed was the control or outright banning of alcohol on the river. Twenty-one commentors felt that alcohol/open containers should be banned or controlled at launch and takeout points as well as while floating on the river. No comments opposed stricter enforcement or greater control on the use of alcohol. Comments regarding the regulation of alcohol included the following:

"Most problems associated with overcrowding on the Deschutes River corridor are alcohol related. It is well documented that alcohol abuse sets the stage for many of the social conflicts

during high use periods along the river. Many of the most serious issues could be resolved if open containers of alcoholic beverages were banned while boating the river corridor. Prohibiting the use of alcoholic beverages while floating the river would undoubtedly and immediately reduce the number of "party only boaters." This regulation independently might reduce boater levels to surprisingly lower numbers, without significantly reducing the recreational value for the majority of river users."

"Recognize that alcohol is at the heart of most of the behavioral problems occurring on the river, and suggest that existing rules and regulations be enforced around alcohol consumption. Laws against open alcoholic beverage containers at landings, identified congregation points, and adjoining roads must be enforced. Also, more strictly enforced regulations and laws banning consumption by watercraft operators whether floating or underway."

Twenty-two commentors indicated that either boater pass fees should be increased on peak weekends, or that an all user fee be charged for those who presently use the river without having to pay. Example comments include the following:

"One way to spread use away from the peak periods is to have a sliding scale on the amount charged for a boater pass. Overall use is within the target range, the weekends in July and August are spikes that need to be dealt with. One way of doing that is to implement higher prices for the weekend. Monday through Thursday could be kept at \$2.00 per day, Friday might be at \$5.00 per day, Saturday \$ 10.00 per day and Sunday at \$8.00 per day."

"There is tremendous latitude for increasing the boaters permit fee if the revenue goes directly into a Deschutes Fund. Increasing this fee by some margin will not have adverse effect on its users. Rather, it will enhance the general character of the people utilizing the resource. The boaters pass could in fact double, perhaps triple, without discouraging serious outdoor recreationists. Those parties inclined to think the resource is not worth that small price increase will be encouraged to stay away."

"Instead of instituting a permit system now, I would charge user fees for all user groups, using the funds for increasing education and awareness of user differences."

"I am concerned that a user fee is charged to boaters and campers, but not to anglers, hikers, or other users. I feel that most degradation of the resource occurs on shore, and that the other users should also pay their fair share."

Twelve commentors felt that a boater education program could be effective at reducing boater use levels. Their comments included:

"Establish a central point of communication for river user inquiries on a daily basis. Record a message, updated daily, that reports boater days and real time river use. Use volunteers to both survey and report on levels of use on the river daily. Give river users an answering machine to call and report levels of river use. The general public will respond to an opportunity to become involved, and that response will result in modifying their use patterns."

"Management agencies should use Outward Bound and other outfitters as leverage for public education programs aimed at instilling a Leave-No-Trace ethic and methodology amongst river users, an awareness of Native American cultural traditions associated with the river, and the Confederated Tribes relationship with the river and its conservation."

Seventeen commentors felt that increasing law enforcement, development and better maintenance of facilities, would help improve public conduct and reduce resource impacts which are the primary concerns on the river. Examples of comments included:

"The point I am making is that as the pressure grows to accommodate more people, the need for regulation increases to protect the experience and the river. However, any additional regulations will be ineffective without enforcement. I am jubilant when I see the state patrol in their rafts and I would encourage the idea of doubling my boaters fee if it would be spent on additional enforcement."

"Increase enforcement--regulation without enforcement is poor management."

"Increase accommodations--increase all facilities necessary to accommodate seasonal demands of rafting, camping, boating, etc...."

"I would also like to see more enforcement of existing regulations. I have been boating the Deschutes since before the user fee was enacted, and have been checked for permits only 4 or 5 times, out of perhaps 50 trips. I've never been checked to see if I've paid the fee for camping."

The greatest number of comments received on Alternatives 2 and 3, focused on the need to change specific elements in these systems. Forty-six commentors stressed that permits must be allocated to identified individuals rather than a group leader or unknown passengers and clients. Guides should be able to apply for permits on behalf of their identified clients. They also stressed that permits be non-transferable. Most felt that a person should hold only one permit at a time. These requirements could be enforced with spot checks on the river, as is presently done with boater pass enforcement. They indicated that if the needed changes were made to Alternative 2, it would not be subject to speculation, manipulation and abuse. While numerous comments suggested ways to improve Alternative 2, the same ideas are well reflected in the excerpt on pages 27 through 29, under the section for conditional support for Alternative 2.

The following excerpts suggest a number of changes to make a Split Allocation (Alternative 3) more workable.

"If and when accurate use data supports implementation of a limited entry, a modified split allocation system would be the most workable and equitable. A split allocation system should include the following characteristics:

Target only the peak-use days which significantly exceed the goals.

Understand how the 'wave' of use moves through the longer section on a weekend and exclude those users in the corridor section who are ahead or behind the "wave" (such as Thursday or Sunday starts).

Allocate commercial use by negotiated calendar based on historic and current use.

Include a 10 % common pool plus unassigned use two weeks prior to launch dates.

Stagger permit availability including the common pool with 50 % available one year ahead of launch.

Although the boater pass could be integrated into the permit fee during the limited entry days, an annual pass needs to be available for all other dates because of the varied uses of the river, such as float tube fishing, launching from Columbia River fishing, and crossing the river to fish, hunt, or trap in all seasons.

Allow both commercial and non-commercial groups to reserve through a group leader and to designate an alternate in case of accident, illness, etc.

Two week cancellation policy for both non-commercial and commercial groups, with rain checks available up to that point.

Guide numbers should be targeted at 100 with transfers to family members permitted until the target is reached and then transfers with standard agency restrictions."

Other comments on improving Alternative 3 related to how commercial guide permits are issued. The comments follow:

"Awarding new guide permits by bid and prospectus is more fair than using a lottery as stated in the proposed alternative."

"Placing a moratorium on commercial permits would severely limit the tremendous business opportunities that could contribute to the general economic health and welfare of the resource. Limiting the number of outfitters who could utilize the resource through the calendar year would be counterproductive for small businesses and the small communities surrounding the river corridor. Opportunities are endless, and to limit the creative minds of young new comers would be a serious mistake both economically and philosophically."

"The limitation on guide permits should be relaxed to encourage a greater diversity and competitiveness in guide and outfitter services."

"We feel that allowing everyone who wants to offer their services as a guide to do so, would help to expand the range of guide and outfitter services offered to boaters on the Deschutes. Requirements for obtaining a commercial guide permit should be minimal."

"NWRA agrees with attrition to 80 BLM commercial boating permits. The NWRA feels that they should be awarded by bid and prospectus and should meet the five listed requirements."

Two other topics that received noteworthy discussion are the ability to phase the issuance of permits (19 comments) and the manner in which permits are confirmed or canceled (14 comments). Some preferred that no permits be made available on a phased basis, while others felt that phasing the availability of permits would be desirable. There were several who indicated a need to have the permits made available up to 18 months in advance. Examples of those comments follow:

"On a river which has limitations, there should be a preference for those willing to plan in advance and make a commitment. Saving permits by phasing creates an inefficient system that overloads booking and reservation facilities during each of the dates for allocating permits. Phones with automatic redialing become a necessity in competing for permits. This method has been discarded on rivers where it was tried, such as Hells Canyon of the Snake River."

"All reservations secured more than 30 days in advance will require confirmation of the number of trip participants 30 days in advance."

"In addition, a split availability system to secure reservations to provide fairness to long term planners and short term planners should be included. The split, to start with, should be: 49 % available up to one year in advance; 24 % available 90 days in advance; 24% available 30 days in advance; 3% available 48 hours in advance."

"Outward Bound must have the ability to schedule specific start dates in advance. While there may be a misperception that the majority of course bookings occur very close to the departure date, in the vast majority of cases, students fill scheduled course dates long in advance. Many of the students plan their course, choosing from dates which appear in nationally distributed course schedules that are planned eighteen months in advance."

A total of 11 individuals recommended to the agencies that a group comprised of the managing agencies, and representatives of the guided and non-guided communities be formed to work together to implement actions designed to reduce use levels. Their recommendations include:

"I would suggest before the implementation of this plan the public be invited to participate in meetings, regarding manipulation - how to prevent them, how to identify them, and what to do about them. Possibly a coalition of agencies and public recreational river users could be set up to oversee the permit system and that the system be open to modification to prevent abuse."

"Establish a panel of users representing commercial, and private interests to work cooperatively with managing agencies to provide solutions to problems before they develop. This type of management system would dramatically reduce polarization that is inherent with multiple use recreation areas. It would allow tremendous creativity and objectivity resulting in rational river management. All user groups are aware of the seriousness and repercussions of accepting Alternative 2 or 3. A panel of objective rational people could maintain and benefit the resource without compromising the freedom of use, the aesthetic values, and the multiple use benefits the river now and in the future can accommodate."

"These percentages of availability should be adjusted annually with the recommendation of an ad hoc advisory committee comprised of the three managing agencies, three self-outfitted private boaters and one representative from the commercial interests. Other details of the plan should be worked out with the same ad hoc committee before being formally adopted."

"A panel, representing the various users, could be charged with coordinating a plan that would successfully limit excess usage for those nine days."

A total of 11 commentators recommended that guided and non-guided use be segregated or that areas be designated for certain uses, such as boat launching and vehicle parking. Typical comments included the following:

"My simple response to this problem is to not allow commercial companies to park their customers cars at the designated put-ins and take-outs. If we were forced to meet our clients off site and then provide transportation to and from the river, it would force a spreading of use."

"Provide a specific area, particularly at Sand Beach, for the rental companies to dispense and recover their equipment rather than allowing them to take over the whole area until their last boat has arrived."

"Commercial boater operations should be more regulated at the put-ins and takeouts. There is supposed to be a time limit at each of these places, yet the commercial outfitters may sit at these sites for hours. If they are to be allowed to do this, they should have a designated space in which to do so, leaving adequate space for the private boaters."

"I feel that the outfitters, if they are going to leave their trucks and trailers parked for long periods, should be required to either park them a way from the ramp and carry the boats to the trucks, so should have to pay for a use a different take-out entirely. Carrying the boats sounds like a hardship, but these are mostly paddle rafts, and if they can manage to throw the six high onto a trailer, they can carry them fifty yards. It would be an inconvenience to be sure, but why should they be allowed to ignore the law and monopolize the facility?"

Other individual recommendations addressed specific interest and concerns. One related to the manner in which individuals are named on the permit.

"I support Option #2 Common Pool, with the following provisions: For the first group, with lists: Two of the names on the list, including the trip leader, could be substituted for others at the time of launching. The launching official will have the authority to check other persons ID against names on the list."

"Alternative 2 should be modified so that one individual may apply for a limited number of permits for other persons, up to a total of four permits."

One person suggested that Alternative 2 should be modified as follows:

"Alternative 2 should be modified so that one individual may apply for a limited number of permits for other persons, up to a total of four permits."

One commentor made a suggestion as to the use of a waiting list:

"To assist guides and outfitters to enjoy greater stability in their enterprises, suggest that they, as a group, be allowed to maintain a waiting list at their own expense. This would be a list of names available as alternates for specific dates. If a guide or outfitter has a cancellation for a date they already hold a permit for, they could fill the vacancy from the list of persons available for that day."

One commentor, who supported Alternative 2, recommended that the agencies provide for a transition from established and predictable use patterns by guides to a common pool allocation system, by providing a phase-in process. The comment is shown below:

"To limit the hardship as much as possible, we would be willing to support a short-term sunset type of split allocation which gives commercial outfitters a guaranteed portion of the available permits the first year the allocation system goes into effect. The portion of permits reserved for commercial outfitters would be reduced by a substantial amount (i.e. 10%) each year until no commercial permits would be reserved and all of the available permits would be issued through the common pool system."

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PLAQJR-12-08-0001

WATSON APPLICATION

Planning Commission Hearing Minutes

August 6, 2013

June 4, 2013

April 2, 2013

March 5, 2013

February 5, 2013

December 4, 2012

September 4, 2012



WASCO COUNTY PLANNING COMMISSION - MINUTES

August 6, 2013 Public Hearing
Columbia Gorge Discovery Center
Lower Level Classroom
5000 Discovery Drive
The Dalles, OR 97058

CALL TO ORDER

I. ROLL CALL

WASCO COUNTY PLANNING COMMISSIONERS PRESENT

Don Hoffman
Vicki Ashley
Jill Amery
Kenneth McBain
Chip Wood
Russell Hargrave
Mike Omeg
Tanner Elliot, Alternate

WASCO COUNTY PLANNING COMMISSIONERS ABSENT

Andrew Myers, Alternate

WASCO COUNTY PLANNING DEPARTMENT STAFF PRESENT

John Roberts, Planning Director
Joey Shearer, Senior Planner
Brenda Jenkins, Planning Coordinator
Isa Taylor, Legal Counsel for Wasco County

II. PUBLIC COMMENT: Maximum 15 minutes, *limited to items not being heard or discussed elsewhere on the agenda.*

None

III. APPROVAL OF PAST MINUTES:

April 2, 2013,
Commissioner Amery moved to approve the minutes as submitted.
Commissioner Hargrave seconded

Chair Hoffman called for discussion

None.

Chair Hoffman called for the vote

The motion was unanimously approved 6 to 0, 1 abstain (Vice Chair Ashley). A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hoffman – yes
Vice-Chair Ashley – abstain
Commissioner Hargrave – yes
Commissioner Wood – yes
Commissioner Omeg – yes

Commissioner McBain – yes
Commissioner Amery – yes
Alternate Commissioner Myers – absent
Alternate Commissioner Elliot – non voting

June 4, 2013

Vice Chair Ashley moved to approve the minutes as submitted.

Commissioner McBain seconded

Chair Hoffman called for discussion

None.

Chair Hoffman called for the vote

The motion was unanimously approved 7 to 0. A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hoffman – yes
Vice-Chair Ashley – abstain
Commissioner Hargrave – yes
Commissioner Wood – yes
Commissioner Omeg – yes
Commissioner McBain – yes
Commissioner Amery – yes
Alternate Commissioner Myers – absent
Alternate Commissioner Elliot – non voting

IV. QUASIJUDICIAL HEARING: (Continuation from June 4, 2013 hearing)

File PLAQJR-12-08-0001 (previously named: PLACUP-10-11-0023_PLASTS-10-11-0026_PLAQJR-10-11-0006). The request by owner, Gabriel Watson, is for an administrative (quasi-judicial) review of the following:

- 1) 40' x 28' x 24' (1,120 square foot), non-farm dwelling
- 2) 18' x 12' x 12' (216 square foot) shed
- 3) 7' x 7' sealed vault toilet
- 4) Variance to property line setbacks. Requested setbacks are as follows:
 - 25' from front and rear property line
 - 25' from side property lines
 - 25' from Deschutes River
- 5) Floodplain Development Review of requested structures located within the FEMA delineated floodplain
- 6) Modification to Wasco County Fire Safety Standards Review

Opening the Hearing: We will now commence the public hearing on agenda item PLAQJR-12-08-0001, a review by the Planning Commission for: a non-farm dwelling, shed, sealed vault toilet, variance to property line setbacks, floodplain development review and modification to fire safety standards in the Exclusive Farm Use zone. The property is described as 7S 14E 8 D, tax lot 300.

The criteria for approval of a land use decision are contained in the Wasco County Land Use and Development Ordinance ("LUDO" as amended). The specific criteria applicable to this request are contained in Chapter 3 (Exclusive Farm Use Zone Section 3.210, Flood Hazard Overlay Section 3.740 and Natural Areas Overlay Section 3.910), Chapter 5 (Conditional Use Review), Chapter 6 (Variances) and Chapter 10 (Fire Safety Standards). The proposed development must comply with applicable provisions contained in the Wasco County Comprehensive Plan. Generally, unless otherwise noted, if a request is found to be consistent with the LUDO it is considered consistent with the Comprehensive Plan.

Chair Hoffman asked if any commissioner wished to disqualify themselves for any personal or financial interest in this matter.

None.

Chair Hoffman asked if any commissioner wished to report any significant ex parte or pre-hearing contact.

Vice Chair Ashley, Commissioner McBain, and Commissioner Wood all reported that they had been on a site visit to the property together. However there was no ex-parte contact.

Chair Hoffman asked if any member of the audience wished to challenge the right of any planning commission to hear this matter.

None.

Chair Hoffman asked if any member of the audience wished to question the jurisdiction of the Planning Commission to act on behalf of Wasco County in this matter.

None.

Chair Hoffman explained party status and asked if any wished to seek party status to the proceeding.

Mr Douglas Robertson, adjacent property owner, and **Mr. John Hartung**, adjacent property owner both requested party status based on owning property in the vicinity.

Vice Chair Ashley moved to recognize Mr Robertson and Mr Hartung as having party status.

Commissioner McBain seconded.

Chair Hoffman called for discussion

None.

Chair Hoffman called for the vote

The motion was unanimously approved 7 to 0. A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hoffman – yes

Vice-Chair Ashley – yes

Commissioner Hargrave – yes

Commissioner Wood - yes

Commissioner Omeg – yes

Commissioner McBain – yes

Commissioner Amery – yes

Alternate Commissioner Myers – absent

Alternate Commissioner Elliot – non voting

Mr. Jim Harlow submitted a letter prior to the hearing requesting party status based on owning property in the vicinity.

Vice Chair Ashley moved to recognize Mr. Harlow as having party status.

Commissioner McBain seconded.

Chair Hoffman called for discussion

None.

Chair Hoffman called for the vote

The motion was unanimously approved 7 to 0. A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hoffman – yes

Vice-Chair Ashley – yes

Commissioner Hargrave – yes

Commissioner Wood - yes

Commissioner Omeg – yes

Commissioner McBain – yes

Commissioner Amery – yes

Alternate Commissioner Myers – absent

Alternate Commissioner Elliot – non voting

Chair Hoffman then went over the rules of evidence and the timeframe for testimony in today's hearing.

Chair Hoffman called for the Staff Report

See attachments A (PowerPoint presentation outline), B (PowerPoint presentation slides), and C (Presentation notes) for presentation contents.

Staff report was presented by **Planning Director John Roberts, Senior Planner Joey Shearer, and legal counsel Isa Taylor.**

During the Staff Presentation, **Director Roberts** informed the Commission that the applicant's request had been modified. The new request is for 30' x 30' x 24' (900 sq ft) non-farm dwelling, a 18' x 12' x 12' (216 sq ft) shed, variance to property line setbacks, development within FEMA delineated floodplain, and a modification to fire safety standards.

Vice-Chair Ashley asked if the setbacks would remain the same with the new request modification. **Director Roberts** replied that they would remain the same.

Chair Hoffman asked if the goal 5 and scenic river overlay were not there, as an EFU area the subject parcel is a substandard lot in the zone, is there any authority in the ordinance to approve another nonconforming use in the area. **Ms. Taylor** responded that the fact that there are other nonconforming uses around the subject area would not affect the analysis, however the small lot size is addressed under the criteria for the variance.

Director Roberts explained that the John Day River, White River, and Deschutes River all have the Natural Areas Overlay that trigger a review by Oregon State Parks and Recreation Department. Before the Planning Department receives an application, the State Parks has reviewed it and in this case all indication to us was that the State Parks and Recreation had originally approved this request.

Vice Chair Ashley asked for clarification on the conflicting letters in the record from Oregon State Parks and Recreation. **Director Roberts** explained to the Commission that before the applicant submitted to the county the applicant submitted his request to State Parks - who then approved the request with conditions (i.e., when the applicant submitted to the Planning Department it had been approved by State Parks). However, during the course of the planning review process (i.e., 5 months after the application was submitted) State Parks changed/reversed their decision and denied the request. In effect "moving the goalpost" for the applicant. The planning department review was conducted with the assumption of State Parks initial approval, as that is what was in effect when the applicant submitted his request to the planning department.

Commissioner McBain asked for clarification on the access of the property. He stated that the record has a statement that there is no recorded access easement, he wasn't sure if that was accurate.

Senior Planner Shearer stated that the applicant has information on how the access exists so he would defer to the applicant's testimony.

Commissioner Hargrave asked what size area was used for analysis of the surrounding area.

Senior Planner Shearer stated staff identified a study area of approximately 2,000 acres, consisting of 22 properties.

Chair Hoffman called for applicant's testimony.

Gabriel Watson, Applicant

Mr. Watson gave a brief history of the property and his decision to build on the parcel; as well as the process up to this point. He further stated that he agreed with Staff's findings. **Mr. Watson** stated that he believes the request meets the technical requirements for a dwelling. He further stated that he also believes the request meets all the criterion in the Wasco County Comprehensive Plan and the Wasco County Land Use Development Ordinance (LUDO). **Mr. Watson** referred to the memo from Isa Taylor submitted in the agenda packet he stated that the arguments from the opponents were listed as Goal 5 policy issues, which have been

administered by the State of Oregon's directives on comprehensive plans (ORS 66). **Mr. Watson** stated that ORS 66 divisions speak directly to each of the objections outlined by Mr. Stamp. He stated that he agreed with the opposition that Wasco County's decision to act on their inventory is what is called a "3c" decision. **Mr. Watson** stated that Mr. Stamp is arguing that the 3c decision carries with it criteria, including terminology some of which is confusing. However, when he read Division 16, which is the State's directive on how Goal 5 policies are to be administered, he discovered something that he believes makes these arguments moot. OAR 660-016-010 states "Based on the analysis of ESEE consequences, a jurisdiction may determine that both the resource site and the conflicting use are important relative to each other". **Mr. Watson** feels that means the county has the right to make the call on interpreting the comprehensive plan. "To implement this decision, the jurisdiction must designate with certainty what uses and activities are allowed fully, what uses and activities are not allowed at all and which uses are allowed conditionally, and what specific standards or limitations are placed on the permitted and conditional uses and activities for each resource site. Whatever mechanisms are used, they must be specific enough so that affected property owners are able to determine what uses and activities are allowed, not allowed, or allowed conditionally and under what clear and objective conditions or standards". He further went on and referred to Wasco County's Comprehensive Plan stating that questions came up as to what the language speaks to, whether a use allowed is an outright permitted use, a use by right, or allowed as defined in Webster's. He feels that there is no clear picture on what that language means which he feels violates the State's law which says "whatever mechanisms are used, they must be specific enough so that affected property owners are able to determine what uses and activities are allowed, not allowed," he feels this is not the case in the Wasco County Comprehensive Plan.

Mr. Watson continued his testimony by stating that the opposition favors interpretation of applicable Comprehensive Plan criteria as a Goal 5 program. He agrees. He stated that the state has laid out Goal 5 programs and those in division 16 are not as specific as they are in division 23, which he maintains supersedes division 16, therefore division 23 should be the language which dictates the comprehensive plan analysis as it goes through the county. He stated that Division 23 speaks very clearly that the county has discretion to act, but they cannot act more harsh or beyond the criteria set forth in the interpretation set forth by the Oregon Parks Administration. **Mr. Watson** further testified that one of the arguments by the opponents is that the request should be denied because they (Watson) has had their application withdrawn by the State Waterways, he stated that was based on several things, primarily OAR 660-23-0130 (section pertaining to *how to interpret Goal 5 policies*) says "As a safe harbor, a local government may adopt only those plan and implementing ordinance provisions necessary to carry out the management plan adopted by OPRC rather than follow the ESEE standards and procedures of OAR 660-023-0040 and 660-023-0050." He testified that the OAR further states "the local government shall adopt a Goal 5 program for the OSW and associated corridor by following either the ESEE standards and procedures of OAR 660-023-0040 and 660-023-0050 or the safe harbor provisions in section (5) of this rule. The impact area determined under OAR 660-023-0040(3) shall be the scenic waterway and adjacent lands as set forth in ORS 390.805(2) and (3). Notwithstanding the provisions of OAR 660-023-0040(5), the local program for the OSW shall be consistent with the management plan adopted by OPRC. He stated that he has applied twice with the Oregon Scenic Waterways. First he submitted a "notice of intent" and they met with Greg Ciannella with Oregon Parks and Recreation to review their application. After amendments and site visits to the location, he stated that Mr. Ciannella stated that the request did not have an impact on the visual corridor of the river. But he required they plant trees to ensure that they accomplished 100% shielding. **Mr. Watson** referred to an email from Mr. Ciannella in which Mr. Ciannella states that "the Scenic Waterways Act does not exist to outright deny anything. It exists to allow us to create a dialogue to between the parties and to protect the scenic beauty of the Deschutes River." **Mr. Watson** stated that they were then granted an approval. He then submitted photos showing the screening of the proposed location.

Mrs. Taylor offered clarification to the Commission regarding the citing of the OARs requiring the County to make clear standards about what uses are allowed in a Goal 5 situation. None of the

OAR Rules cited are applicable as decision making criteria. The rules are telling the County what to do in order to meet state law, but they are not decision standards here today. Nor are any of the standards that State Parks applies. **Mr. Watson** argued that the three primary arguments of the opposition are in the Natural Areas Overlay, Open Space, and the Scenic Waterways. He stated that his arguments regarding the OARs address the opponent's arguments therefore they are relevant to today's proceedings. He further stated that the Scenic Waterways had no mechanism in the law to withdraw an approval. The State Parks withdrew the application and he was told he would have a chance to be seen before the State Parks Commission to tell their side of the story--why they believe they should be approved. However this has not happened. He feels they have done everything they have been expected to do as landowners to abide by the letter of the law. He continued by saying that the visual corridor language regarding the Deschutes states "no development is allowed, which is visible from the Deschutes River", and this was the reasoning that Mr. Ciannella required the planting of the trees to screen the location from the river, and that was the criteria used for the approval of their request. He argues that the photos he submitted show that he has met the screening criteria through the planting of the vegetation.

Chair Hoffman called for questions from the Commission.

Commissioner McBain asked for clarification on the issue of legal access. **Mr. Watson** stated that there was a July 29 Memo which addresses this issue. **Chair Hoffman** clarified Commissioner McBain's question by asking how the legal access was created. **Mr. Watson** explained that he has a "keyholders" agreement with the Deschutes Club which allows him access up to North Junction, which is where the railroad crosses. They also have a lease from the Railroad which grants them access through the railroad right of way to access the property. There is also recorded deed with an easement across the flat, this was recorded prior to the property being divided. **Mr. Watson** then indicated on the map where this easement is and stated that he has access across the entire area to his property.

Commissioner McBain asked about the location of the approved septic system and whether parking will fit in with the new septic system. **Commissioner Amery** stated that she had questions as well as to whether the reserve septic field, as shown on the revised site plan, would allow for the parking required. **Mr. Watson** explained that the reserve field would only be required if the main system failed. At which point parking could be moved to the location of the main septic field.

Vice Chair Ashley stated that originally the proposal stated that there would be no plumbing on the interior, now however it appears that there will be gray water as well as brown water septic systems. She asked if the new proposal included interior plumbing. **Mr. Watson** stated that it did include plumbing now.

Ten minute break

Chair Hoffman called for Testimony in Opposition

Andrew Stamp, Attorney Representing Doug Robertson and **Mark Whitlow, Attorney**

Mr. Stamp stated he represents Mr. Robertson and that Mr. Whitlow rents a cabin very close to where the subject property is located. He feels that the case is a straightforward case and that the proposal is simply not allowed. **Mr. Stamp** submitted and referenced documents titled *Key Regulatory Documents Related to the Goal 5 Issue*. He stated that he tabbed the documents in the following manner Tab 1- Goal 5 Key Regulations, Tab 2- Goal 5 Administrative Rule (Division 16) [He explained that he was using Division 16 rather than Division 23, because Division 16 were the rules in place at the time Wasco County Comprehensive Plan was adopted. Tabs 3, 4 and 5 are exhibits from the Wasco County Comprehensive Plan, Tabs 6 and 7 are the Natural Area Overlay and the Sensitive Wildlife Overlay. **Mr. Stamp** gave a brief explanation as to what Goal 5 is and how it works. He stated that Goal 5 was the statewide planning goal that seeks to protect and regulate open spaces, natural areas and historic land uses. He stated that Goal 5 doesn't tell counties what features need protecting, instead it required the county to go through a NEPA like process to determine which resources are worth protecting, which ones were not

worth protecting and which ones should be balanced with conflicting uses. In this case the issue was what uses tend to make protecting a scenic area less viable.

The County identified residential uses as a conflicting use in their Comprehensive Plan. After identifying the conflicting uses the county conducted an ESEE (Economic, Social, Environmental and Energy) Analysis. The ESEE process is where the county determines the consequences of protecting a Goal 5 resource, the consequences of allowing the conflicting uses and reaches a decision on whether to protect the resource or allow conflicting uses. The final step was to develop a program to achieve the goals of resource protection. He stated that Goal 5 does not say that you have to protect all of your resources, but it requires you to make one of three decisions either you fully protect the resource, decide to not protect the resource at all, or make a 3c decision and "balance" or limit conflicting uses. **Mr. Stamp** then referred to the document he submitted to illustrate his testimony.

He explained how the Wasco County Comprehensive Plan went about meeting the requirements of Goal 5. He stated that the county decided to balance or limit the conflicting uses by saying they (county) will allow agricultural uses to be in the Natural Area Overlay as a Conditional Use and it also allows recreation as a use. He believes recreation means camping and rafting; the types of things that you don't need a permit to do. The policies and program to protect the Goal 5 resource by design are Policy 5 of the Comprehensive Plan which states, "The Deschutes and John Day Scenic Waterways shall be maintained as natural and protected open spaces with consideration for agriculture and recreation."; Subsection C states "Allow only buildings customarily provided in conjunction with farm use within the visual corridors of the Deschutes and John Day Scenic Waterways." The OAR defines a Visual Corridor as "*seen from the waters or visible from the river means not entirely concealed from view from the river within a scenic waterway by topography.*"

Therefore **Mr. Stamp** believes that Mr. Watson's screening trees do not meet the requirements of the visual corridor as the development will not be screened by topography. He also believes that the proposal is not allowed by Implementation Policy 5.C which states that only buildings customarily provided in conjunction with farm use are allowed. He stated that the policies were put into the Wasco County LUDO in Section 3.910.A Division 7--Natural Areas Overlay, where it states "This overlay district is intended to preempt conflicting use in areas identified in the Wasco County Comprehensive Plan as containing significant natural value." The LUDO further states in Section 3.910.B Permitted Uses "Uses allowed in the underlying zone shall be subject to the conditional use review permit". **Mr. Stamp** stated that uses allowed are uses allowed by right, not conditionally. Under this section you are allowed to have these uses, but you have to go through the conditional use permit process; if it is normally a conditional use, you can't have it at all. He stated that non-farm dwellings are a conditional use, therefore the county has taken them out of the LUDO in the Natural Areas Overlay.

Chair Hoffman asked if Mr. Stamp was saying that because of the overlay, the use falls out of the tier two use. **Mr. Stamp** replied yes, what the overlay is saying is that because this is a protected resource we are going to limit the conflicting uses. We identified residential uses as a conflicting use. Because of that we are going to balance and say that if it is a farm dwelling it is allowed; but if it is not a farm dwelling, we are not going to allow it. **Vice Chair Ashley** asked Mr. Stamp to go back and give the definition of recreation. **Mr. Stamp** replied he didn't have a definition; however, he gave examples of recreation use such as camping, in a tent, boating down the river, hunting and fishing. It doesn't involve building something.

Mr. Stamp then referred to a February 26, 2013 letter, included in the agenda packet, to further illustrate his testimony. He then stated that a new issue involved the site plan review. He referred to a document dated July 29, 2013, included in the agenda packet. He stated that the applicant is required to go through site plan review because the applicant is required to provide off street parking. He stated that to his knowledge the applicant has not applied for site plan review as yet. He stated that as part of the site plan review Mr. Watson would be required to

show the off street parking but in addition he would need to prove that pedestrian and vehicle safety are protected and that there are minimum adverse effects on surrounding properties. He believes that gets into the issue with the easement. He believes there is no easement and that if there had been an easement it has been extinguished through no use and does not exist anymore.

Mr. Stamp then requested a continuance or an open record for a minimum of 14 days.

Chair Hoffman stated that the Commission would address the request during deliberation.

Chair Hoffman called for additional testimony in opposition.

Doug Robertson, Adjacent Property Owner

Mr. Robertson pointed to the property he owns and explained that he rebuilt the house in 1997; he also indicated the location of the caboose that was found on his property after the 1996 flood. He explained some of the damage caused by the 1996 flood to his and surrounding property. He stated that in April he inquired of the Welsh/Jones' (owners of the Watson property at the time) if there were any interest of the Erz/Watson's in the caboose, he was told no by Vicky Welsh that Watson had given up his interest in 1995. He then quoted a letter by Nancy Erz *"So when my father gave up his interest in 1995 due to macular degeneration and his inability to drive himself there anymore, I was devastated. Because, as girls we were told we could not inherit this spot, we could not join the Deschutes Club. Mr. Welsh owned the property and would not let my father contribute to the taxes for his own reasons. I suppose for not wanting the Erz girls to be able to have any claim."*

Mr. Robertson stated his point was that they did not participate in that meeting because they weren't owners of any of the destroyed property. Vicky Welsh Jones and her husband said they had exclusive rights to the property, and when the caboose was sold to Mr. Hartung there was a "quit claim" letter by Mr. Erz which stated he had no interest in this property. They contacted the county and were given direction on regulations, Section 13.070 of the Wasco County LUDO states "If a nonconforming structure or structure containing a nonconforming use is destroyed by fire or other casualty or natural disaster restoration or replacement shall be permitted. Provided restoration or replacement is commenced within 6 months from the occurrence." **Mr. Robertson** stated that they were all on a very rigorous timeframe to get their applications in, and they all did so within that timeframe.

Mr. Robertson further testified that as recently as 2004 he has contacted the County Planning Department and has been told that the property can't be rebuilt for two reasons. First the current setbacks in the zone are 100' from the river and the parcel is only 100 x 100' and right on the river, so it would not meet setbacks. Secondly the reapplication process was not commenced in a timely manner and therefore it reverted back to its original zoning which is agricultural with some exceptions. He also indicated another parcel which had been approved for a dwelling through a series of hearings. The reason that one was allowed to be built in the corridor without an existing place to be replaced was because the site was behind the railroad berm, which screened it from the river. **Mr. Robertson** stated that he believes that if the county approves Mr. Watson's request it will allow everyone else down river to petition to build a house on the river as well.

Chair Hoffman called for additional testimony in opposition.

John Hartung, Adjacent Property Owner

Mr. Hartung stated that the caboose in question had been uprooted and pushed off its moorings during the 1996 flood. It came to rest on his property which is just down river. He stated that at that time he spoke with Vicky Welsh, the owner of the caboose and the parcel currently owned by Mr. Watson, regarding helping her replace the caboose. He stated that she indicated no interest in replacing the structure because she felt anything that would be replaced would just be washed

out again if there were another flood. He explained to her that there was only a 6 month window to replace or the lot would become unbuildable, again she indicated she did not care and had no interest in replacing the structures. He stated that since that time she has not been back to the property. He believes she had abandoned the property and the right of access after the flood (approximately 17 years). He stated that there was no encumbrance on the deed for the access easement. **Vice Chair Ashley** stated that the deed dated May 30, 1995, submitted into the record states "permanent easement". **Mr. Hartung** maintains that the easement was abandoned by non use of 17 years. He also stated that his understanding is that there needs to be a definition of the location of the easement as constituted by a passageway, and there hasn't been a passageway used for 17 years.

Chair Hoffman called for additional testimony in opposition.

Kenneth Klarquist Jr, Property Owner

Mr. Klarquist reiterated the testimonies of Mr. Stamp, Mr. Robertson and Mr. Hartung. He also stated that the house would be much larger than what was there in the past and larger than the surrounding structures. He testified that the Waterways Act requires buildings to be unobtrusive. He feels a building the size of the proposal could not be unobtrusive.

Chair Hoffman called for additional testimony in opposition.

Mark Whitlow, Attorney Representing Adjacent Property Owners

Mr. Whitlow stated that approval of this request would create special treatment of the applicant. Mr. Watson is asking to build on a lot that shouldn't be allowed to be built as everyone else was required to replace within 6 months. He stated that the county relied on the Parks Department for the approval of the use within the Waterways. Parks approved the application to put a new dwelling there. He stated that when Parks withdrew that approval, because they (Parks) recognized they had made a mistake, they (opponents) thought that would take away the completeness of the application because the application relied upon the approval for the use determination. However, when Parks withdrew the approval, the county said Parks have their system and county has a different system/process and went forward with the application, while ignoring the use restrictions.

Mr. Whitlow then submitted a photo he had taken of the screening trees planted by the applicant to illustrate the lack of screening.

Chair Hoffman called for additional testimony in favor.

Lethea (Linda) Erz, Daughter of Past Co-Owner of subject parcel

Ms. Erz expressed that she felt the decision today needed to be a balance between justice, the spirit and the letter of the law. She pointed out that the opponents of the request have both built replacement structures much larger than the original structures. She stated that the family did not own the property in 1996 during the time of the flood; however, they would have rebuilt if given the opportunity then. She stated Mr. Watson has proposed a building and design which complies with the current laws.

Chair Hoffman called for rebuttal.

Gabriel Watson, Applicant

Mr. Watson stated that the Division 16 and 23 issue was discussed by Mr. Stamp and he feels the application of inventory and identification of conflicting uses and analysis is pertinent; however, the requirement that the rules be defined clearly so that the property owner can tell what they can and can't do is not there. He further stated that Mr. Stamp stated that he didn't meet the requirements for visual corridor as explained in ORS. However, **Mr. Watson** referred the Planning Commission to the Oregon Scenic Waterways Program – A Landowner's Guide,

pages 7 & 8 which gives a graphic interpretation of what is and isn't visually acceptable within that visual corridor.

Mr. Watson then addressed the definition of recreation, he stated that ORS Section 105.672(5) defines recreational purpose as "*Recreational purposes includes, but is not limited to, outdoor activities such as hunting, fishing, swimming, boating, camping, picnicking, hiking, nature study, outdoor educational activities, waterskiing, winter sports, viewing or enjoying historical, archaeological, scenic or scientific sites or volunteering for any public purpose project.*" He stated that ORS further states that it does not require public participation to meet this definition. He also stated that ORS 390.835 states, "*It is declared that the highest and best uses of the waters within scenic waterways are recreation.*" He stated that they requested approval for a recreational dwelling. He stated that the Wild and Scenic Recreation states "*The river shall be maintained and protected as natural and open space areas with consideration for agricultural and recreation.*" He stated that Mr. Stamp argues that the request is for a use incompatible with the goals of the Scenic Waterways and the Wasco County Comprehensive Plan. He believes his request does comply with the Scenic Waterways as well as the Comprehensive Plan, and that the highest and best use of the land as stated in the Goal 5 policies as described in the Scenic Waterways Act. He also stated that ORS 446.003 defines a recreational structure "*as including yurts, cabins, fabric structures or similar structures as further defined, by rule, by the director.*"

Mr. Watson then addressed the access issue. He referred the Commission to Exhibit 7(a-h) (page 15) which shows the access as granted by Enez Hartung as a permanent easement. He also stated that there was some question as to the right to recover the caboose. He stated that he was not requesting to replace the caboose, so he chose not to address that issue. He then addressed the testimony regarding the 6 month replacement period. He stated some of the testimony stated that there has been no structures allowed with the exception of those replaced during the 6 month period after the flood. He then stated that there has in fact been construction by Jim Harlow (a tenant or co-owner of Mr. Robertson) constructed a shed 2009. John Hartung, who was approved for a structure that was lost in the flood in 2000, built his replacement 35' closer to the river than approved. He currently is in enforcement with Wasco County and the scenic waterways. He stated that in addition to those listed, an approval for an addition was granted in 2001, and a replacement of an airstream trailer with an approximately 1500 square foot cabin. He also stated that testimony stating that Mr. Wilson's approved development was screened by topography from the river. Referring to the map, **Mr. Watson** indicated that the structure is visible from certain locations on the river. **Mr. Watson** then closed his rebuttal by addressing the Oregon Scenic Waterways withdrawal. He stated that they were still waiting the opportunity to address the Scenic Waterways Commission regarding this issue. **Mr. Watson** closed by stating that he believes his application is complete, meets all the criteria outlined and deserves being granted an approval.

Chair Hoffman called for questions from the Commission.

None.

Chair Hoffman called for questions for Legal Representative Mrs. Taylor, from the Commission.

Chair Hoffman asked for clarification as to whether an easement is vacated due to lack of use.

Mrs. Taylor stated that it is possible for an easement to be abandoned; however, she could not say that for sure until there has been a determination of abandonment. **Chair Hoffman** asked if at the time the parcel was created would it have been required to have a legal access. **Mrs. Taylor** replied maybe not, if Wasco County didn't require it in their ordinance at that time. **Chair Hoffman** asked for clarification as to whether a decision by the Commission could set a precedent. **Mrs. Taylor** stated that it would not set a precedent, only an appeals court can set precedent.

Chair Hoffman closed hearing for deliberation.

5 minute break

Chair Hoffman called for a motion on the request to leave the record open for 14 days.
Vice Chair Ashley moved to approve the request to leave the record open for 14 days.

Commissioner Hargrave seconded.

Chair Hoffman called for discussion

Commissioner Wood stated that he was against leaving the record open. He stated that the application request has been going on for 3-years and it was time to make a decision and not leave the record open for additional time.

Chair Hoffman stated that the Commission could make a decision and still leave the record open for 14 days. The new information would be forwarded to the County Board of Commissioners as part of the record if the Planning Commission's decision is appealed.

Chair Hoffman called for the vote

The motion was unanimously approved 5 to 2. A listing of the vote, as required by Oregon Revised Statutes 192.650.c. is as follows:

Chair Hoffman – yes
Vice-Chair Ashley – yes
Commissioner Hargrave – yes
Commissioner Wood - no
Commissioner Omeg – yes
Commissioner McBain – no
Commissioner Amery – yes
Alternate Commissioner Myers – absent
Alternate Commissioner Elliot – non voting

Chair Hoffman stated that for the decision of the Commission there would need to be a comprehensive set of findings written, he suggested the Commission deliberates and reach a tentative decision and then continue the hearing to a date and time certain to allow the Commission a chance to review the new findings.

Commissioner Omeg asked for procedural clarification on the comprehensive set of findings.

Chair Hoffman explained that the Commission would direct the Planning Staff to write the findings based on deliberations.

Commissioner Hargrave asked for clarification on Chair Hoffman's suggestion, would it allow the Commission to validate the findings and then possibly change the decision based on those findings.

Chair Hoffman stated that the decision would be made at this hearing and would not be open to change, it just would not be made a final decision until the findings were written and approved by the Commission.

Chair Hoffman asked for a preliminary look at the Commission's view on the request.

Commissioner Wood Deny

Commissioner McBain Deny

Commissioner Amery Undecided

Vice Chair Ashley Approve

Commissioner Omeg Deny

Commissioner Hargrave Undecided

Chair Hoffman called for discussion on a denial of the request.

Commissioner Wood stated that when someone applies for a use on the river and the Parks Department says "no" it doesn't get reviewed by planning. He believes the request should be denied because Parks has said "no".

Director Roberts explained that it was a little more complicated in this case. He explained that the Parks Department originally approved the application with conditions. It was 4-5 months into the review process at the point that the Parks Department withdrew their approval or changed their position.

Commissioner Wood stated that he was aware that it was in process at the time, but once the request was denied by Parks it should have been done.

Chair Hoffman explained that the Parks Department had originally approved the request, the planning application was submitted as the approval was in place. Applications are applied under the rules that exist at the time you apply.

Commissioner Wood feels that the applicant needs to fight the fight with Parks Department regarding the approval and subsequent denial, then go forward with the planning request.

Commissioner Hargrave stated that procedurally Planning would want to see the Parks Department approval prior to approving the request. He stated that he understands the timing issue with the withdrawal of the approval by the Parks Department; however, he feels that based on the Planning Department's process that approval or denial is a matter that needs to be taken care of first before the Planning Department can approve the request by the applicant.

Mrs. Taylor clarified for the Commission that the Parks Department doesn't actually have the power to prevent development. Their process is that the applicant puts in a notice and Parks has a year to say "go ahead" or use eminent domain power to take it, but if after 1 year if Parks doesn't move on it then the property owner is allowed to proceed with what they applied for.

Commissioner McBain stated that he felt the complexity of the rules and regulations are great and that there is a significant amount of ambiguity in the language. However, one of the most basic arguments is based on the precedence that this parcel had a dwelling on it. He believes they relinquished the right when the rebuilding of the dwelling was not followed through. He stated that would require the request to be treated as a request for a new dwelling. He feels this is a conflicting use with the Wasco County Comprehensive Plan Goal 5 requirements and must be denied.

Vice Chair Ashley stated that there was development going on above the locked gate and asked if a denial decision would affect any of those in process. **Director Roberts** replied that it would not have any effect on these developments.

Chair Hoffman stated that if the request were not in the overlay area, it would still be a troubled application due to the need for the variance. He further stated that the area is clearly already a committed area and this is the last parcel in the area. He reminded the Commission of a similar situation in Rowena Dell, where the last undeveloped lot was denied due to changes in the National Scenic Area Ordinance. That decision is still in the appeal process (remanded back to the County at this time). **Commissioner Wood** feels that this situation is different.

Commissioner Amery feels it is a similar situation. She stated that the area is fully committed and doesn't believe the visual and scenic qualities of this one lot would make a difference to the scenic nature of the area. **Commissioner Wood** stated that he is not worried about specifically this one lot, he is worried about the precedence it would set for the other lots along the visual corridor. **Commissioner Omeg** stated that he sees both arguments but he questions at what point do you put on the brakes on the committed area. **Chair Hoffman** stated the point would be before you legally create the next lot that would give rise to a situation like this. **Commissioner Hargrave** stated that he agreed there was no pristine value on this lot due to the committed nature of the area, but what if the next lot has pristine value? He stated that Chair Hoffman recommends drawing the line on dividing, but there are lots out there that are divided and have a pristine visual and scenic nature. He questioned what if the next lot has the pristine value, is a larger lot and meets the setback requirements and doesn't need a variance, will the Commission be able to be consistent with how they on their decisions? **Commissioner Omeg** stated that he would be undecided or perhaps for approving the request, if the dwelling status had been retained. However, it has been 17 years since the dwelling was removed. He feels at some point the Commission needs to say this is an undeveloped lot, and we have a law that states you can't create a new non-farm dwelling, that is essential to the decision before the Commission.

Chair Hoffman stated that if the Commission denies that they deny on a basis that is narrow enough to not cause a precedent to be felt at the front counter of the planning department. He believes that can be done by stating that the Commission makes its decision on a narrow interpretation, but not necessarily adopting the prohibition language of the goal.

Commissioner Wood moved to deny the request as submitted by Mr. Watson.

Commissioner McBain seconded.

Chair Hoffman called for discussion

Commissioner Hargrave asked for clarification on the motion, asking if the denial was based primarily on the Scenic River Goal 5 issue.

Commissioner Wood stated that was correct.

Chair Hoffman called for the vote

The motion was denied 4 to 3. A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hoffman – no

Vice-Chair Ashley – no

Commissioner Hargrave – no

Commissioner Wood – yes

Commissioner Omeg – yes

Commissioner McBain – yes

Commissioner Amery – no

Alternate Commissioner Myers – absent

Alternate Commissioner Elliot – non voting

Mrs. Taylor offered the Commission a list of criteria that will need findings:

Is this a dwelling

Does it have legal access

Does it meet the variance criteria

Does the Natural Overlay allow uses that are allow only conditionally

Does the Wasco County Comprehensive Plan only allow buildings customarily provided with farm uses within the Visual Corridor

Commissioner Omeg moved to direct Staff to write a finding concluding the request meets the definition of a dwelling.

Commissioner Amery Seconded.

Chair Hoffman called for discussion

None.

Chair Hoffman called for the vote

The motion was unanimously approved 7 to 0. A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hoffman – yes

Vice-Chair Ashley – yes

Commissioner Hargrave – yes

Commissioner Wood – yes

Commissioner Omeg – yes

Commissioner McBain – yes

Commissioner Amery – yes

Alternate Commissioner Myers – absent

Alternate Commissioner Elliot – non voting

Chair Hoffman proposed a condition requiring a site plan indicating legal access prior to building.

Commissioner Hargrave agrees that requirement is a condition of the decision.

Commissioner Hargrave stated that he agrees with the Staff's findings on the variance criteria.

Commissioner Hargrave moved to accept Staff findings on variance criteria.

Vice Chair Ashley seconded.

Chair Hoffman called for discussion

None.

Chair Hoffman called for the vote

The motion was unanimously approved 7 to 0. A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hoffman – yes
Vice-Chair Ashley – yes
Commissioner Hargrave – yes
Commissioner Wood - yes
Commissioner Omeg – yes
Commissioner McBain – yes
Commissioner Amery – yes
Alternate Commissioner Myers – absent
Alternate Commissioner Elliot – non voting

Commissioner Hargrave stated that he interprets the Natural Area Overlay to allow uses that are allowed whether outright or conditionally. **Mrs. Taylor** clarified that in land use "allowed" is defined as allowed by right, not conditionally permitted. She also stated that when you are interpreting a word of the law, you must look at the context of the law and what is the purpose of the law. In this case the Commission has heard background testimony on how the Natural Areas Overlay was intended to provide protection to the scenic rivers that are required to be protected. In the context of that consideration it makes sense that "allowed" would refer only to those uses allowed outright. **Commissioner Amery** stated that she is still having difficulty applying the protections to this parcel in the middle of all the existing developments. **Commissioner Hargrave** stated that the bottom line is the non-farm dwelling is not allowed outright, only as a conditional use in the EFU zone. The overlay says only farm uses allowed. The non-farm dwelling is a conditional use, so the interpretation of the land use lawyers is that conditional uses would not be allowed in the overlay area. He further stated that if any one of the criteria questions cannot be approved or met it knocks the request out.

Commissioner Hargrave moved to interpret the rule in the Natural Area Overlay to not allow uses that are conditionally permitted in the underlying zone.

Commissioner Omeg seconded.

Chair Hoffman called for discussion

Commissioner Amery questioned if the Commission could apply the protection to the parcel after reading the definition of what is being preserved. **Chair Hoffman** stated that the section is not looking at whether or not the request would damage the resources, simply if it would be allowed.

Chair Hoffman called for the vote

The motion was approved 4 to 3. A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hoffman – no
Vice-Chair Ashley – no
Commissioner Hargrave – yes
Commissioner Wood - yes
Commissioner Omeg – yes
Commissioner McBain – yes
Commissioner Amery – no
Alternate Commissioner Myers – absent
Alternate Commissioner Elliot – non voting

Commissioner Amery moved to create a finding that the request would not damage the scenic resources of the area.

Vice Chair Ashley seconded.

Chair Hoffman called for discussion

None.

Chair Hoffman called for the vote

The motion was approved 5 to 2. A listing of the vote, as required by Oregon Revised Statutes 192.650.c. is as follows:

Chair Hoffman – yes

Vice-Chair Ashley – yes

Commissioner Hargrave – yes

Commissioner Wood – no

Commissioner Omeg – yes

Commissioner McBain – no

Commissioner Amery – yes

Alternate Commissioner Myers – absent

Alternate Commissioner Elliot – non voting

Vice Chair Ashley Moved to extend the meeting session by 30 minutes, meeting to end at 8:30 pm.

Commissioner Omeg seconded.

Chair Hoffman called for discussion

None.

Chair Hoffman called for the vote

The motion was unanimously approved 7 to 0. A listing of the vote, as required by Oregon Revised Statutes 192.650.c. is as follows:

Chair Hoffman – yes

Vice-Chair Ashley – yes

Commissioner Hargrave – yes

Commissioner Wood – yes

Commissioner Omeg – yes

Commissioner McBain – yes

Commissioner Amery – yes

Alternate Commissioner Myers – absent

Alternate Commissioner Elliot – non voting

Chair Hoffman called for discussion on the finding that the request does not meet the Comprehensive Plan's requirement.

Commissioner Wood stated that he agreed it does not meet the requirements.

Commissioner Hargrave stated that his understanding was that the Commission needed to decide if the language was a requirement or aspirational. **Mrs. Taylor** stated that the Comprehensive Plan has aspirational language, we *should* versus required, we *shall*, the Commission needs to decide if this language is aspirational or required. Aspirational language is not criteria for approval.

Commissioner Hargrave asked Director Roberts if historically there have been non-farm dwelling approvals in the Natural Area Overlay zone. **Director Roberts** stated that historically there have been some approvals, not many.

Commissioner Hargrave stated that he feels the language allowing only buildings customarily provided with farm uses within the visual corridor of the Deschutes River is not a requirement, but only an aspirational goal.

Commissioner Wood stated that right now our decision states that anything along the Deschutes, if the request is a conditional use, in the overlay area is denied. So why do we need to extend past that decision.

Chair Hoffman stated that by not making this a mandatory binding approval criteria, keeps it open.

Commissioner McBain questioned whether the county wants to be saying the letter of the law is not what matters, it is the specifics of the circumstances.

Chair Hoffman stated that each situation stands on its own merit.

Commissioner McBain feels this would be not enforcing the current law and would allow certain circumstances to be approved contrary to what the comprehensive plan says.

Vice Chair Ashley asked for clarification on the existing dwellings which were allowed to be built, would they need to be removed after this decision

Chair Hoffman stated that they would be entitled to their land use decision that allowed them there.

Commissioner Omeg stated that he doesn't believe it is aspirational. He stated that the language "The Deschutes and John Day River *shall* be maintained...", not *should* be maintained; and under subsection C "Allow only buildings customarily provided in conjunction with farm use", does not mean consider only buildings customarily provided in conjunction with farm use.

Commissioner Wood moved that the Commission find that the language in the Comprehensive Plan applies as a requirement and is not an aspirational goal.

Commissioner McBain seconded.

Chair Hoffman called for discussion

None.

Chair Hoffman called for the vote

The motion was denied 3 to 4. A listing of the vote, as required by Oregon Revised Statutes 192.650.c. is as follows:

Chair Hoffman – no

Vice-Chair Ashley – no

Commissioner Hargrave – no

Commissioner Wood – yes

Commissioner Omeg – yes

Commissioner McBain – yes

Commissioner Amery – no

Alternate Commissioner Myers – absent

Alternate Commissioner Elliot – non voting

Commissioner Hargrave moved that the Commission finds that the language allowing buildings only customarily provided with farm uses within the visual corridor of the Deschutes River is an aspirational goal and not a requirement.

Commissioner Amery seconded.

Chair Hoffman called for discussion

Commissioner Wood stated that the word *shall* is not aspirational.

Commissioner Hargrave stated that the *shall* is above in the higher level of the policy. He is reluctant to say these are the exact requirements of achieving this policy goal that we shall be required to achieve, and that there are probably a lot more. He feels these are not requirements, so much as a broader theme which is not always exclusive to guide us to the right decision.

Chair Hoffman called for the vote

The motion was approved 4 to 3. A listing of the vote, as required by Oregon Revised Statutes 192.650.c. is as follows:

Chair Hoffman – yes

Vice-Chair Ashley – yes

Commissioner Hargrave – yes
Commissioner Wood – no
Commissioner Omeg – no
Commissioner McBain – no
Commissioner Amery – yes
Alternate Commissioner Myers – absent
Alternate Commissioner Elliot – non voting

Commissioner Omeg moved to continue the deliberation until the September 3, 2013, hearing at 3:00pm at the Gorge Discovery Center, lower level classroom, to allow for the writing of findings based on the deliberation and direction to staff.

Commissioner Hargrave seconded.

Chair Hoffman called for discussion

Commissioner Wood stated that he would like to vote now and not continue the hearing.

Director Roberts stated that he had a finding drafted that the Commission could make a motion to deny based on that finding and make a condition regarding the access. Staff would then write the remaining findings as directed.

Commissioner Omeg stated that he would want to see all the findings before he voted to deny based on these findings.

Chair Hoffman suggested that the Commission vote tonight and the Planning Staff would write the findings and forward them to him for final review, rather than reconvene for the review of the findings.

Commissioner Omeg moved to withdraw his motion

Commissioner Amery seconded

Commissioner Wood moved to deny the request based on the criteria and to adopt Mrs.

Taylor's proposed finding in the July 29, 2013 letter, regarding the rule not allowing conditional uses and to direct staff to draft findings to be adopted.

Commissioner McBain seconded

Chair Hoffman called for discussion

None.

Chair Hoffman called for the vote

The motion was approved 5 to 2. A listing of the vote, as required by Oregon Revised Statutes 192.650.c. is as follows:

Chair Hoffman – yes
Vice-Chair Ashley – no
Commissioner Hargrave – yes
Commissioner Wood – yes
Commissioner Omeg – yes
Commissioner McBain – yes
Commissioner Amery – no
Alternate Commissioner Myers – absent
Alternate Commissioner Elliot – non voting

Commissioner Hargrave moved to direct Chair Hoffman to review the findings prior to the end of the 14 days the record will be open as requested.

Vice Chair Ashley seconded

Chair Hoffman called for discussion

None.

Chair Hoffman called for the vote

The motion was unanimously approved 7 to 0. A listing of the vote, as required by Oregon Revised Statutes 192.650.c. is as follows:

Chair Hoffman – yes
Vice-Chair Ashley – yes
Commissioner Hargrave – yes
Commissioner Wood – yes
Commissioner Omeg – yes
Commissioner McBain – yes
Commissioner Amery – yes
Alternate Commissioner Myers – absent
Alternate Commissioner Elliot – non voting

V. ADJOURNMENT

Adjourned at 8:27 pm

Respectfully submitted,

Donald Hoffman, Chair
Wasco County Planning Commission

John Roberts, Planning Director
Wasco County Planning Department

ATTACHMENTS:

- Attachment A (PowerPoint presentation outline)
- Attachment B (PowerPoint presentation slides)
- Attachment C (Presentation notes)

Attachment A

PowerPoint presentation outline

1 ☐ STAFF REPORT

Planning Commission Hearing
PLAQJR-12-08-0001 (Watson)

2 ☐ Staff Presenters

- ☐ John Roberts, Planning Director
☐ Joey Shearer, Senior Planner
☐ Lisa Anne Taylor, Legal Counsel

3 ☐ Request

APPLICANT: Gabriel Watson

Request

1. 30' x 30' x 24' (900 sq ft) ~~40' x 28' x 24' (1,120 sq ft)~~ non-farm dwelling
2. 18' x 12' x 12' (216 sq ft) shed
3. 7' x 7' vault toilet
4. Variance to property line setbacks
5. Development within FEMA delineated floodplain
6. Modification to Fire Safety Standards

4 ☐ Standards AddressedOregon Administrative Rules (OAR)

- ☐ OAR 736-040-0070 Deschutes River Scenic Waterway

Wasco County Land Use & Development Ordinance (LUDO)

- ☐ Chapter 3 - Basic Provisions

☒ Section 3.210 - Exclusive Farm Use Zone

☒ Section 3.740 - Flood Hazard Overlay

☒ Section 3.910 - Natural Areas Overlay

- ☐ Chapter 5 - Conditional Use Review

- ☐ Chapter 6 - Variances

- ☐ Chapter 10 - Fire Safety Standards

5 ☐ Context - Aerial6 ☐ Context - Zoning7 ☐ North Junction - Aerial & Taxlots8 ☐ Context - North JunctionNorth Junction

- ☐ ~ 8 Acres

- ☐ 8 Taxlots, 9 Dwellings

- ☐ Residential development since 1940s

- ☐ BLM to East

- ☐ Warm Springs across the Deschutes River

☐

9 ☐10 ☐ Context - Subject ParcelWatson Property

- ☐ 0.25 Acres

- ☐ ~100' x 110'

- ☐ Flat, rocky

- ☐ Vegetation: scrub brush, few trees

- ☐ No structures

11 ☐ Site Plan - Nov. 201212 ☐ Site Plan - Updated July 201313 ☐ Elevation - Nov. 2012

Attachment B

PowerPoint presentation slides

STAFF REPORT

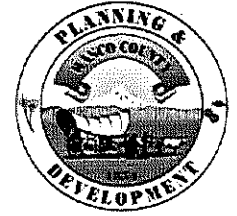


August 6,
2013

Planning Commission Hearing
PLAQJR-12-08-0001 (Watson)

Staff Presenters

- ☐ John Roberts, Planning Director
- ☐ Joey Shearer, Senior Planner
- ☐ Isa Anne Taylor, Legal Counsel



Request

APPLICANT: Gabriel Watson

Request

1. 30' x 30' x 24' (900 sq ft) ~~40' x 28' x 24' (1,120 sq ft)~~ non-farm dwelling
2. 18' x 12' x 12' (216 sq ft) shed
3. ~~7' x 7' vault toilet~~
4. Variance to property line setbacks
5. Development within FEMA delineated floodplain
6. Modification to Fire Safety Standards



Standards Addressed

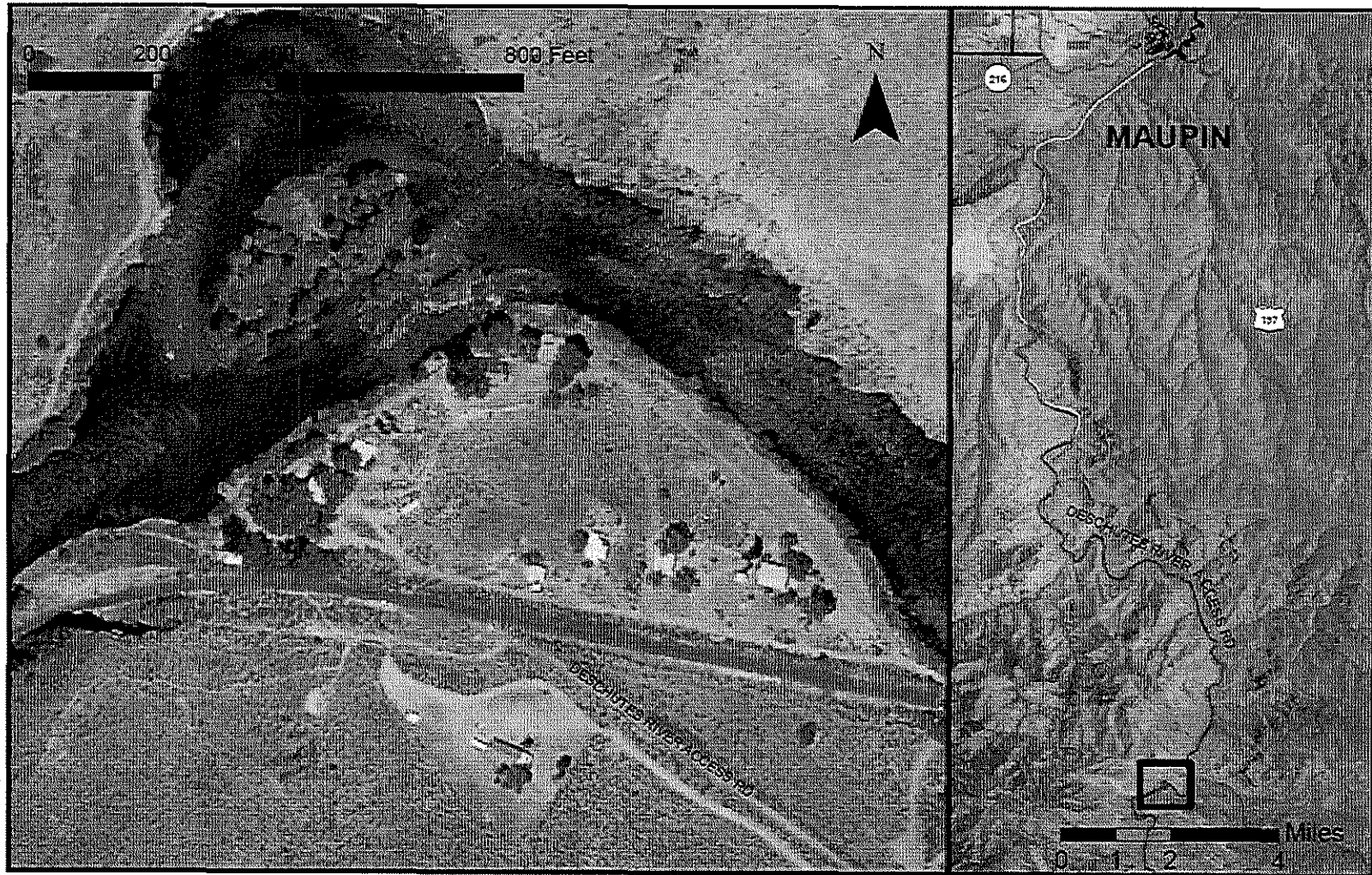
Oregon Administrative Rules (OAR)

- ❑ OAR 736-040-0070 Deschutes River Scenic Waterway

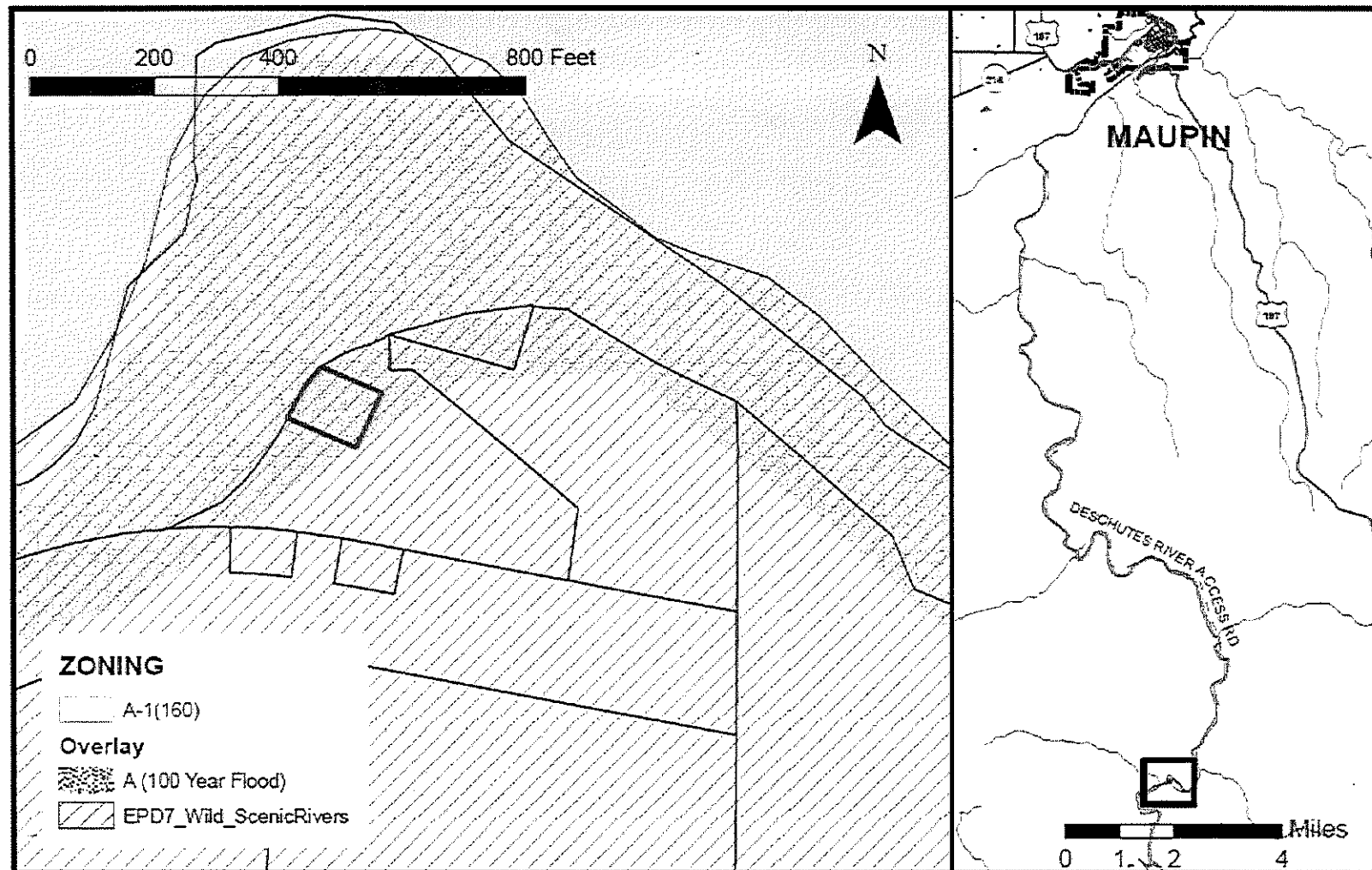
Wasco County Land Use & Development Ordinance (LUDO)

- ❑ Chapter 3 – Basic Provisions
 - ❑ Section 3.210 – Exclusive Farm Use Zone
 - ❑ Section 3.740 – Flood Hazard Overlay
 - ❑ Section 3.910 – Natural Areas Overlay
- ❑ Chapter 5 – Conditional Use Review
- ❑ Chapter 6 – Variances
- ❑ Chapter 10 – Fire Safety Standards

Context - Aerial



Context - Zoning



North Junction – Aerial & Taxlots



Context – North Junction



North Junction

- ~ 8 Acres
- 8 Taxlots, 9 Dwellings
- Residential development since 1940s
- BLM to East
- Warm Springs across the Deschutes River

Exhibit 2 – Applicant Submittal



EXHIBIT 2
PAGE 1 OF 1

Context – Subject Parcel

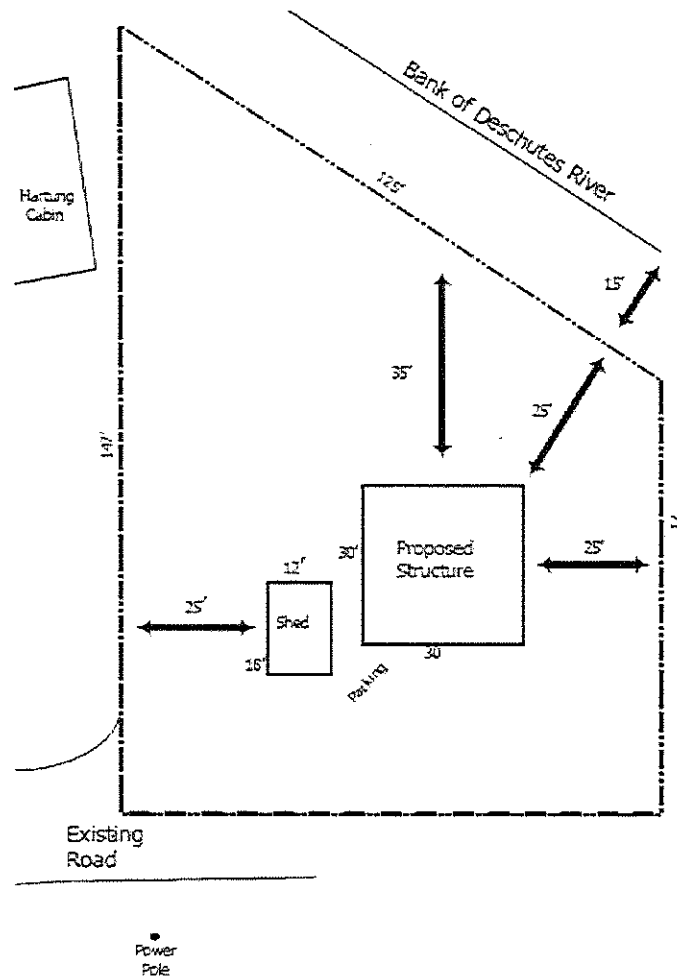


Watson Property

- ❑ 0.25 Acres
- ❑ ~100' x 110'
- ❑ Flat, rocky
- ❑ Vegetation: scrub brush, few trees
- ❑ No structures

[illegible]

Site Plan – Updated July 2013



Watson Site Plan

Tax Lot 300, 7S-14E-8D
North Junction, Oregon

Structure approved by OPRD:
47' x 30' with 10' front deck

Proposed Structure:
30' x 30'

Setbacks Requested:
Minimum of 25' setbacks on
all sides

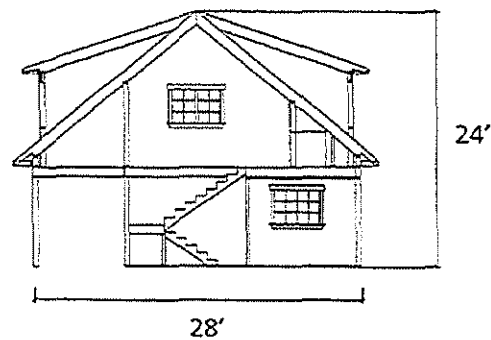
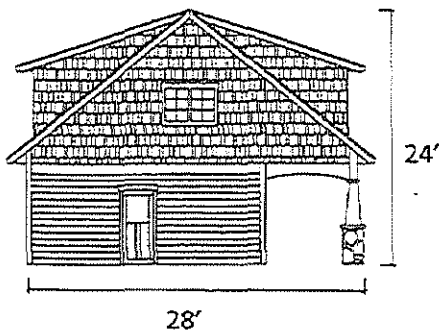
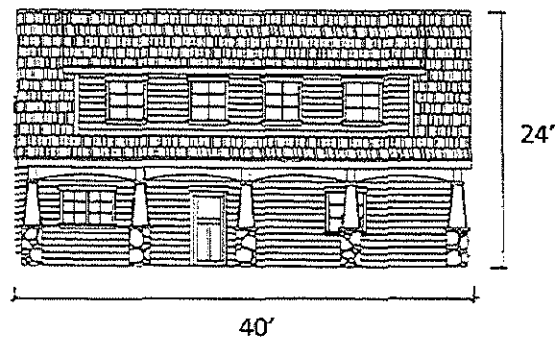
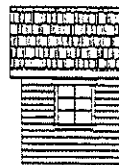
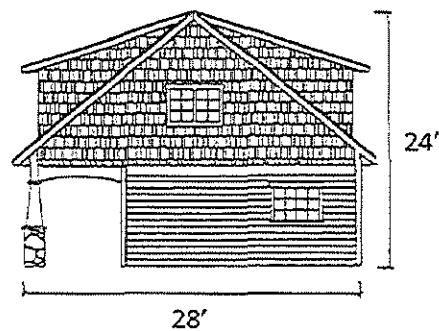
Structure to be painted in muted
tones with dark, natural tone
metal roof

Structures to be placed on piers to maintain
FEMA floodproofing standards (main structure
and shed)

Applicant:
Gabriel A. Watson
1824 SE Taylor
Portland, OR



Elevation – Nov. 2012



DURHAM
TIMBERWORKS
TO BOX 6745
3709 W. 117
505 954-1210

PRELIM / ELEVATIONS

SKETCH DESCRIPTION:
PROJECT TITLE:

WATSON HOUSE PLAN

OWNER: SM

DATE: 11/1/12

SCALE: 1/8" = 1'

DATE: 11/1/12

FILE NAME: C. Watson

APPROVED BY:

REVISION:

SHEET NO.

A 00

Attachment C

Presentation notes

ACCESSORY STRUCTURE (p. 5 of 39)

The definition for Accessory Structure in Section 1.090 states: "A detached structure, its footprint being less than $\frac{1}{4}$ of the primary structures footprint, the use of which is customarily incidental to that of the primary structure of the primary use of the land and which is located on the same lot-of-record with the primary structure or use."

Footprint of the proposed shed is 18' x 12' (216 sq ft).

Establishment of the nonfarm dwelling would constitute the primary use of the parcel, and the small size of the shed makes it incidental to the dwelling. Sheds are commonly used in conjunction with dwellings, including in North Junction, for the storage of various household and recreation items.

Applicant has reduced the footprint of the dwelling to 30' x 30' or 900 SF (from 40' x 28'). As long as the dwelling is larger than 288 SF, the footprint of the shed will be less than $\frac{1}{4}$ of the dwelling footprint. Staff finds the proposed shed meets the definition of Accessory Structure.

SECTION 3.210.F – PROPERTY DEVELOPMENT STANDARDS (p. 6 of 39)

PROPERTY LINE SETBACKS – 100'. None of the adjacent properties are in agricultural production and none have been cultivated in the past 20 years. NO DISPUTE.

WATERWAY SETBACKS – 100'. The Deschutes River is a designated fish bearing body.

The parcel is approximately 100' x 110' (0.25 acres). Based on the size, we found that development cannot meet the required setback, and therefore a VARIANCE is required, which is addressed in Section C of the Staff Report (p. 29 of 39).

HEIGHT – The height limit is 35' measured from average grade. Section 1.090 of the LUDO defines height as the vertical distance from average grade to the "mean height level between the eaves and ridge for a gable, hip or gambrel roof..." Per the Nov. 2012 site plan, Applicant proposes a dwelling measuring 24' to the top of ridge (top) of the roof. However, to address floodplain requirements, the dwelling will be placed on piers measuring 7.4' which brings the height from average grade to less than 31.4'

NON-FARM DWELLING (p. 8 of 39)

Opponents raised the question of whether the proposed structure meets the definition of "dwelling". Applicant has submitted amended materials, so I will leave it to him to address these concerns in more detail. I'm happy to come back to it if the Planning Commission does not feel it's adequately addressed.

NON-FARM DWELLING CRITERIA

Not in the A-1 (40) Zone

No other dwelling on the parcel

The site has appropriate physical characteristics per comments from North Central Public Health.

The parcel is "GENERALLY UNSUITABLE" for farming, per the criteria:

- 71% Class VII Soils
- No evidence of cropping history per USDA Farm Service Agency

CUMULATIVE IMPACT (p. 10 of 39) – 2,051 acre study area, consisting of 22 properties.

- Map on Pages 10-11.
- Representative of the land use pattern
- Tracks the Deschutes River Access Road
- Zoned A-1 (160)
- Limited agricultural activity (site visit, aerial photos, Assessor records)
- No evidence of crops, some evidence of grazing on less than 30% of study area
- 10 dwelling on the 22 properties, all located in and around North Junction
- 16 of the 22 properties are undeveloped, 11 of those less than 80 acres

LAND USE PATTERN (p. 12 of 39)

- Predominantly recreational dwellings around North Junction, and dry land to the south and east.
- The most significant factors affecting agriculture are poor soils and topography dotted with volcanic rock outcroppings.

Conclusion: Existing and potential non-farm dwellings will not diminish farming opportunities or destabilize the overall character of the study area.

FLOODPLAIN – EPD 1 (p. 15 of 39)

Applicant submitted FEMA-generated Letter of Map Amendment (LOMA) stating the 1% annual chance flood elevation (Base Flood Elevation) is at 1,097.6 feet.

Applicant proposes elevating the structure so the top of the bottom floor will be at 1,100 feet.

Concrete sonotube piers will be used, which FEMA recognizes as resistant to flood damage.

VARIANCES – CH. 6 (p. 29 of 39)

Exceptional circumstance – less than 2% of the properties zoned A-1 (160) are 0.25 acres or smaller (52 of 2,661 properties)

Necessary to preserve a property right enjoyed by other property owners in the area – There are at least 9 nonfarm dwellings on adjacent properties, several with accessory structures. Over the past 80

years, a general pattern of development has occurred in North Junction that does not conform to current zoning.

This pattern consists of lawfully established dwellings and accessory structures that predate zoning OR have been approved by Wasco County pursuant to the LUDO.

In at least five (5) cases, the approvals by the County have included variances to setbacks similar to that requested by the applicant. In this context, Staff finds these lawfully established improvements constitute a property right enjoyed by other property owners in North Junction, and a variance is necessary in order for Applicant to continue this development pattern.

Variance would conform to the purposes of this Ordinance – The stated purpose of the “Agriculture” Comp Plan designation is: “preserve and maintain the agricultural lands for farm use consistent with historical, existing and future needs...” The 100’ setback requirement is to protect agricultural uses. There have been no agricultural uses in North Junction for at least 80 years, and therefore approval of the variance would not conflict with the Comp Plan or predominant land use.

Minimum variance – Applicant is siting development in the center of the property, therefore minimizing the needed setback variance from any one side.

Self-created hardship – The property was lawfully created in its current size in 1971. This was the primary action which created the hardship. Applicant did not initiate any land use action which later resulted in the request for a variance.

WASCO COUNTY LUDO 1.090 DEFINITIONS

Dwelling Types – For the purposes of this Ordinance, dwellings are separated into the following categories and herewith defined accordingly:

- c. Single Family Detached – A single household unit whose construction is characterized by no common wall or ceiling with another unit.

Dwelling Unit – A lawfully established dwelling is a single-family dwelling which:

- a. Has intact exterior walls and roof structure;
- b. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
- c. Has interior wiring for interior lights; and
- d. Has a heating system

Refers to ORS 215.283(1)(p) – Alteration, restoration or replacement of a lawfully established dwelling

Staff is recommending approval of a single family dwelling, which is characterized by no common wall or ceiling, i.e. a detached dwelling for a single household. A "dwelling unit" is a specific subset of single-family dwelling that qualifies for alteration restoration or replacement on EFU under ORS 215.283(1)(p).

If this is not self-evident, then the Planning Commission should amend the findings to address how the proposed structure is or is not a "single family dwelling".

3.210.J.1 Non-Farm Dwelling:

- a. The parcel is not within the A-1 (40) Zone.
- b. There is no other dwelling on the parcel;
- c. The site shall have appropriate physical characteristics such as adequate drainage, proper sanitation and water facilities to accommodate a residence or other non-farm use;

2011 OREGON RESIDENTIAL SPECIALTY CODE, Section R202 Definitions

Dwelling. Any building that contains one or two dwelling units used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes.

Dwelling Unit. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

MERRIAM-WEBSTER

Sanitation: the promotion of hygiene and prevention of disease by maintenance of sanitary conditions (as by removal of sewage and trash)

OXFORD DICTIONARY

Sanitation: conditions relating to public health, especially the provision of clean drinking water and adequate sewage disposal

WETHERELL V. DOUGLAS COUNTY, 56 OR. LUBA 120 (2008)

LUBA No. 2007-133

If “dwelling” as used in ORS 215.284(2)(b) does not include improvements, structures and appurtenances such as septic fields and garages, then such improvements are not permitted under the statute. Nothing in ORS 215.284(2)(b) or elsewhere cited to our attention purports to authorize infrastructure or improvements that are accessory to nonfarm dwellings in an EFU zone as a separate category of permitted uses. Certainly, there is nothing that would purport to authorize locating such improvements on land that is suitable for farm use. Such improvements are permitted, if at all, only as part of the “dwelling.” Because the “dwelling” is authorized only on that portion of the farm parcel that is generally unsuitable for farm use, it would seem to follow that essential or accessory components of that dwelling, *e.g.*, septic drainfield, garage, etc., are also limited to that portion that is generally unsuitable. As a practical matter, that means that the portion of the parcel that is “generally unsuitable” must be large enough to include not only the dwelling, but essential or accessory components of that dwelling.

(***)

In our view, the term “dwelling” as used in ORS 215.284 includes any essential or accessory improvements or structures and, therefore, like the dwelling itself, those essential or accessory improvements and structures are authorized only on portions of the farm parcel that are generally unsuitable for farm use.

WASCO COUNTY PLANNING COMMISSION

June 4, 2013

Hearing begins at 3:00 p.m.
Columbia Gorge Discovery Center
Lower Level Classroom
5000 Discovery Drive
The Dalles, OR 97058

CALL TO ORDER

I. ROLL CALL

WASCO COUNTY PLANNING COMMISSIONERS PRESENT

Don Hoffman
Vicki Ashley
Jill Amery
Andrew Myers Alternate #1
Ken McBain

WASCO COUNTY PLANNING COMMISSIONERS ABSENT

Mike Omeg
Russell Hargrave
Chip Wood
Taner Elliot Alternate #2

WASCO COUNTY PLANNING OFFICE STAFF PRESENT

John Roberts, Planning Director
Brenda Jenkins, Planning Coordinator

II. PUBLIC COMMENT: Maximum 15 minutes, *limited to items not being heard or discussed elsewhere on the agenda.*
None

III. APPROVAL OF PAST MINUTES:
Postponed

IV. QUASIJUDICIAL HEARING: (Continuation from May 7, 2013 hearing)
File PLAQJR-12-08-0001 (previously named: PLACUP-10-11-0023_PLASTS-10-11-0026_PLAQJR-10-11-0006).

We will now commence the public hearing on agenda item PLAQJR-12-08-0001, a review by the Planning Commission for: a non-farm dwelling, shed, sealed vault toilet, variance to property line setbacks, floodplain development review and modification to fire safety standards in the Exclusive Farm Use zone. The property is described as 7S 14E 8 D, tax lot 300.

The applicant and certain opponents want two more months to try to settle their differences outside of the land use hearing process. The applicant's attorney requested in writing that this hearing be continued to a date certain, August 6, 2013, and that the record remain open during that time. Staff discussed this continuance proposal with legal counsel, and they together agree that the continuance is in the county's best interests.

Enter Information Into Record: Staff would like to enter the following information into the record:

- Letter from CS Lilley, Pac Hill/Taylor Pacific LLP

- Letter from Timothy Ramis, Jordan Ramis PC

Vice Chair Ashley moved to continue the hearing to a date and time certain, said date and time being June 4, at 3:00pm at the Columbia Gorge Discovery Center, Lower Level Classroom, 5000 Discovery Drive, The Dalles, OR 97058

Commissioner McBain Seconded.

Chair Hoffman called for discussion

None.

Chair Hoffman called for the vote

The motion was unanimously approved 5 to 0, A listing of the vote, as required by Oregon Revised Statutes 192.650.c. is as follows:

Chair Hoffman – yes

Vice-Chair Ashley – yes

Commissioner Hargrave – absent

Commissioner Wood - absent

Commissioner Omeg – absent

Commissioner McBain – yes

Commissioner Amery – yes

Commissioner Elliot - absent

Commissioner Myers – yes

Commissioner McBain moved for a consensus that the request needs to move forward with a hearing on August 6, 2013. The Commission will proceed with a decision based on the record submitted at that time.

Vice Chair Ashley seconded.

Chair Hoffman called for discussion

None.

Chair Hoffman called for the vote

The motion was unanimously approved 5 to 0, A listing of the vote, as required by Oregon Revised Statutes 192.650.c. is as follows:

Chair Hoffman – yes

Vice-Chair Ashley – yes

Commissioner Hargrave – absent

Commissioner Wood - absent

Commissioner Omeg – absent

Commissioner McBain – yes

Commissioner Amery – yes

Commissioner Elliot - absent

Commissioner Myers – yes

V. OPTIONAL: DISCUSSION OF OTHER BUSINESS / PLANNING DIRECTOR COMMENTS:

Planning Director gave a brief discussion on the following:

- Update of Long Range Work Program to go before the Board of Commissioners.
- Status of Associate Planner Michael Weidmann and his departure.
- Update to the Wasco County LUDO, Chapters 1, 2, and 3. Goal to meet with the Development Review Advisory Committee in the summer based on staff availability/staffing resources.

- Status of PGE Cascade Crossing project; PGE has withdrawn their application with ODOE.
- Status of Brush Canyon Wind Power Facility permit being reviewed through ODOE/EFSC.
- Outdoor Mass Gatherings to be held in Wasco County at the end of July. Run 21 and and What the Festival (WTF). WTF has been challenged to Circuit Court.
- Rowena Dell Lot 8 remand in the National Scenic Area. A settlement agreement has been reached and a new application is needed to move forward with a decision.

Adjourned 3:25

WASCO COUNTY PLANNING COMMISSION

April 2, 2013

Hearing begins at 3:00 p.m.
Columbia Gorge Discovery Center
Lower Level Classroom
5000 Discovery Drive
The Dalles, OR 97058

CALL TO ORDER

I. ROLL CALL

WASCO COUNTY PLANNING COMMISSIONERS PRESENT

Don Hoffman
Chip Wood
Jill Amery
Taner Elliot Alternate #2

WASCO COUNTY PLANNING COMMISSIONERS ABSENT

Vicki Ashley
Mike Omeg
Kenneth McBain
Russell Hargrave
Andrew Myers, Alternate #1

WASCO COUNTY PLANNING OFFICE STAFF PRESENT

John Roberts, Planning Director
Brenda Jenkins, Planning Coordinator

II. PUBLIC COMMENT: Maximum 15 minutes, *limited to items not being heard or discussed elsewhere on the agenda.*

None

III. APPROVAL OF PAST MINUTES:

March 5, 2013,
Commissioner Wood moved to approve the minutes as submitted.
Commissioner Amery seconded

Chair Hoffman called for discussion

None.

Chair Hoffman called for the vote

The motion was unanimously approved 3 to 0, 1 abstain (Commissioner Elliot), A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hoffman – yes
Vice-Chair Ashley – absent
Commissioner Hargrave – absent
Commissioner Wood - yes
Commissioner Omeg – absent
Commissioner McBain – absent
Commissioner Amery – yes

Commissioner Elliot - abstain
Commissioner Myers - absent

IV. Watson application

Chair Hoffman opened the hearing as follows: Agenda item PLAQJR-12-08-0001, a review by the Planning Commission for: a non-farm dwelling, shed, sealed vault toilet, variance to property line setbacks, floodplain development review and modification to fire safety standards in the Exclusive Farm Use zone. The property is described as 7S 14E 8 D, tax lot 300.

Chair Hoffman further stated that the applicant and certain opponents requested time to try to settle their differences outside of the land use hearing process. The applicant's attorney requested in writing that this hearing be continued to a date certain, June 4, 2013, and that the record remain open during that time. Staff discussed this continuance proposal with legal counsel, and they together agree that the continuance is in the county's best interests.

Enter Information Into Record: Staff would like to enter the following information into the record:

- Letter/Correspondence from North Central Public Health District
- Letter from Applicant & Attorney requesting continuance

Vice Chair Ashley asked if the Planning Department had a limit on the number of continuances an applicant can request in regards to the approval from the Parks and Recreation Department. **Director Roberts** explained that the Parks and Recreational approval has already expired.

Commissioner Wood moved to continue the hearing for PLAQJR PLAQJR-12-08-0001 to a date and time certain, said date and time being, June 4, 2013 at the regularly scheduled planning commission meeting, 3:00 p.m. in the lower level class room of the Gorge Discovery Center, The Dalles.

Commissioner Amery seconded

Chair Hoffman called for discussion

None.

Chair Hoffman called for the vote

The motion was unanimously approved 4 to 0, A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hoffman – yes
Vice-Chair Ashley – absent
Commissioner Hargrave – absent
Commissioner Wood - yes
Commissioner Omeg – absent
Commissioner McBain – absent
Commissioner Amery – yes
Commissioner Elliot - abstain
Commissioner Myers - absent

V. OPTIONAL: DISCUSSION OF OTHER BUSINESS / PLANNING DIRECTOR COMMENTS:

Planning Director gave a brief discussion on the following:

- Outdoor mass gatherings, WTF (What the Festival) and Run 21 Motorcycle Rally
- Brush Canyon Wind Power Facility
- Cascade Crossing Project / PGE Transmission Project
- LUDO Amendments based on the Advisory Committee recommendations

ADJOURNMENT

Adjourned at 3:13 pm.

Respectfully submitted,

Donald Hoffman, Chair
Wasco County Planning Commission

John Roberts, Planning Director
Wasco County Planning Department

WASCO COUNTY PLANNING COMMISSION

March 5, 2013

Hearing begins at 3:00 p.m.
Columbia Gorge Discovery Center
Lower Level Classroom
5000 Discovery Drive
The Dalles, OR 97058

CALL TO ORDER

I. ROLL CALL

WASCO COUNTY PLANNING COMMISSIONERS PRESENT

Don Hoffman
Vicki Ashley
Chip Wood
Jill Amery
Russell Hargrave
Andrew Myer, Alternate #1

WASCO COUNTY PLANNING COMMISSIONERS ABSENT

Mike Omeg
Kenneth McBain
Taner Elliot, Alternate #2

WASCO COUNTY PLANNING OFFICE STAFF PRESENT

John Roberts, Planning Director
Brenda Jenkins, Planning Coordinator
Joey Shearer, Senior Planner

II. PUBLIC COMMENT: Maximum 15 minutes, *limited to items not being heard or discussed elsewhere on the agenda.*

None

III. APPROVAL OF PAST MINUTES:

February 5, 2013,

Vice Chair Ashley moved to approve the minutes as submitted.

Commissioner Wood seconded

Chair Hoffman called for discussion

None.

Chair Hoffman called for the vote

The motion was unanimously approved 5 to 0, 1 abstained (Commissioner Hargrave) A
listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hoffman – yes

Vice-Chair Ashley – yes

Commissioner Hargrave – abstained

Commissioner Wood - yes

Commissioner Omeg – absent

Commissioner McBain – absent
Commissioner Amery – yes
Commissioner Myers – yes
Commissioner Elliot - absent

IV. QUASIJUDICIAL HEARING – COLUMBIA LAND TRUST

File # PLAQJR-13-01-0001 Request by Columbia Land Trust for an Open Space Tax Assessment to be applied to a 123 acre property located in the A-1 (160), R-5 and R-1 Zones of the General Management Area, National Scenic Area.

Chair Hoffman opened the hearing as follows: We will now commence the public hearing on agenda item: PLAQJR-13-01-0001 and PLAQJR-13-01-0002. A review by the Planning Commission for a Special Assessment of Open Space Land. The criteria for approval of this request are contained in Oregon Revised Statute (ORS) 308A – Land Special Assessments.

Disclosure of Interest of Ex Parte Contact or Potential Conflicts:
None.

Party Recognition

Anyone can speak for or against the proposal today. However, only those who have "party" status will be able to appeal a decision reached by this Commission. If you wish to establish party status, please state so at the beginning of your testimony. At the end of the public testimony, the Planning Commission will deliberate about granting party status to each person who requested it.

Chair Hoffman called for the staff report.

Senior Planner Joe Shearer presented the staff report (see attachment A), he also submitted Assessor information into the record. (see file for information)

Vice Chair Ashley asked if the possible urban growth expansion is approved, wouldn't a portion of the property be more favorable towards development. Would the owner be allowed to take it back out of open space? She stated that her understanding is that once it is in open space it is harder to take out and put into another use. **Commissioner Amery** stated that the lot is actually very steep and would be difficult to develop. **Commissioner Wood** reminded everyone that if the request is denied, the applicant can just go tax exempt.

Chair Hoffman called for the Applicant's testimony

Virginia Bowers, Columbia Land Trust

Ms. Bowers gave the commission a brief background on the property.

Chair Hoffman asked how the Columbia Land trust was funded. **Ms. Bowers** stated that their funding came from donations, grants, and fundraising. She further stated that the subject property was purchased through a grant process. **Chair Hoffman** asked how many acres were in the Columbia Land Trust ownership. **Ms. Bowers** replied there were over 9,000 acres currently in the Columbia Land Trust ownership.

Commissioner Amery asked if the public is encouraged to hike and enjoy the land.

Ms. Bowers replied that it is on a case-by-case basis. They are currently evaluating the property and have a future plan to create a trail. **Commissioner Amery** asked if Columbia Land Trust would provide improvement for parking if opened for hiking. **Ms. Bowers** replied that hopefully that will happen but there is no current plan and she couldn't say when it might happen.

Chair Hoffman called for other testimony in support

Gwen Schatz, Property Owner **Ms. Schatz** stated that she owns land at 4660 Seven Mile Hill Road. She further stated that she is happy to see the property is owned by a conservation group, and she is in support of the proposal.

Chair Hoffman called for the additional testimony in support.
None.

Chair Hoffman called for the testimony in opposition.
None.

Chair Hoffman closed the hearing for deliberation.

Commissioner Hargrave stated that he is in support of the request. He believes from a land use point of view having open space protected is great.

Vice Chair Ashley stated that she would like to hear that the area would be open to public use.

Chair Hoffman stated that conservation and public use are not always compatible.

Commissioner Hargrave stated that the decision for opening it to public use should be left to the stewards of the land.

Commissioner Amery stated that she agrees it's a great idea but also feels that at least a small portion of it should be available for public use.

Commissioner Myers stated that he did not see any negatives to approving the request.

Commissioner Hargrave moved to approve the request as recommended by Staff.

Vice Chair Ashley seconded

Chair Hoffman called for discussion

None.

Chair Hoffman called for the vote

The motion was unanimously approved 6 to 0. A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hoffman – yes

Vice-Chair Ashley – yes

Commissioner Hargrave – yes

Commissioner Wood - yes

Commissioner Omeg – absent

Commissioner McBain – absent

Commissioner Amery – yes

Commissioner Myers – yes

Commission Elliot - absent

V. QUASIJUDICIAL HEARING – COLUMBIA LAND TRUST

File PLAQJR-13-01-0002:

Request by Columbia Land Trust for an Open Space tax assessment to be applied to a 97 acre property located in the A-1 (160) and F-F (10) Zones of Wasco County

Chair Hoffman called for the staff report.

Senior Planner Joe Shearer presented the staff report (see attachment A), he also submitted Assessor information into the record. (see file for information)

Chair Hoffman called for the Applicant's testimony

Virginia Bowers, Columbia Land Trust

Ms. Bowers stated that the subject property is within two tax lots from the property which was given open space in the past. She further stated that Columbia Land Trust hopes to protect the whole ridge at some point in the future.

Chair Hoffman called for other testimony in support

Bruce Lumper, Past Property Owner

Mr. Lumper stated that he currently lives south east of the subject property. They have been working to purchase and save and sell these lands for protection to the land trust. He further stated that the property is currently being taxed at a "speculative" rate, if they were taxed at a farm deferral rate the amount of tax would be much closer to that of the open space rate.

Chair Hoffman called for the additional testimony in support.

None.

Chair Hoffman called for the testimony in opposition.

None.

Chair Hoffman closed the hearing for deliberation.

Commissioner Hargrave stated that he was in support of this request as well. He also stated that it was a nice vision to connect the property and keep the ridges conserved.

Vice Chair Ashley moved to approve the request as recommended by Staff and to recommend approval to the Wasco County Board of Commissioners for both requests.

Commissioner Hargrave seconded

Chair Hoffman called for discussion

None.

Chair Hoffman called for the vote

The motion was unanimously approved 6 to 0. A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hoffman – yes

Vice-Chair Ashley – yes

Commissioner Hargrave – yes

Commissioner Wood - yes

Commissioner Omeg – absent

Commissioner McBain – absent

Commissioner Amery – yes

Commissioner Myers – yes

Commissioner Elliot - absent

VI. QUASIJUDICIAL HEARING

File PLAQJR-12-08-0001 (previously: PLACUP-10-11-0023_PLASTS-10-11-0026_PLAQJR-10-11-0006).

The request by owner, Gabriel Watson, is for an administrative (quasi-judicial) review of the following:

- 1) 40' x 28' x 24' (1,120 square foot), non-farm dwelling
- 2) 18' x 12' x 12' (216 square foot) shed
- 3) 7' x 7' sealed vault toilet
- 4) Variance to property line setbacks. Requested setbacks are as follows:
 - 25' from front and rear property line
 - 25' from side property lines
 - 25' from Deschutes River
- 5) Floodplain Development Review of requested structures located within the FEMA delineated floodplain
- 6) Modification to Wasco County Fire Safety Standards Review

Chair Hoffman opened the hearing as follows: We will now commence the public hearing on agenda item PLAQJR-12-08-0001, a review by the Planning Commission for: a non-farm dwelling, shed, sealed vault toilet, variance to property line setbacks, floodplain development review and modification to fire safety standards in the Exclusive Farm Use zone. The property is described as 7S 14E 8 D, tax lot 300.

The applicant and certain opponents want time to try to settle their differences outside of the land use hearing process. The applicant's attorney requested in writing that this hearing be continued to a date certain, April 2, and that the record remain open during that time. Staff discussed this continuance proposal with legal counsel, and they together agree that the continuance is in the county's best interests.

Chair Hoffman then stated that staff would like to enter the following information into the record:

- Letter from Oregon Parks and Recreation Department and Department of Justice General Counsel Division dated February 5, 2013
- Letter from United States Department of the Interior (BLM) Prineville District Office dated February 6, 2013
- Letter and accompanying attachments from Jordan Ramis (applicant's attorney) dated February 25, 2013
- Letter from Kenneth Klarquist, Jr., requesting party status and dated February 25, 2013
- Letter from Andrew Stamp (attorney) dated February 26, 2013
- Letter / Authorization Notice and accompanying attachments from North Central Public Health District dated November 4, 2012
- Letter from Jordan Ramis requesting continuance dates March 1, 2013

Vice Chair Ashley moved to continue the hearing to a date and time certain, said date and time being April 2, 2013, at 3:00 pm at the Gorge Discovery Center, Lower Level Classroom, 5000 Discovery Drive, The Dalles, Oregon.

Commissioner Hargrave seconded.

Chair Hoffman called for discussion

None.

Chair Hoffman called for the vote

The motion was unanimously approved 6 to 0. A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hoffman – yes

Vice-Chair Ashley – yes

Commissioner Hargrave – yes

Commissioner Wood - yes

Commissioner Omeg – absent

Commissioner McBain – absent

Commissioner Amery – yes

Commissioner Myers – yes

Commission Elliot - absent

VII. ADJOURNMENT

Meeting was adjourned at 4:02

Respectfully submitted,

Donald Hoffman, Chair
Wasco County Planning Commission

John Roberts, Planning Director
Wasco County Planning Department

WASCO COUNTY PLANNING COMMISSION

February 5, 2013

Hearing begins at 3:00 p.m.
Columbia Gorge Discovery Center
Lower Level Classroom
5000 Discovery Drive
The Dalles, OR 97058

CALL TO ORDER

I. ROLL CALL

WASCO COUNTY PLANNING COMMISSIONERS PRESENT

Don Hoffman
Vicki Ashley
Chip Wood
Kenneth McBain
Jill Amery
Mike Omeg
Andrew Myer, Alternate #1
Taner Elliot, Alternate #2

WASCO COUNTY PLANNING COMMISSIONERS ABSENT

Russ Hargrave

LEGAL COUNSEL FOR WASCO COUNTY

Isa Taylor

WASCO COUNTY PLANNING DEPARTMENT STAFF PRESENT

John Roberts, Planning Director
Brenda Jenkins, Planning Coordinator
Joey Shearer, Senior Planner

II. PUBLIC COMMENT: Maximum 15 minutes, *limited to items not being heard or discussed elsewhere on the agenda.*

None

III. APPROVAL OF PAST MINUTES:

January 8, 2013

Vice Chair Ashley moved to approve the minutes as submitted.

Commissioner McBain seconded

Chair Hoffman called for discussion

None.

Chair Hoffman called for the vote

The motion was unanimously approved 6 to 0, 1 absent (Commissioner Hargrave)

A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hoffman – yes
Vice-Chair Ashley – yes
Commissioner Hargrave – absent
Commissioner Wood – yes
Commissioner Omeg – yes
Commissioner McBain – yes
Commissioner Amery – yes

IV. OATH OF OFFICE FOR NEW COMMISSIONERS

Chair Hoffman issued the Oath of Office to new Alternate Commissioners Andrew Myer and Taner Elliot

V. QUASIJUDICIAL HEARING

File PLAQJR-12-08-0001 (previously named: PLACUP-10-11-0023_PLASTS-10-11-0026_PLAQJR-10-11-0006).

The request by owner, Gabriel Watson, is for an administrative (quasi-judicial) review of the following:

- 1) 40' x 28' x 24' (1,120 square foot), non-farm dwelling
- 2) 18' x 12' x 12' (216 square foot) shed
- 3) 7' x 7' sealed vault toilet
- 4) Variance to property line setbacks. Requested setbacks are as follows:
 - 25' from front and rear property line
 - 25' from side property lines
 - 25' from Deschutes River
- 5) Floodplain Development Review of requested structures located within the FEMA delineated floodplain
- 6) Modification to Wasco County Fire Safety Standards Review

Chair Hoffman opened the hearing as follows: We will now commence the public hearing on agenda item PLAQJR-12-08-0001, a review by the Planning Commission for: a non-farm dwelling, shed, sealed vault toilet, variance to property line setbacks, floodplain development review and modification to fire safety standards in the Exclusive Farm Use zone. The property is described as 7S 14E 8 D, tax lot 300.

The criteria for approval of a land use decision are contained in the Wasco County Land Use and Development Ordinance ("LUDO") as amended. The specific criteria applicable to this request are contained in Chapter 3 (Exclusive Farm Use Zone Section 3.210, Flood Hazard Overlay Section 3.740 and Natural Areas Overlay Section 3.910), Chapter 5 (Conditional Use Review), Chapter 6 (Variances) and Chapter 10 (Fire Safety Standards). The proposed development must comply with applicable provisions contained in the Wasco County Comprehensive Plan. Generally, unless otherwise noted, if a request is found to be consistent with the LUDO it is considered consistent with the Comprehensive Plan.

Today's hearing will be modified from what was originally scheduled. The applicant and certain opponents want time to try to settle their differences outside of the land use hearing process. The applicant requested in writing that this hearing be continued to a date certain, March 5, 2013 and that the record remain open during that time. Staff discussed this continuance proposal with legal counsel, and they together agree that the

continuance is in the county's best interests. However, public testimony is important. Therefore, this hearing will follow a modified format to allow public testimony, but not include a staff report or presentation by the applicant.

Disclosure of Interest of Ex Parte Contact or Potential Conflicts: None

Planning Commissioner Disclosure of December 10th, 2012 Site Visit

Chair Hoffman asked that for record, Planning Commissioners who attended the December 10th, 2012 site visit to the subject property state their name: **Vice Chair Ashley** stated that she attended the site visit, no ex parte contact. **Commissioner Wood** stated that he attended the site visit, no ex parte contact. **Commissioner McBain** stated that he attended the site visit, no ex parte contact. **Chair Hoffman** stated for the record that 3 commissioners attended the site visit, 3 commissioners do not constitute a quorum.

Director John Roberts entered new information into the record (see record for details).

Chair Hoffman called for any testimony on the agenda item.
None.

Chair Hoffman called for a motion to continue the hearing to a date and time certain. **Vice Chair Ashley** moved to continue the hearing to a date and time certain, said date and time being March 5, 2013, at 3:00, at Columbia Gorge Discovery Center, Lower Level Classroom, 5000 Discovery Drive, The Dalles, OR 97058
Commissioner McBain Seconded

Chair Hoffman called for discussion
None.
Chair Hoffman called for the vote

The motion was unanimously approved 7 to 0, A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hoffman – yes
Vice-Chair Ashley – yes
Commissioner Wood - yes
Commissioner Omeg – yes
Commissioner McBain – yes
Commissioner Amery – yes
Commissioner Myers - yes

Chair Hoffman stated for the record that since no testimony had been taken today, Commissioner Hargrave would be eligible to sit on the hearing of March 5, 2013.

Adjourned at 3:16

Respectfully submitted,

Donald Hoffman, Chair
Wasco County Planning Commission

John Roberts, Planning Director
Wasco County Planning Department

WASCO COUNTY PLANNING COMMISSION

December 4, 2012
Hearing begins at 3:00 p.m.
Columbia Gorge Discovery Center
Lower Level Classroom
5000 Discovery Drive
The Dalles, OR 97058

CALL TO ORDER

I. ROLL CALL

WASCO COUNTY PLANNING COMMISSIONERS PRESENT

Don Hoffman
Vicki Ashley
Chip Wood
Kenneth McBain (arrived late)
Russell Hargrave (via phone)

WASCO COUNTY PLANNING COMMISSIONERS ABSENT

Mike Omeg
Jill Amery

WASCO COUNTY STAFF PRESENT

John Roberts, Planning Director
Brenda Jenkins, Planning Coordinator
Michael Weidmann, Associate Planner
Kate Foster, Code Compliance Officer

II. NOMINATIONS AND APPROVAL OF CHAIRPERSON AND VICE CHAIRPERSON

Rescheduled to first hearing of 2013

III. PUBLIC COMMENT: Maximum 15 minutes, *limited to items not being heard or discussed elsewhere on the agenda.*

None

IV. APPROVAL OF PAST MINUTES:

September 4, 2012

Vice Chair Ashely moved to approve the minutes as submitted (with grammatical corrections).

Commissioner Wood seconded

Chair Hoffman called for discussion

None.

Chair Hoffman called for the vote

The motion was unanimously approved 4 to 0, 3 absent (Commissioners Omeg, McBain and Amery) A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hoffman – yes

Vice-Chair Ashley – yes
Commissioner Hargrave – yes
Commissioner Wood – yes
Commissioner Omeg – absent
Commissioner McBain – absent (arrived later)
Commissioner Amery – absent

V. QUASI-JUDICIAL HEARING: Watson

File PLAQJR-12-08-0001 (previously named PLACUP-10-11-0023_PLASTS-10-11-0026_PLAQJR-10-11-0006). Request by owner, Gabriel Watson for a review of the following:

- 47' by 30' by 30' (1,410 square foot) dwelling with attached 10' by 10' by 10' (100 square foot) deck
- 18' by 12' by 12' (216 square foot) shed
- Substantial variance to required 100' setbacks from all property lines. Requested setbacks are as follows:
 - 50' from rear property line (river)
 - 25' from side property lines
 - 25' from front property line
- Floodplain Development Review of requested structures located within the FEMA delineated floodplain
- Modification to Wasco County Fire Safety Standards

Chair Hoffman stated that per the request of the applicant's attorney, the neighbors attorney, and Department of Justice (legal counsel for the Oregon Parks and Recreation Department), and in the best interest of due process, planning case PLAQJR-12-08-0001 is continued to the February 5, 2013 scheduled planning commission meeting - 3:00 p.m. Discovery Center, The Dalles. Note - the applicant has signed the 150 day waiver.

Vice Chair Ashley moved to continue the hearing to a date and time certain; said date and time being February 5, 2013 at 3:00 p.m. at Discovery Center, The Dalles

Commissioner Wood seconded

Chair Hoffman called for discussion

None.

Chair Hoffman called for the vote

The motion was unanimously approved 4 to 0, 3 absent (Commissioners Omeg, McBain and Amery) A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hoffman – yes
Vice-Chair Ashley – yes
Commissioner Hargrave – yes
Commissioner Wood – yes
Commissioner Omeg – absent
Commissioner McBain – absent
Commissioner Amery – absent

VI. DEVELOPMENT REVIEW IMPROVEMENT PROCESS AUDIT:

- December 12th meeting to discuss Development Review Improvement Process Audit

DISCUSSION OF OTHER BUSINESS / PLANNING DIRECTOR COMMENTS:

- A site visit was set up for Commissioners Wood, Ashley and McBain for Monday, December 10, 2012 starting at 8:00 am to visit the Gabe Watson site.
- Director Roberts introduced the new planning staff members to the Planning Commission: Kate Foster, Code Compliance Officer and Michael Weidmann, Associate Planner.
- There was a brief discussion on wind farms, particular the status of the Request for Additional Information (RAI) on the Brush Canyon project.
- Inquiry was made to the frequency of reading the "Planning Commission Journal" and value of content.
- It was mentioned the development of the "online GIS mapping" was a work in progress and was a lot like Hood River's.
- It was mentioned the recruitment date for new planning commissioner ended December 7th.
- It was mentioned What The Festival has expressed interest in moving to the Dufur area.
- It was mentioned the January 8 planning commission meeting would overview the department's strategic plan, February meeting would be focused on the Watson application and in March there could be a proposal regarding the Discovery Center and renewable energy.

VII. ADJOURNMENT

Adjourned at 3:50

Respectfully submitted,

Donald Hoffman, Chair
Wasco County Planning Commission

John Roberts, Planning Director
Wasco County Planning & Development

WASCO COUNTY PLANNING COMMISSION

September 4, 2012
Hearing begins at 3:00 p.m.
Columbia Gorge Discovery Center
Lower Level Classroom
5000 Discovery Drive
The Dalles, OR 97058

CALL TO ORDER

I. ROLL CALL

WASCO COUNTY PLANNING COMMISSIONERS PRESENT

Don Hoffman
Vicki Ashley
Russ Hargrave
Mike Omeg
Kenneth McBain

WASCO COUNTY PLANNING COMMISSIONERS ABSENT

Jill Amery
Chip Wood

WASCO COUNTY STAFF PRESENT

John Roberts, Planning Director
Brenda Jenkins, Planning Coordinator
Jeanette Montour, Senior Planner

II. NOMINATIONS AND APPROVAL OF CHAIRPERSON AND VICE CHAIRPERSON

Consensus was reached that due to the lateness of the current year Chair and Vice Chair should remain the same through 2012.

Vice Chair Ashley moved to keep the same through 2012.
Commissioner Hargrave seconded

Chair Hoffman called for discussion
None.
Chair Hoffman called for the vote

The motion was unanimously approved 5 to 0, 2 absent (Commissioners Wood and Amery). A listing of the vote, as required by Oregon Revised Statutes 192.650.c. is as follows:

Chair Hoffman – yes
Vice-Chair Ashley – yes
Commissioner Hargrave – yes
Commissioner Wood – absent
Commissioner Omeg – yes
Commissioner McBain – yes
Commissioner Amery – absent

III. PUBLIC COMMENT: Maximum 15 minutes, limited to items not being heard or discussed elsewhere on the agenda.

None

IV. APPROVAL OF PAST MINUTES:

December 6, 2011

Vice Chair Ashley moved to approve the minutes as submitted.

Commissioner Hargrave seconded

Chair Hoffman called for discussion

None.

Chair Hoffman called for the vote

The motion was unanimously approved 5 to 0, 2 absent (Commissioners Wood and Amery) A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hoffman – yes

Vice-Chair Ashley – yes

Commissioner Hargrave – yes

Commissioner Wood – absent

Commissioner Omeg – yes

Commissioner McBain – yes

Commissioner Amery – absent

V. QUASI-JUDICIAL HEARING:

File PLAQJR-12-08-0001 (previously named PLACUP-10-11-0023_PLASTS-10-11-0026_PLAQJR-10-11-0006). Request by owner, Gabriel Watson, for a review of the following:

- 47' by 30' by 30' (1,410 square foot) dwelling with attached 10' by 10' by 10' (100 square foot) deck
- 18' by 12' by 12' (216 square foot) shed
- Substantial variance to required 100' setbacks from all property lines. Requested setbacks are as follows:
 - 50' from rear property line (river)
 - 25' from side property lines
 - 25' from front property line
- Floodplain Development Review of requested structures located within the FEMA delineated floodplain
- Modification to Wasco County Fire Safety Standards

Chair Hoffman Per the request of the applicant, the need for the state to review its rules, the ability to further refine the site plan and in the best interest of due process, planning case PLAQJR-12-08-0001 was continued to the December 4, 2012 scheduled planning commission meeting - 3:00 p.m. Discovery Center, The Dalles. The applicant has also signed the 150 day waiver.

Vice Chair Ashley moved to continue the hearing to a date and time certain, said date and time being December 4, 2012, 3:00 p.m. Discovery Center, The Dalles, Oregon.

Commissioner Hargrave seconded

Chair Hoffman called for discussion

None.

Chair Hoffman called for the vote

The motion was unanimously approved 5 to 0, 2 absent (Commissioners Wood and Amery). A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hoffman – yes
Vice-Chair Ashley – yes
Commissioner Hargrave – yes
Commissioner Wood – absent
Commissioner Omeg – yes
Commissioner McBain – yes
Commissioner Amery – absent

VI. ADMINISTRATIVE PROJECT/HEARING

Vice Chair Ashley proposed wording and grammar changes to the proposed bylaws. Consensus was reached to include the changes as proposed by Vice-Chair Ashley

Vice-Chair Ashley motioned to recommend the revised bylaws to the Board of the Commissioners (BOC) for adoption. Based on the adoption, she further moves to have the BOC appoint one (1) member of the BOC or respective designee to the Advisory Committee, and request the City of The Dalles Planning Commission appoint one member to the Advisory Committee (for the purpose of reappointments and appointment of applicants to the Wasco County Planning Commission).

Commissioner Hargrave seconded

Chair Hoffman called for discussion

None.

Chair Hoffman called for the vote

The motion was unanimously approved 5 to 0, 2 absent (Commissioners Wood and Amery). A listing of the vote, as required by Oregon Revised Statutes 192.650.c., is as follows:

Chair Hoffman – yes
Vice-Chair Ashley – yes
Commissioner Hargrave – yes
Commissioner Wood – absent
Commissioner Omeg – yes
Commissioner McBain – yes
Commissioner Amery – absent

VII. OPTIONAL - DISCUSSION OF OTHER BUSINESS / PLANNING DIRECTOR COMMENTS

Senior Planner Jeanette Montour informed the Commission that she had resigned from the Wasco County Planning Office and would be moving out of the area.

Director Roberts discussed the staffing plan to replace both the Code Compliance and the Senior Planner positions.

There was general discussion on various outstanding issues as listed in the agenda.

Vice Chair Ashley asked if the What The Festival (WTF) music festival had been approved and permitted through a CUP process. Director Roberts stated that the county planning office did not have any jurisdiction within the Land Use and Development Ordinance; however, the planning department coordinated with other agencies which did have jurisdiction over certain matters.

Things intend to change next year with regards to the permitting process for Outdoor Mass Gatherings.

VIII. ADJOURNMENT
Adjourned at 3:45 PM

Respectfully submitted,

Donald Hoffman, Chair
Wasco County Planning Commission

John Roberts, Planning Director
Wasco County Planning Department



Wasco County Planning Department
"Service, Sustainability & Solutions"

2705 East Second St. • The Dalles, OR 97058
(541) 506-2560 • wcplanning@co.wasco.or.us
www.co.wasco.or.us/planning

WASCO COUNTY PLANNING COMMISSION AGENDA PACKET

FOR

Hearing Date: August 6, 2013

Hearing Time: 3:00 pm

**Hearing Location: Columbia Gorge Discovery Center,
Lower Level Classroom
5000 Discovery Drive
The Dalles, Oregon 97058**

Action Item(s):

QUASIJUDICIAL HEARING: (Continuation from June 4, 2013 hearing)

File PLAQJR-12-08-0001 (previously named: PLACUP-10-11-0023_PLASTS-10-11-0026_PLAQJR-10-11-0006).

The request by owner, Gabriel Watson, is for an administrative (quasi-judicial) review of the following:

- 1) 40' x 28' x 24' (1,120 square foot), non-farm dwelling
- 2) 18' x 12' x 12' (216 square foot) shed
- 3) 7' x 7' sealed vault toilet
- 4) Variance to property line setbacks. Requested setbacks are as follows:
 - 25' from front and rear property line
 - 25' from side property lines
 - 25' from Deschutes River
- 5) Floodplain Development Review of requested structures located within the FEMA delineated floodplain

Modification to Wasco County Fire Safety Standards Review



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www.co.wasco.or.us/planning

MEMORANDUM

To: Wasco County Planning Commission
From: Wasco County Planning Department
Date: July 29, 2013
Re: Submittal for Hearing Dated August 6, 2013

File PLAQJR-12-08-0001 (previously named: PLACUP-10-11-0023_PLASTS-10-11-0026_PLAQJR-10-11-0006).

The request by owner, Gabriel Watson, is for an administrative (quasi-judicial) review of the following:

- 1) 40' x 28' x 24' (1,120 square foot), non-farm dwelling
- 2) 18' x 12' x 12' (216 square foot) shed
- 3) 7' x 7' sealed vault toilet
- 4) Variance to property line setbacks. Requested setbacks are as follows:
 - 25' from front and rear property line
 - 25' from side property lines
 - 25' from Deschutes River
- 5) Floodplain Development Review of requested structures located within the FEMA delineated floodplain
- 6) Modification to Wasco County Fire Safety Standards Review

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Timothy Ramis - Jordan Ramis PC & Exhibits 1 – 8 (February 25, 2013)	P-12
Kenneth Klarquist – Zalutsky, Klarquist & Reinhart, P.C. (February 25, 2013)	P-156
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Andrew H. Stamp, P.C. (February 26, 2013)	P-160
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Staff email Joey Shearer with Environmental Health (March 28, 2013)	P-187
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CS Lilley - Pac Hill / Taylor Pacific LLP (April 25, 2013)	P-190
Timothy Ramis – Jordan Ramis PC (May 24, 2013)	P-191
Kenneth Klarquist – Zalutsky, Klarquist & Reinhart, P.C. (July 16, 2013)	P-192
Robertson Group Fax & Attachment (July 23, 2013)	P-194
Jim Harlow (July 19, 2013)	P-196
Brenda Whitlow (July 22, 2013)	P-197
John Hartung email (July 26, 2013)	P-199
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www.co.wasco.or.us/planning

MEMORANDUM **SUPPLEMENTAL FINDINGS & MATERIALS**

To: Wasco County Planning Commission

From: Wasco County Planning Department

Date: Prepared for the August 6, 2013 Planning Commission Public Hearing

Re: PLAQJR-12-08-0001 (Non-Farm Dwelling in North Junction/Deschutes River)

The purpose of this memo is to:

- 1) Make the planning commission aware of the upcoming August 6, 2013 public hearing on PLAQJR-12-08-0001 and previous hearing dates.
- 2) Provide the planning commission with supplemental findings that will be discussed at the hearing.
- 3) Provide the planning commission with copies of supplement documents that have been submitted to the planning department and are an important part of record.

Watson Application: The application to be discussed at the August 6 public hearing is File PLAQJR-12-08-0001 (previously named: PLACUP-10-11-0023_PLASTS-10-11-0026_PLAQJR 10-11-0006). The application has come before the planning commission six times for consideration: September 4, 2012, December 4, 2012, February 5, 2013, March 5, 2013, April 2, 2013 and June 4, 2013. At each of these hearings the request has been continued per the request of the applicant. However, at the June 4, 2013 public hearing the planning commission committed to reviewing and rendering at decision at the August 6 public hearing regarding said application.

It is recommended the planning commission reference and bring to the August 6 hearing the packet / materials prepared for the February 5, 2013 public hearing. The summary of information, conditions, recommendations, staff report, application and majority of the agency referrals or public comments are contained therein.

Supplemental Findings (Legal Counsel Opinion): Attached is a memo from the county's legal counsel. The three page memo addresses some substantive legal arguments regarding Land Use and Development Ordinance language and provides supplemental findings to the February 2013 staff report to be considered.

Supplemental Comments: Also included in the planning commission packet for this hearing are comments that were submitted to the planning department for the February 5, 2013 or

subsequent public hearings on the application and are included in the record. The planning commission should review these comments before the public hearing. These documents include comments from the following:

- Oregon Parks and Recreation Department (February 5, 2013)
- United States Department of Interior (February 6, 2013)
- Timothy Ramis - Jordan Ramis PC (February 25, 2013) & Associated Exhibits 1 – 8
(Note the exhibits are lengthy regarding State Park approvals)
- Kenneth Klarquist – Zalutsky, Klarquist & Reinhart, P.C. (February 25, 2013)
- North Central Public Health District (November 2012)
- Andrew H. Stamp, P.C. (February 26, 2013)
- Timothy Ramis – Jordan Ramis PC (March 1, 2013)
- Timothy Ramis – Jordan Ramis PC (March 27, 2013)
- Staff email Joey Shearer with Environmental Health (March 28, 2013)
- North Central Public Health (October 23, 2012)
- CS Lilley - Pac Hill / Taylor Pacific LLP (April 25, 2013)
- Timothy Ramis – Jordan Ramis PC (May 24, 2013)
- Kenneth Klarquist – Zalutsky, Klarquist & Reinhart, P.C. (July 16, 2013)
- Robertson Group Fax & Attachment (July 23, 2013)
- Jim Harlow (July 19, 2013)
- Brenda Whitlow (July 22, 2013)
- John Hartung email (July 26, 2013)
- Andrew H. Stamp, P.C. (July 29, 2013)

JAQUES, SHARP, SHERRERD, FITZSIMONS & OSTRYE
ATTORNEYS AT LAW

B. GIL SHARP, P.C.
JERRY J. JAQUES, P.C.
JAY F. SHERRERD, P.C. •
MICHAEL B. FITZSIMONS, P.C. •
KAREN OSTRYE, P.C. •
ISA ANNE TAYLOR •

205 THIRD STREET ♦ PO BOX 457
HOOD RIVER, OREGON 97031
(541) 386-1311
FAX (541) 386-8771

admin@hoodriverlaw.com

• ALSO ADMITTED IN WASHINGTON

July 29, 2013

Wasco County Planning Commission
c/o John Roberts, Planning Director
2705 East Second Street
The Dalles, OR 97058

Via Email to johnr@co.wasco.or.us

Re: Gabe Watson Non-Farm Dwelling Application
File# PLAQJR-12-08-0001

Dear Commissioners:

A few days before the hearing originally scheduled for February 5, 2013, and after the Staff Report was submitted to you, the County received new legal arguments from opponent Douglas Robertson. These arguments were set forth in a letter from attorney Andrew Stamp. This submission was put on a back burner while the parties purportedly attempted to settle their differences. Now it appears that the Commission will decide this application on its merits. Mr. Roberts asked me to prepare for you a response to Mr. Stamp's legal arguments.

I find that Mr. Stamp raises three legal issues which would force denial of the application, if you agree with Mr. Stamp's interpretations. First, does the Natural Areas Overlay District allow non-farm dwellings? Second, does the Wasco County Comprehensive Plan allow non-farm dwellings that are visible from the river? Third, does the applicant propose constructing a building that satisfies the county's definition of "dwelling?" Mr. Stamp has provided persuasive legal argument that the answer to these questions is "no." If you agree, I suggest adopting the following findings that support denial.

LUDO Section 3.910 Division 7 – Natural Areas Overlay¹

PROPOSED FINDING: The application must be denied because the proposed use, a non-farm dwelling, is not "permitted outright" or "allowed" in the EFU zone.

LUDO §3.910(B) sets forth the uses which are permitted in the Natural Area Overlay District (NAOD). The NAOD does not list any conditional uses, i.e. uses that are allowed only if

¹ Page 2-24 of Commission Packet dated January 29, 2013.

they satisfy conditional use criteria. Rather, the NAOD permits only uses that are allowed outright in the underlying zone, and then subjects *them* to conditional use criteria. The code provides:

B. Permitted Uses: Uses allowed in the underlying zone shall be subject to the conditional use review permit pursuant to Section 2.060(A) of this Ordinance. (emphasis added)

Although the term “allowed” is not defined, contextual analysis confirms that “allowed” means “allowed by right” or “permitted by right.”

The purpose statement of the NAOD provides context. It states that “[t]his overlay district is intended to preempt **conflicting use** in areas identified in the Wasco County Comprehensive Plan as containing significant natural value.” LUDO §3.910(A) (emphasis added). The Comprehensive Plan identifies “residential development” as a “conflicting use” in the NAOD. WCCP Ch. 14(B)(1).

This interpretation is supported by comparing the NAOD to the Sensitive Wildlife Habitat Overlay District (SWHOD). In contrast to the NAOD, the SWHOD at LUDO §3.920(D)-(E) lists both “Permitted Uses” and “Conditional Uses.”

D. Permitted Uses: All uses allowed in the overlay shall be those farm and forest uses permitted outright by the underlying zone.

E. Conditional Uses: The conditional uses permitted in the zones in which this overlay is applied, shall be those permitted conditionally by the underlying zone subject to the other applicable standards of this Section. (emphasis added)

Here, the LUDO makes clear that the word “allowed” is synonymous with “permitted uses.” LUDO §3.920(D). Under common standards of legal interpretation, where the same word is used in two provisions of the same law, that word retains the same meaning. Therefore, the term “allowed” has the same meaning in both the NAOD and the SWHOD: “allowed” means “allowed outright” or “permitted outright.”

LUDO Section 5.020 – Authorization to Grant or Deny Conditional Uses . . .²

PROPOSED FINDING: Under the facts presented, applicant has not demonstrated that his proposal for a non-farm dwelling is “*is consistent with the goals and objectives of the Comprehensive Plan * **,” as required by LUDO §5.020(A). The Comprehensive Plan designates the Deschutes River Scenic Waterway as a protect Goal 5 protected resource. Under the County’s Goal 5 program, the management goal for this area is to “preserve their natural and scenic properties.” See WCCP Ch. 14 (findings); WCCP Ch. 15, Policy 5. Policy 5’s Implementation measure C effectuates this policy goal by limiting development in the resource area:

*Allow only buildings customarily provided with farm use within the visual corridor of the Deschutes * * * Scenic Waterway.*

² Page 2-24 of Commission Packet dated January 29, 2013.

The mandate set forth therein is simple: it allows only farm-related dwellings / buildings in the visual corridor of the river. "Visual corridor" includes all land and structures that can be seen from any point on the river. Evidence submitted by opponents indicates that the proposed structure would be visible from the river. Thus, a non-farm dwelling is not allowed within the visual corridor of the river.

Goal 5 Policy 5 Implementation Measure C is a mandatory approval criterion in this case because it uses "mandatory" language: "*Allow only* * * * in the visual corridor" and it is made applicable to this land use request by virtue of LUDO §5.020(A). LUBA has often held that some plan policies in the comprehensive plan will constitute mandatory approval criteria applicable to individual land use decisions, depending on their context and how they are worded. For example, where a comprehensive plan provision is worded in mandatory language – such as when the word "shall" is used – and is applicable to the type of land use request being sought, then LUBA will find the standard to be a mandatory approval standard. Conversely, use of aspirational language such as "encourage" "promote," or statements to the effect that certain things are "desirable" will generally not be found to be mandatory approval standards.

LUDO Section 3.210 – Uses Permitted [in EFU zone] Subject to Conditional Use Review . . .³

NOTE TO COMMISSIONERS: Mr. Stamp argues that the building originally proposed by applicant, which would use a vault toilet and water tank in lieu of traditional indoor plumbing, does not qualify as a "dwelling" under state law and the LUDO. State law does not clearly define "dwelling" for the purposes of this application; the LUDO is also ambiguous. Staff has a defensible legal interpretation of the LUDO which finds the proposed structure can qualify as a "dwelling" under the LUDO. Staff and I can prepare findings to support either interpretation.

I look forward to answering any questions at the hearing.

Sincerely,

/s/

Isa Anne Taylor

³ Page 2-12 of Commission Packet dated January 29, 2013.

SUPPLEMENTAL COMMENTS

August 6, 2013

**Planning Commission
Hearing**



Oregon

John A. Kitzhaber, MD, Governor

Parks and Recreation Department
Region 3 Office
1645 NE Forbes Road, Suite 112
Bend, OR 97701
(541) 388-6211
FAX (541) 388-6391
www.oregonstateparks.org



February 5, 2013

John Roberts, Planning Director
Wasco County Planning
2705 E 2nd St
The Dalles, OR 97058

Re: Notification Decision for file #2-194-10

Dear Mr. Roberts,

Attached please find advice from the Oregon Department of Justice to this department. The advice concludes that the applicant's request to construct a new recreational dwelling on the Deschutes River Scenic Waterway is not consistent with applicable state law. Please enter this letter and the attachment into the record of this proceeding. The department also requests that the county provide it notice of the county's decision in this matter.

Thank you for your consideration.

Sincerely,

Greg Ciannella
Program Coordinator

Deschutes River Scenic Waterway.² See OAR 736-040-0070 (Deschutes River Scenic Waterway), 736-040-0071 (Deschutes River Scenic Waterway Boater Pass System Rules), 736-040-0072 (Middle Deschutes River Scenic Waterway), and 736-040-0073 (Upper Deschutes River Scenic Waterway). The notice of intent is for land within Wasco County at Township 7S, Range 14E, Section 8D. As a factual matter, such land is within the Recreation River Area geographically described in OAR 736-040-0070(2)(a).³ Thus, in considering this application, the department must apply OAR 736-040-0070.

To begin, we examine the text: OAR 736-040-0070(2), pertaining to the Recreational River Area, is comprised of three subsections, the first is the geographic description set out in footnote 3 above. It is followed by two subsections of specific standards for acceptable and unacceptable modifications and changes in land use that provide:

"(b) Within the Recreation River Area described in subsection (2)(a), the Department may not permit any new structures or improvements which are visible from the river, other than those erected or made in connection with compatible existing uses, or those needed for public outdoor recreation or resource protection.

"(c) Additional dwellings, other than those necessary to existing agricultural uses, and commercial public service facilities, including resorts and motels and lodges which are visible from the river, will not be permitted."

Subsection (b) generally restricts the department's authority to permit new structures or improvements that are visible from the river. Subsection (c) specifically applies to two uses: (1) additional dwellings and (2) commercial public service facilities.

District's diversion structure (near river mile 171), from Robert Sawyer Park downstream to Tumalo State Park, from Deschutes Market Road Bridge downstream to Lake Billy Chinook Reservoir (excluding the Clute Falls hydroelectric facility near river mile 145), and from immediately below the existing Pelton reregulating dam downstream to the confluence of the Deschutes River with the Columbia River, excluding the City of Maupin as its boundaries are constituted on October 4, 1977."

² The commission adopted the rule pursuant to ORS 390.124 and 390.934, which provide the commission's general rulemaking authority and specific authority to adopt rules for the Deschutes River Scenic Waterway Recreation Area respectively.

³ OAR 736-040-0070(2) provides in part:

"Recreational River Area:

"(a) The segment of the scenic waterway extending from the Deschutes River intersection with the northerly extension of the common section line of Section 29 and Section 30, Township 9 South, Range 13 East, of the Willamette Meridian, (T 9S, R 13E, W.M.), Jefferson County, downstream approximately 96 miles to the Columbia River, but excluding the right bank shoreline (as seen when facing downstream) and adjacent lands opposite the City of Maupin, as its boundaries were established on December 3, 1970, is classified as a Recreational River Area."

The area is within Segment 1 of the Lower Deschutes River Management Plan. See Map 1 at page 4.

words by which the commission undertook to give expression to its wishes. *Gaines*, 346 Or at 171.

Although the text of OAR 736-040-0070(2)(c) clearly prohibits additional dwellings in the Recreation River Area, the rule must be considered in its context under the *PGE* and *Gaines* methodology. We first consider the regulatory context in general before turning to other provisions regarding dwellings, improvements, and structures and existing uses.

Division 40 describes the commission's responsibility under the Scenic Waterways Act (ORS 390.805 to 390.925) "to protect and enhance the values which caused a scenic waterway to be included in the system" requiring primary emphasis to be given to "protecting the scenic beauty, fish and wildlife, scientific and recreation features, based on the special attributes of each area." OAR 736-040-0020(1). For Recreation River Areas, division 40 describes generally the special attributes that constitute such areas and their administration in OAR 736-040-0040(1)(c). Recreational River Areas are those "designated scenic waterways or segments thereof that are readily accessible by road or railroad, that may have some development along their shorelines and related adjacent lands, and that may have undergone some impoundment or diversion in the past." OAR 736-040-0040(1)(c)(A). The department administers Recreational River Areas "to allow continuance of compatible existing uses, while allowing a wide range of compatible river-oriented public outdoor recreation opportunities, to the extent that these do not impair substantially the natural beauty of the scenic waterway or diminish its esthetic, fish and wildlife, scientific and recreational values." OAR 736-040-0040(1)(c)(B). The foregoing provisions generally provide that while compatible existing uses may continue in Recreation River Areas, the commission's overall emphasis is to protect scenic values, wildlife and to allow recreation.

Specific to the Deschutes River Scenic Waterway, the commission also has additional obligations under a federal management plan. OAR 736-040-0070(1) provides in part:

"(b) Pursuant to ORS 390.934, the Commission adopts by reference the Lower Deschutes River Management Plan and Environmental Impact Statement, Volume 1 (January 1993), and the Supplement to the Lower Deschutes River Management Plan, Final Decision, Lower Deschutes River Allocation System, (June 1997) as the management plan for the Deschutes River Scenic Waterway Recreation Area. Copies of the Lower Deschutes River Management Plan and the Supplement to the Lower Deschutes River Management Plan, Final Decision, Lower Deschutes River Allocation System are available from the Oregon Parks and Recreation Department, 725 Summer St N.E., Suite C, Salem, OR 97301.

"(c) The state managing agencies, including the Department, Department of Fish and Wildlife, Oregon State Marine Board, and Oregon State Police and the local managing agencies, including Sherman, Wasco and Jefferson Counties and the City of Maupin shall perform their management responsibilities relating to the Deschutes River Scenic Waterway Recreation area according to the management plan adopted by this rule and ORS 390.805 to 390.925 and 390.930 to 390.940."

Greg Ciannella and Jim Morgan
February 5, 2013
Page 6

structures under subsection (b) is in keeping with that provision of division 40. It is also consistent with the maxim of construction that the specific controls the general. *See* ORS 174.020(2) (When a general and particular provision are inconsistent, the latter is paramount to the former so that a particular intent controls a general intent that is inconsistent with the particular intent).

Regarding the Watson Notice of Intent, the applicant has not established that any of the general provisions of subsection (b) would allow the department to approve the construction of a new recreational dwelling. The application does not purport to establish that the recreational dwelling and storage is a structure needed for public outdoor recreation or resource protection. Because the request is for an additional dwelling, the department must consider it under subsection (c). Subsection (c) clearly provides that additional dwellings are not permitted. Again, there is no more persuasive evidence of the intent of the commission than the words by which the commission undertook to give expression to its wishes. *Gaines*, 346 Or at 171.

Finally, my review of the limited rulemaking history materials and prior decisions provided by the department shed no light on the construction of OAR 736-040-0070(2). Therefore, the department must interpret the rule based on its text and context. If you have any questions regarding this memorandum or would like further advice, please contact me at 503-947-4500.



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Prineville District Office
3050 N.E. 3rd Street
Prineville, Oregon 97754

IN REPLY REFER TO:

1530/2800/7200 (ORP060)

FEB 06 2013

John Roberts
Planning Director
Wasco County Planning Office
2705 East Second Street
The Dalles, OR 97058

John:

Thank you for sending the Prineville Bureau of Land Management (BLM) notification of the proposed development on private land within the Deschutes Wild and Scenic River boundary. (PLAQJR-12-08-0001)

The BLM portions of the Lower Deschutes Road have load restrictions. If any vehicles exceed 28 feet in length, 8 feet 6 inches in width or 14 feet height, a BLM Haul Authorization Letter is required. In order for an individual to obtain a BLM Haul Authorization, they will need to contact our office in writing with dimensions of the hauling vehicle and desired dates that these vehicles need to travel on the roadway. Typically the BLM requires at least two weeks advance notice to issue these Haul Authorization Letters.

The Lower Deschutes Road beyond the locked gate is controlled by the Deschutes Club and may have additional load restrictions due to a tunnel on their segment of road. The locked gate is located approximately 7 miles upstream of the HWY 197- Lower Deschutes Road junction.

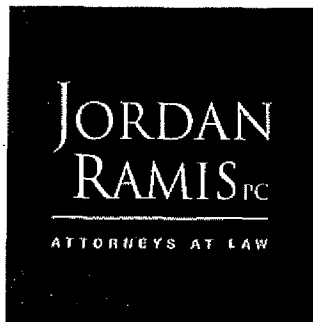
The peak recreation season on the Lower Deschutes Access Road is May 15-September 15. If possible, it would be best to avoid this time period all together to avoid traffic jams and meeting other wide loads on the access road, especially on the weekends.

Because this portion of the river is also part of the State Scenic Waterway, it is recommended that the State Scenic Waterway Coordinator at Oregon Parks and Recreation Department is contacted regarding the proposed expansion.

If you have further questions regarding this matter please feel free to contact Jim Beaupre, Outdoor Recreation Planner at (541) 416-6776.

Sincerely,

Molly M. Brown
Field Manager, Deschutes Resource Area



BY E-MAIL AND US MAIL

February 25, 2013

Wasco County Planning Commission
c/o John Roberts
Planning Director
2705 E 2nd St
The Dalles OR 97058

Re: **Application of Gabriel Watson**
County File No. PLAQJR-12-08-0001

Our File No. 51690-71154

TIMOTHY V. RAMIS

Admitted in:
Oregon

Direct Dial
(503) 598-5573

E-mail
tim.ramis@jordanramis.com

Dear Commissioners:

We represent Gabriel Watson ("Applicant"), who has applied to construct a nonfarm dwelling on property in North Junction ("Property") which he and his grandfather own. The Property is the site of a previous residential use in North Junction. Some persons oppose this. We have identified the principal issues raised by opponents and supply information below that answers the questions.

I. Application clarification.

As we have built our application in stages, we wish to clarify some central themes common to each stage.

A. Existing residential use.

Residential use of Applicant's property stems from 1958, when Applicant's grandfather—Harold Erz—and his business partner bought a railroad caboose and erected it on the jointly-owned property as a recreational dwelling. The caboose was used continually by Applicant's family, and their guests, until the 1996 floodwaters tipped over the caboose.

Applicant's previous residential use is part of North Junction's greater story. Residential use of the area traces back several generations. Evidence demonstrates that North Junction was a camp for railroad workers in the 1930s. A photograph of railroad campsites from that era, obtained from the Oregon Historical Society bearing their negative no. 57559, attached as

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Exhibit 1, shows the campsites constructed along the Deschutes river upon or very near to Applicant's property.

B. Site Plan.

A site plan portraying the proposed layout of the property is attached as Exhibit 2 page 1. This plan proposes development consistent with the site plan that Applicant's mother, Leslie Watson, created for review under the Oregon Scenic Waterways act (OSW) and that the State of Oregon allowed to move forward. Leslie Watson noticed this plan to the Oregon Parks and Recreation Department ("OPRD") in April, 2010. The OPRD did not take advantage of its prerogative to either condemn the land, or negotiate an alternative site plan with Mrs. Watson. As more than one year has passed since application submittal, for OSW purposes the site plan may be constructed. The applicant requests County approval of this site plan. For comparison, we have included a site plan of Leslie Watson's noticed proposal, plus an "overlap" showing the scale of each plan relative to the other. These are attached as Exhibit 2 pages 2 and 3, respectively.

C. Nonspecific assertions about development more than a year after 1996 floods.

Though the record contains statements implying that owners might not rebuild structures damaged in 1996, upon examination these claims have no basis. It is true that an owner may rebuild a flood-damaged structure as of right within one year of loss. However, with a conditional use permit destroyed structures in the A-1 zone may be constructed after more than one year. See, LUDO 3.210(E).

II. Staff is correct that the OSW regulations do not prohibit approval of the application.

Project opponents raise arguments under the OSW administrative rules, located in chapter 736 of the Oregon Administrative Rules. The OPRD promulgated those rules under the Oregon Scenic Waterways act, passed by Oregon voters in 1970. However, for the reasons set forth below, County and State administrative staff have correctly understood and applied those rules, concluding that the application should be approved by the County.

A. An agency of the State of Oregon administers the OSW rules and the County does not.

The Staff Report correctly analyzes the structure of these rules and the authority to regulate under them. The County regulates development and

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zoning; the State administers policies for scenic views. The State scenic waterways rules are not applicable to this County land use application.

B. The application has already passed muster with the Oregon State Department of Parks and Recreation.

Under ORS 390.845(3) and (4) the State of Oregon has one year to review a proposed improvement along the Deschutes River and, if it takes no action, the applicant is free to build the improvement. The application now before the county is consistent with the development that Leslie Watson noticed to the State of Oregon in April 2010. That notice has never been revoked or withdrawn and the state took no action to condemn land. Since over one year passed with no state action, the OSW statute makes clear that the OSW rules no longer apply to the proposed development. *See Exhibit 3.*

By operation of its rules, the OPRD approved single-family residential construction on this site under Leslie Watson's notice. The approved site plan allowed a 1,410 square-foot dwelling. After consultation with interested parties, Applicant agreed to construct a smaller, lower-impact dwelling at 1,120 square feet, within the building envelope approved by the state.

C. Even if the OSW rules were applicable, the application is in compliance.

The advice letter from the Assistant Attorney General suggests a new interpretation of two sections of the OSW rules. The letter suggests that an application like the Watson proposal must meet three tests:

- 1) It must be screened so that it is not visible from the river;
- 2) The property at issue must have been in residential use in 1970 when the regulations became applicable; and
- 3) The improvement cannot be an additional dwelling beyond what was there when the regulations came into effect.

The application satisfies these three tests. It has been screened from the river consistent with state Parks and Recreation Department requirements. And, because the Watson's property was in residential use since 1958—well before the voters passed the OSW in 1970—the other two tests are also satisfied. The residential use predated OSW enactment, and the proposal is for replacement of a dwelling, not creation of an additional dwelling.

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Mr. Shipsey's conclusion to the contrary is based on a misunderstanding of the facts of the case created by the limited record in the State proceedings. From the limited record he was not aware that the application proposed to replace a dwelling that existed on the site since 1958. He therefore based his opinion on the incorrect belief that the Watson application was for development of a site which had never before had a dwelling on it.

D. The application also satisfies the State of Oregon's longstanding prior interpretation of the OSW rules.

The State of Oregon's longstanding interpretation of the OSW rules—which allow new dwellings in adjacent land—is evident in numerous reviews of new houses proposed for construction adjacent to scenic rivers. Both staff and applicant have identified the following cases, attached as Exhibit 4, in which the OSW operated to allow construction of new houses along scenic rivers:

- Sept. 1985: OPRD approves establishment of new recreational dwelling in North Junction for Mr. Met Wilson.
- Dec. 1982 OPRD approves establishment of new single family dwelling for Clarence Wishard in the vicinity of North Junction.
- March 1982: Randall Kaufman applies for single-family home to be built on Deschutes River at Trout Creek. OPRD states that the OSW is "not burdensome if you plan ahead."
- Oct. 1979: State of Oregon approves new residential dwelling for George Jackson on Deschutes River south of Maupin.
- April 1973: State of Oregon approves 1,300 square-foot new recreational dwelling, near Pelton Re-Regulating Dam, for R.H. Morrison.

In addition, in past OPRD cases (attached as Exhibit 5) OPRD allowed owners to replace trailers with constructed dwellings. This is very similar to Applicant's proposal to replace a caboose with a dwelling. This precedent includes:

- April 1973: Approval for Win Francis to replace trailer, located near Deschutes River Access Road in North Junction, with 1,863 square-foot recreational dwelling.

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- May 1974: Application of Robert Parr to replace mobile home with new 1,144 square-foot residential dwelling on Deschutes River in Jefferson County.

Finally, OPRD has recognized parcels—like Applicant's—where structures were replaced many years after their destruction. We attach the following examples as Exhibit 6:

- March 1982: Nick Kaiser receives OPRD approval to replace dwelling that burned down in 1971, more than 10 years earlier.
- Nov. 1999: John Hartung receives OPRD approval to replace flood-damaged dwelling 3 years after the date of loss.

Other statements made by OPRD staff confirm their long-standing interpretation of the OSW rules. For example, OPRD promulgates a "Land Owner's Guide" to land under the OSW rules. In that brochure, OPRD explains that the "Recreational River Area" of the Deschutes River, (and North Junction is located in this area) is "managed to protect the view from the river, allow development consistent with existing land uses, and provide for a wide range of recreational activities within the scenic waterway." The Oregon Scenic Waterways Program: A Landowner's Guide, p. 6 (brochure attached in Exhibit 7).

That document also clearly reiterates that development is ultimately allowed: "[if] OPRD does not purchase the land or reach an agreement with the landowner within one year of the original proposal, the landowner may proceed with the original proposal." Id. at p. 10.

OPRD staff have offered no findings or other explanation for reversing these decades-old practices which have allowed new homes—some larger than applicant's—to be constructed adjacent to scenic waterways, including the lower Deschutes River in and near North Junction.

III. Response to neighbor objections.

Applicant agrees with the facts and findings contained in the Staff Report created for his application. That report answers many neighbor questions, particularly those raised by attorney Mark Whitlow. We wish to supplement staff's findings with the following analysis under the Wasco County Land Use and Development Ordinance ("LUDO")

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A. Conditional Use Permit criteria, LUDO 5.020.

a. *Criterion (A): applicability of comprehensive plan policies and objectives.*

Applicant agrees with staff analysis, which evaluates the language of the Plan and determines that no part of the application invokes the Plan as an approval criterion.

Mr. Whitlow argues that certain Plan sections apply as criteria. Applicant disagrees, for the following reasons.

(i) Goal 5 policy 5, regarding maintenance and protection of the Deschutes River.

Staff has interpreted and analyzed this policy; Applicant agrees with the analysis.

(ii) Goal 6 policy 6, regarding water quality.

Opponents believe this policy applies, but do not explain this belief. If opponents mean to argue that the house will impact water quality, the Applicant submits that it has obtained approval from the sanitarian to operate a small outhouse (pit privy) on the property, for sanitary purposes. The facility will contain effluent within a sealed vault. A copy of Applicant's permit is attached as Exhibit 8.

(iii) Goal 8, policy 1, minimizing recreational overuse of the Deschutes River.

As above, opponents cite to this policy but do not explain how it applies. Under the policy, Wasco county must create regulations to minimize problems associated with recreational use, such as "accumulation of solid waste and conflicts with agricultural use."

As the Property has already been the site of residential use, it is difficult to imagine how this policy ought to operate upon the proposal. The soils on the property are too poor to support agriculture. If some party introduces evidence that suggests this application will create unsanitary conditions, Applicant is confident that conditions of approval will mitigate such risks.

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b. Criterion (B): compatibility with surrounding area.

Opponents suggest the proposed house is too large, but Applicant agrees with staff that the gist of this criterion is not to require an architectural analysis, but rather to consider the operational characteristics of the proposed use.

In that light, staff explains that each of the surrounding properties is used as a recreational dwelling, and that the area has been used this way since the 1940s. What is more, even if the criterion required an architectural review, Applicant's proposed house is smaller than the largest dwelling in North Junction. This strongly suggests compatibility with those other homes.

c. Criterion (C): proposed use will not burden public facilities.

Since objecting to this application in August 2012, the Applicant has addressed the questions raised about the impact of his development on public facilities. The Staff Report summarizes this information and we agree with the staff's assessment of these facts.

d. Criterion (D): no undue effects on traffic flow or safety.

The transportation impact of a single recreational cabin is minimal. It will not impact on traffic congestion and safety in this remote area of the County.

Opponents object to the proposed house on grounds it has no access to the public road system, but fail to explain why access—or lack thereof—is relevant to this criterion. Nonetheless, Applicant has access rights to connect his property with the public streets system.

e. Criteria (E) through (F).

Staff has collected information that addresses opponents' questions under these criteria. Applicant agrees with the analysis.

f. Criterion (G): no adverse effects on air, water, or land resource quality.

Here, opponents return to the OSW statutes and argue that because the OSW bars new residential buildings, Applicant cannot build a house.

This position is highly vulnerable. Most importantly, opponents do not explain why they believe the OSW operates on the application under this

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criterion. By contrast, staff has analyzed how OSW operates and concluded that it does not operate on the Wasco County codes.

If that analysis was not sufficient, the Court of Appeals has explained that whatever the meaning of the rules, property owners can develop land adjacent to scenic waterways one year after noticing proposed development. The Court's interpretation is part of the statute. Thus, even if Mr. Whitlow is correct and the OSW applies to this application, more than a year has passed since Mrs. Watson noticed her residential development. Thus, the OSW regulations have ceased to have any effect on the Watson property.

- g. Criterion (H): location and design of site will not significantly detract from visual characteristics of the area.*

Beyond complaining that the Applicant proposes a building out of scale with others in the area (and this challenge was addressed under the "compatibility" criterion, (B), above) opponents do not explain how the Applicant's proposed dwelling will detract from the area's visual character.

It is difficult to see how there would be such an impact. Staff has compiled photos of other homes in North Junction. Staff has considered that Applicant's house will be constructed with natural materials and dark earth tones. With these features the house will resemble others in the area.

- h. Criterion (I): preservation of natural, historic, or cultural values in the community.*

Once again, the mere appearance of an outdoorsy-sounding word within a criterion—in this case, "natural"—stimulates opponents to assert that the criterion incorporates the statewide OSW regulations. Staff and, now, Applicant, again cite to their analysis that the OSW has no bearing on the County's evaluation of this case.

- i. Criterion (J) and (K): these criteria, together, bar significant negative effects on farming costs and practices.*

Staff has analyzed these criteria and the evidence that demonstrates the application satisfies them. Applicant agrees with staff analysis.

B. NSA criteria.

Mr. Whitlow complains that Applicant did not complete—or properly complete—the "NSA" section of Wasco County's variance form.

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The form does not explain what the "NSA Criteria" are. However, most likely the term NSA refers to the scenic area to be protected by the Columbia River Gorge National Scenic Area Act, 16 USC Sec. 544 et seq.

Applicant's property isn't located in the Columbia River Gorge, thus that part of the County's application form has no bearing on this application.

C. Variance criteria, LUDO 6.020.

a. *Criterion (A): exceptional circumstances apply to the property.*

Staff has identified an exceptional circumstance that qualifies under this criterion. The report presents analysis about the quarter-acre size of A-1 parcels within the county, and finds that it is impossible to develop a parcel of that size since a 100' setback requirement consumes all the developable footprint. Such small parcels are rare in the County's A-1 zone--only 2% are that small. That low occurrence of these small lots qualifies them as exceptional, if not rare.

Opponents assert that there is nothing exceptional about Applicant's property, because its development rights expired after the 1996 flood. As set forth above, this argument is wrong. Far from prohibiting flood-damaged dwellings, the LUDO allows them to be rebuilt in this zone with a conditional use permit. That is precisely the route forward that Applicant is currently taking.

The subject parcel is also exceptional because it is a legal lot with a history of residential use which is located almost entirely within the 100' river setback. There is no location within the boundaries of the lot where a replacement dwelling could be located in conformity with the river setback. This is in contrast to other lots along the river which have sufficient depth to allow dwelling placement 100 feet back from the river.

b. *Criterion (B): variance preserves a property right generally enjoyed by others in the same district and same area.*

As staff explains, the past 80 years of development in North Junction have produced a development pattern that does not conform to yard or river setback requirements. Some developments were constructed before zoning was imposed. Others, in recognition of the pattern, have been approved under County zoning with setback variances.

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As staff has recognized, development within North Junction follows reduced yard and river setbacks as a result of the development history before zoning was created. Approving the variance for Mr. Watson brings his property into parity with other properties in this situation.

- c. *Criterion (C): variance would not be materially detrimental to other properties.*

The underlying purpose of the zone is agriculture. However, in North Junction this primary purpose is not being served. Rather, the development there constitutes primarily recreational cabins. As staff explains, the 100' setback exists to protect agriculture from human uses; not human uses from each other. Crucially, the development pattern and the history of setback variances demonstrates that the properties in the North Junction area historically existed without detriment despite being set back from each others' cabins at distances less than 100 feet. The location of Applicant's proposal is not significantly different than other recreational cabins in the area and is similar in size to these cabins.

- d. *Criterion (D): variance is minimum required to alleviate the difficulty being experienced.*

Applicant is asking for less than the minimum that might be appropriate. First, he proposes to set his dwelling back further from the property line than currently observed by neighboring parcels. Second, the requested setbacks maximize remaining space on each side of the proposed dwelling. Finally, the dwelling and outbuilding are small in size consistent with others in the area.

- e. *Criterion (E): variance is not the result of a self-created hardship.*

Opponents assert that Applicant created his own problem based on the idea that he is a recent purchaser. However, staff has explained that the primary purpose of the criterion is to deter owners from creating a development or altering boundaries in such a way as creates the need for a variance. Contrastingly, it is this lot's 1960 creation by deed—well before restrictive zoning was adopted—that caused the need for a variance.

Moreover, Applicant is not new to the property as claimed by opponents. As explained in his November 9, 2012 statement, in 1958 Applicant's grandfather, Harold Erz, obtained a life interest in the property and is still

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alive to take advantage of that interest. The Watsons did not create the setback problem and were in ownership of the land when the problem arose.

The development pattern enjoyed by others in North Junction also confirms that the hardship is not self created. The variance has been used as a remedy for other setback violations in this area. This suggests reduced setbacks are a shared hardship in the larger community, and not a function of personal irresponsibility.

Furthermore, Applicant proposes to place his house in a position as close to the middle of the lot as the terrain allows. This is in contrast to the relationship of other homes to their setbacks. Indeed, the house on tax lot 400 nearly abuts the property line of its parcel.

D. Fire plan.

Project opponents believe that Applicant's fire safety plan has a discrepancy in the setback size requested, but we are baffled as to why opponents think this. In lieu of full 50' setbacks on all sides of the proposed house, Applicant has proposed various fire control measures that don't depend on creating an alternative setback distance, but rather depend on measures of fire resistance or suppression. Good examples of this are Applicant's proposed fire-retardant construction materials, onsite sprinkling, and an emergency water hookup to the Deschutes river, amongst other measures.

IV. Summary.

We respectfully request that the Planning Commission approve the land use applications. Please enter our comments into the record of this decision.

Sincerely,

JORDAN RAMIS PC



Timothy V. Ramis

Enclosures

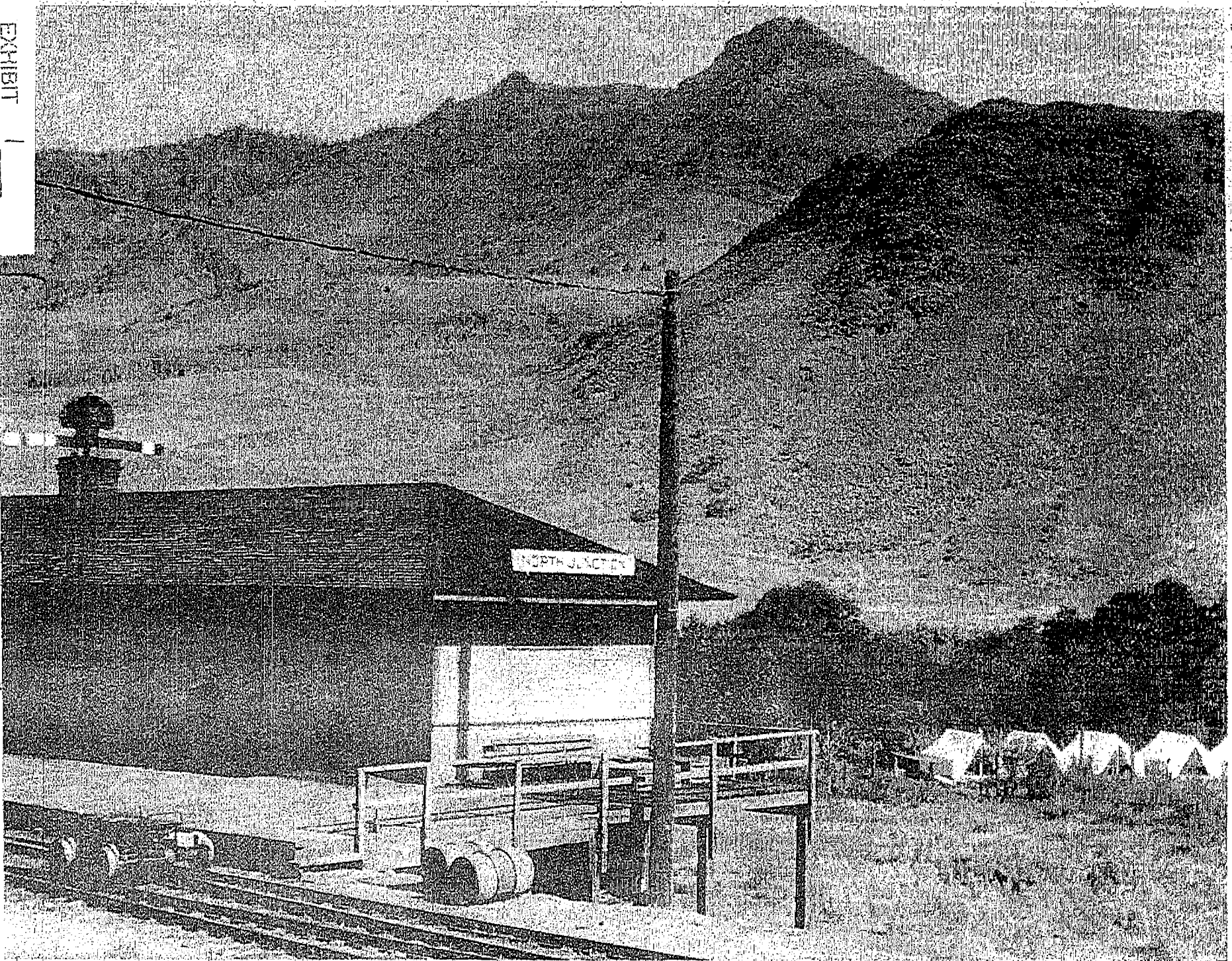
cc: Gabe Watson
Isa Taylor

EXHIBITS 1 - 8

JORDAN RAMIS

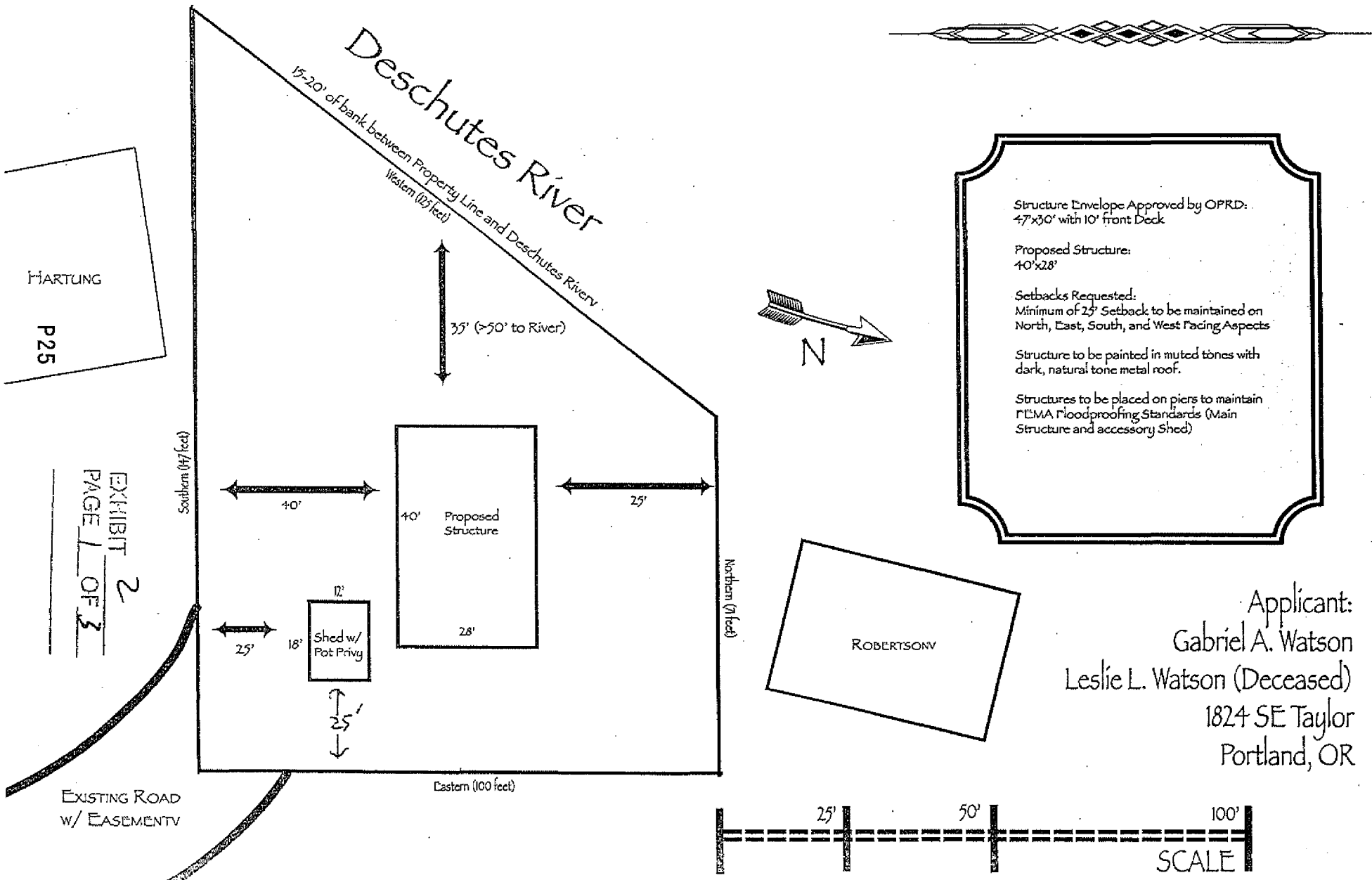
FEBRUARY 25, 2013

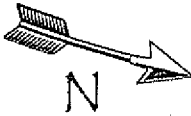
LETTER



Watson Site Plan

Tax Lot 300, 7S-14E-8D
North Junction, Oregon

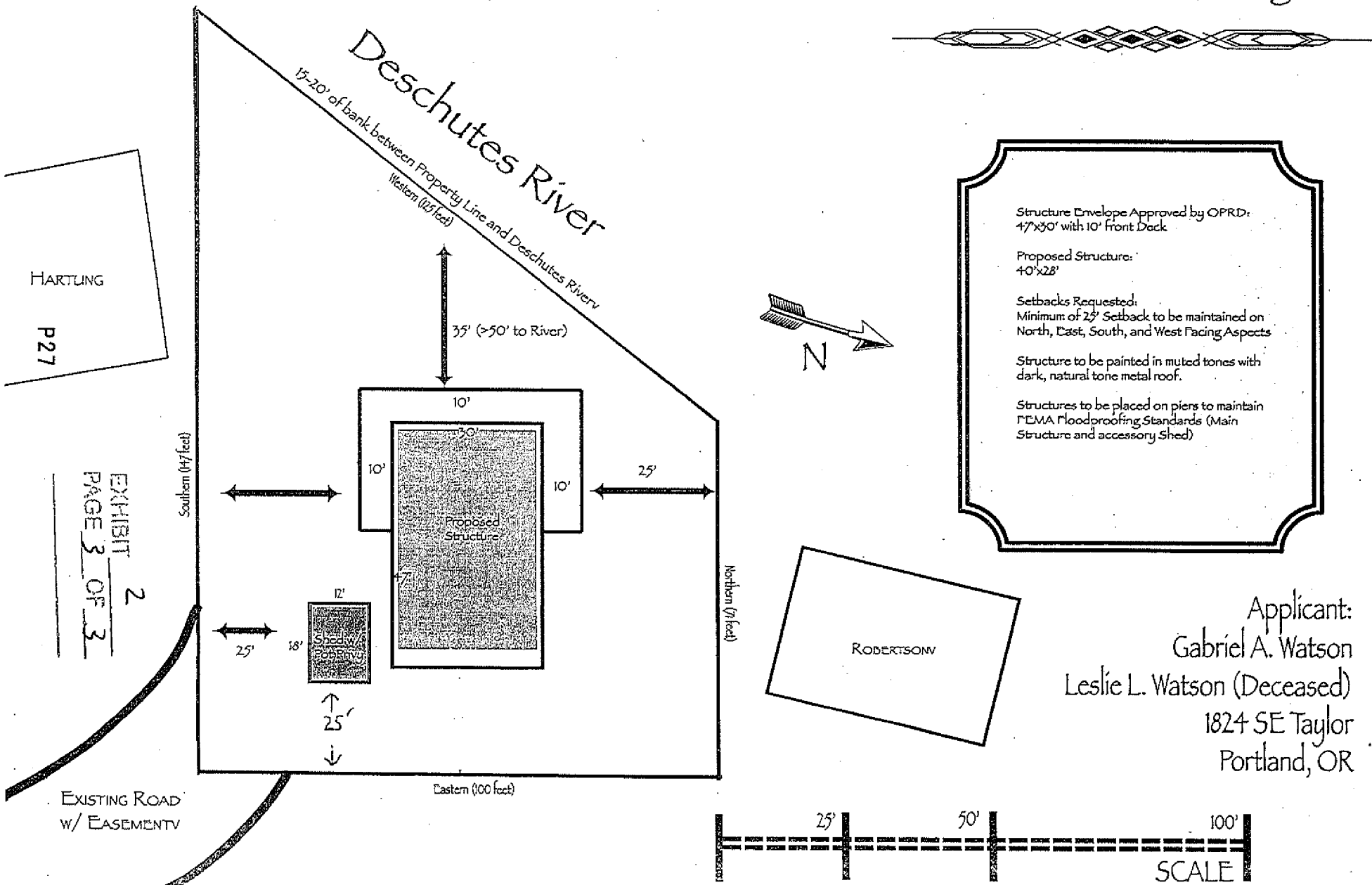




A horizontal graphic scale bar with vertical tick marks at 25-foot intervals. The numbers 25', 50', and 100' are placed above the bar. The word "SCALE" is written in large, bold, capital letters below the bar.

Watson Site Plan

Tax Lot 300, 7S-14E-8D
North Junction, Oregon



**OREGON PARKS AND RECREATION DEPARTMENT
NOTIFICATION OF INTENT TO MAKE IMPROVEMENTS,
CHANGE LAND USE, OR ENGAGE IN REGULATED ACTIVITIES
WITHIN THE OREGON SCENIC WATERWAY SYSTEM**

To process your application promptly, the Oregon Parks and Recreation Department must have completed, detailed information fully describing your plan to make improvements, change land use, or engage in regulated activities within a scenic waterway. Please supply all the information requested below which is in any way applicable and tell us of anything else which may affect the situation.

1. Name Leslie L. Watson, Gabriel A. Watson Telephone Leslie: 503-679-2555
2. Address 3215 NE Klickitat, Portland, OR 97212
3. Name and address of legal landowner if different from above:
- a. Name _____ Telephone _____
- b. Address _____
4. Location of improvement, land use change or activity:
- County Wasco Township TS Range 14E Section 8D Tax Lot 300
5. Scenic Waterway Lower Deschutes River
6. Type of Improvement, change of land use or activity proposed and its purpose:
Construct recreational dwelling and shed on legal parcel as applied to Wasco County Planning.
7. Logging Proposal - Please complete Timber Harvest or Salvage Activities supplement sheet.
8. When do you want to begin? Upon approval & permit granted by Wasco County.
How long will it take? In stages. Uncertain of time to completion but in accordance w/ wasco county permits.
9. ☒ Attach an 8½" x 11" map showing the following: (The map may be hand-drawn, need not be professional, but accuracy of detail, distance, scale, etc. is important. Appropriate photographs may be helpful.)
- | | |
|--|--|
| <input checked="" type="checkbox"/> a. North | <input checked="" type="checkbox"/> g. Well or other water supply (existing and/or proposed) |
| <input checked="" type="checkbox"/> b. Shape, size and dimensions of the property. | <input checked="" type="checkbox"/> h. Sewage disposal system (existing and/or proposed) |
| <input checked="" type="checkbox"/> c. Location of the river and direction of its flow | <input checked="" type="checkbox"/> i. Utility poles and lines (power and telephone, existing or proposed) |
| <input checked="" type="checkbox"/> d. Principal features of terrain and vegetation | <input checked="" type="checkbox"/> j. Location of proposed structures, improvements or activities |
| <input checked="" type="checkbox"/> e. Roads, driveways, etc. (existing and/or proposed) | <input checked="" type="checkbox"/> k. Nearest distance from proposal to river |
| <input checked="" type="checkbox"/> f. Existing structures and improvements | |
10. Complete the following where applicable:
- A. Proposed building or structure:
1. Exterior dimensions: Length 47' Width 30' Height from natural grade <35' (BFE)
w/10' deck on front & part of 2 sides.
2. Siding: Material and Color TBA: Cedar, rustic: board & batten
3. Roof: Material and Color Metal, earthtones eg green, brown, tan
Shed: 12'x18' as noted in 2009 Notice of Intent

4. Architectural style: Cabin
5. How much clearing of vegetation will be necessary?
Class VIII soils. Minimum clearing to provide access and create fire barrier as per Wasco County.
6. Does the site need leveling or grading? ☒ Yes ☐ No
7. If so, how much? To be determined. Minimal to provide access
8. How will excess material be disposed of?
Redistributed rather than disposed.
- ☒ 9. Attach drawings, photographs or working plans of the proposed structure which will clearly show its exterior appearance on all sides. Documentation should not be larger than 8½" x 11" in size. Sample drawing enclosed. Will be modified to fit parcel dimensions.

B. Road construction:

1. Width Existing access road width (in feet) require minimal clearing
2. Equipment to be used As req'd.
3. Percent of slope _____
4. Type of surface _____
5. How will the road be drained?

6. How will excess material be disposed of?

11. ☐ If the proposed improvements, change of land use or activity are not fully and clearly described in by the foregoing, attach a detailed description.

12. Signature of applicant Leslie L. Watson Date 4/12/10

13. Signature of legal landowner Leslie L. Watson Date 4/12/10

NOTICE: Legal landowner is responsible for any violations under the Scenic Waterway Act (ORS 390.805 to 390.925). You should not begin any regulated activity until written approval is obtained. If you have any questions, please contact Oregon Parks and Recreation Department, 1115 Commercial St. NE, Suite 1, Salem, OR 97301-1002; telephone 503-378-6305.

PROPOSALS RELATING TO OREGON SCENIC WATERWAYS SHOULD BE SUBMITTED DIRECTLY TO THE APPROPRIATE SCENIC WATERWAY COORDINATOR AS LISTED ON THE FOLLOWING PAGE.

WATSON (~~WATSON~~)

SEE MAP TS 14

CANCELLED NO'S
400A1
400A2
400A3

2 200 400
H&H
MILWAUKEE

P30

EXHIBIT 3
PAGE 3 OF 7

SEE MAP 75 14

OREGON

700

1/4 CDR.

ಪ್ರಕೃತಿ

DESCHUTES

RAILWAY

LOT 2

-3

4.00

LOT 1

GLO MEANDER LINE

900AI F

[illegible]

BRONX

1

500
34.91.45

24.85

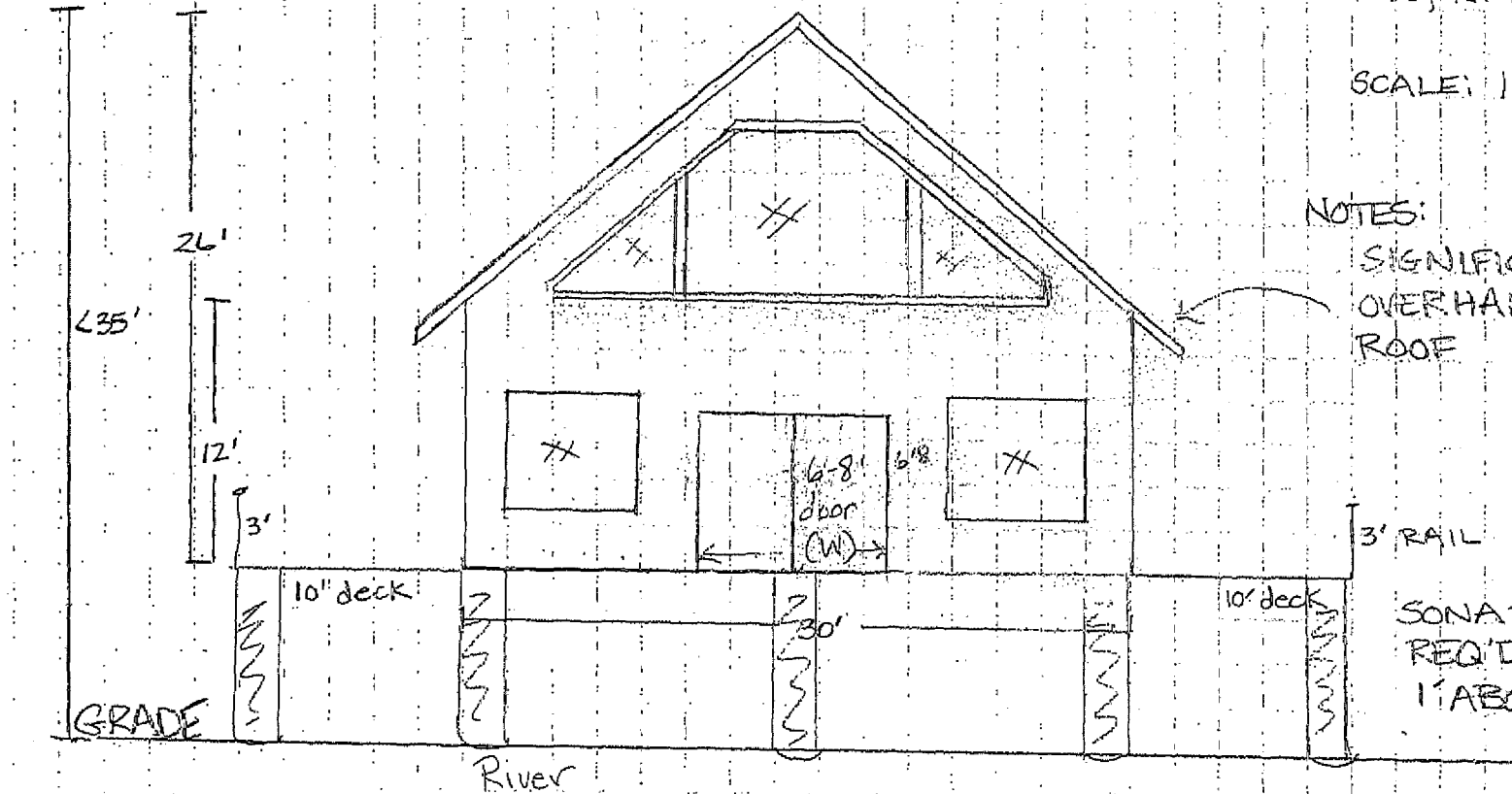
SEE MAP 75 14

476,000

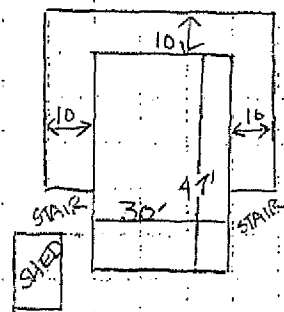
SEE MAP TS 14

16
Revised 3/23/00, SC

7S 14 8D



SCALE: 1 sq. = 10'



WATSON, LESLIE / GABRIE
T75, R14E, 8D, 300

SCALE: 1 sq. = 2'

NOTES:
SIGNIFICANT EAVE /
OVERHANG ON FRONT
ROOF

3' RAIL

SONA TUBES AS
REQ'D / STRUCTURAL
1' ABOVE BFE

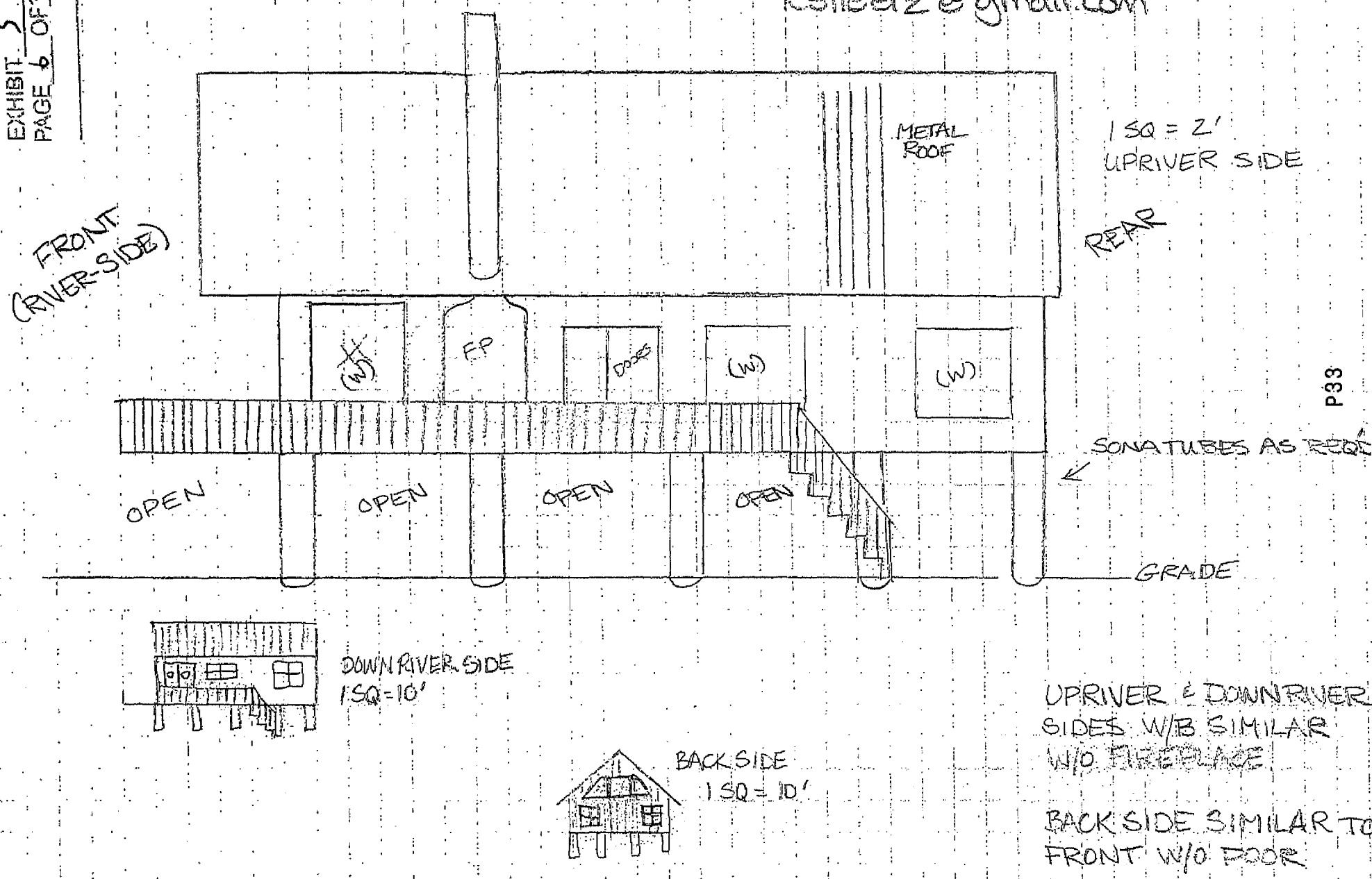
P32

32.15 NE KICKITAT
PORTLAND, OR 97212
503-679-2355
leslieerz@gmail.com

EXHIBIT 3
PAGE 6 OF 7

LESLIE/GABRIEL WATSON
TTS, R14E, 8D, 300

3215 NE KLUCKITAT
PORTLAND, OR 97212
503-679-2555
leslieerz@gmail.com



Ted Naemura

From: Gabriel Watson [watsongabe@gmail.com]
Sent: Tuesday, September 11, 2012 2:12 PM
To: Tim Ramis
Subject: Original Notification of Intent
Attachments: SWW leslie watson.pdf

----- Forwarded message -----

From: Greg Ciannella <greg.ciannella@state.or.us>
Date: Tue, Sep 11, 2012 at 1:54 PM
Subject: '10 NOI
To: Gabe Watson <watsongabe@gmail.com>

Gabe,

Attached is the notification submitted by Leslie deemed complete on April 19th 2010. I never received a letter/email communication that officially withdraw this notification.

In regards to your submitted notification (2-194-10), approved by OPRD March 5th 2012, a major element in our negotiation process was the landscape management plan. That plan compiled collectively was designed to screen future development over time. It was this plan and the applicant's willingness to implement and maintain it, that OPRD used in the evaluation process that led to an approval (OPRD witnessed trees planted on-site prior to approval).

Greg

--
Gabriel A. Watson
503-729-3521

EXHIBIT 3
PAGE 7 OF 7

Met Wilson
1995

EXHIBIT 4
PAGE 1 OF 54



9/16/85
Department of Transportation

PARKS AND RECREATION DIVISION

525 TRADE STREET SE., SALEM, OREGON 97310

September 3, 1985

O. Meredith Wilson, Jr.
800 Pacific Building
Portland, OR 97204

Dear Mr. Wilson:

RE: T7S, R14E, Sec. 8, TL 101

Your request to construct a recreational dwelling within the Deschutes River Scenic Waterway as described in your Notification of Intent dated July 18, 1985, has been approved under the authority of the Oregon Transportation Commission. If, in the process of developing this proposal, you contemplate changing these plans you must notify this office immediately. This approval is subject to compliance with the following stipulations:

1. Structure shall be designed and placed as to be topographically screened from view from the river.
2. All Wasco County Planning Department requirements shall be satisfied.
3. All Wasco County sanitation requirements shall be satisfied.
4. Establish and maintain landscaping around the structures that will blend into the natural scene.
5. Construction shall begin within one year and the exterior shall be completed within six months after it has commenced.
6. The Commission shall be notified when construction begins and when the exterior has been completed. Please contact Jim Payne, Assistant Manager, River Programs, 525 Trade Street S.E., Salem, OR 97310.

This approval does not affect any obligations you might have to other persons or agencies--local, state or federal.

Sincerely,

John E. Lilly
John E. Lilly,
Assistant Administrator

JEL:JP:tsb
7471C

EXHIBIT 4
PAGE 2 OF 54

O. MEREDITH WILSON, JR.
800 PACIFIC BUILDING
PORTLAND, OREGON 97204

February 4, 1986

Mr. Jim Payne
Parks and Recreation Division
Department of Transportation
Vick Building
525 Trade Street, S.E.
Salem, Oregon 97310

Dear Mr. Payne:

This follows up on our telephone conversation in which I told you I was now contemplating putting a log cabin on my property at North Junction near the Deschutes River. A permit was given to me based on my application for putting a manufactured home on the site. I enclose a drawing showing the exterior and floor plan of the log cabin I am considering. This plan may be modified some. I am informed by the seller that the height is 13 feet from ground to the top of the roof. I believe that compares favorably with the manufactured home described in my application.

Please let me know if I need to do anything further. Thank you for your assistance.

Sincerely,

Enclosure

EXHIBIT 4
PAGE 3 OF 54



Department of Transportation
PARKS AND RECREATION DIVISION

525 TRADE STREET SE., SALEM, OREGON 97310

February 10, 1986

O. Meredith Wilson, Jr. RECEIVED
800 Pacific Bldg.
Portland, OR 97204 FEB 12 1986

RE: Deschutes River Scenic Waterway

Dear Mr. Wilson:

Thank you for your letter noting the change in your plans for your residence within the Deschutes River Scenic Waterway. The plans have been noted in our file. Please notify us of any future changes that may occur.

Cordially,

Jim Payne, Assistant Manager
River Programs

JP:jn
9185C

EXHIBIT 4
PAGE 4 OF 54

Mr. Wilson
11-8-85

WASCO COUNTY PLANNING OFFICE

1721 W. 10th STREET

THE DALLES, OREGON 97058

DANIEL C. DUROW, Director of Planning

PHONE: (503) 298-5169

bar
per copy for
DHP
TRH
2

November 7, 1985

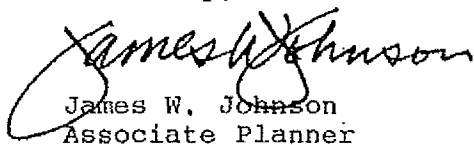
TO: All Parties of Record

RE: Review of The Planning Commission Decision
to Grant a Conditional Use Permit to O.M. Wilson

Enclosed is a copy of the Wasco County Court Order pertaining to the action taken on the above referenced matter. The effective date of this decision is November 6, 1985.

If you should have any questions regarding this matter, please contact this office.

Sincerely,


James W. Johnson
Associate Planner

Encl.

cc: Wasco County Court

dm

EXHIBIT 4
PAGE 5 OF 54

IN THE COUNTY COURT OF THE STATE OF OREGON
IN AND FOR THE COUNTY OF WASCO

IN THE MATTER OF THE REVIEW OF THE)
PLANNING COMMISSION DECISION TO GRANT)
CONDITIONAL USE PERMIT FOR A NON-FARM)
DWELLING TO O.M. WILSON, JR.)

O R D E R

FILED WASCO CO.
THE CLERK OF
NOV 6 2 31 PM '85
SUE A. PROFFITT
COUNTY CLERK

NOW ON THIS DAY, the above-entitled matter having come on regularly for consideration, said day being one duly set in term for the transaction of public business, and a majority of the Court being present; and . . .

IT APPEARING TO THE COURT: That on August 5, 1985, the Wasco County Planning Commission granted with conditions, a request for a Conditional Use Permit to allow a non-farm dwelling:

IT FURTHER APPEARING TO THE COURT: That on August 16, 1985, a petition for appeal of the Planning Commission's decision was received in a timely manner for such appeal;

IT FURTHER APPEARING TO THE COURT: That on September 25, 1985, at 9:30 a.m., in the County Courtroom of the Wasco County Courthouse, The Dalles, Oregon, this Court met to conduct a review hearing on the above

[Page 1 of 3 - ORDER]

EXHIBIT 4
PAGE 6 OF 54

Matter and considered the record of the Planning Commission and all testimony from the parties to the above matter. The members of the Court were determined to be qualified to hear the matter.

IT FURTHER APPEARING TO THE COURT that the Court took notice of the record of the Planning Commission, heard the staff report and received all testimony and evidence from the parties and then closed the hearing for further input. The Court then announced it would deliberate and voted to continue the hearing until 1:30 p.m. on October 23, 1985, when based upon the findings of the Planning Commission and Planning Staff, and being fully apprised in the premises, the Court did hereby find as follows:

1. That the petition for appeal was received in a timely manner.
2. That the findings of the staff report and the Planning Commission be adopted.
3. The Court cannot find any evidence in the record to justify the reversal of the Planning Commission's action nor was any testimony presented which would justify the matter being remanded to the Planning Commission.

NOW, THEREFORE, based upon the above findings of fact and conclusion of law and the Court being fully advised in the premises,

IT IS HEREBY ORDERED: That the decision of the Wasco County Planning Commission to grant, with conditions, a conditional use permit for a non-farm dwelling is upheld.

[Page 2 of 3 - ORDER]

EXHIBIT ⁴
PAGE 7 OF 54

DATED this 6th day of November 1985.

WASCO COUNTY COURT

William L. Hulse
William L. Hulse, Judge

Ray Matthew
Ray Matthew, Commissioner

Jim Comini
Jim Comini, Commissioner

Approved as to Form:

Wilford K Carey
Land Use Counsel for Wasco County

[Page 3 of 3 - ORDER]

EXHIBIT 4
PAGE 3 OF 54

WASCO COUNTY PLANNING OFFICE

1721 W. 10th STREET

THE DALLES, OREGON 97058

DANIEL C. DUROW, Director of Planning

PHONE: (503) 298-5169

August 6, 1985

O. Meredith Wilson, Jr.
800 Pacific Building
Portland OR 97204

Dear Mr. Wilson:

This letter will serve as your official notification that on August 5, 1985, the Wasco County Planning Commission granted, with conditions, your request for a Conditional Use Permit to allow a non-farm (recreational) dwelling.

The conditions of approval include:

- (1) The height of the dwelling not exceed a height which would be visible from the Deschutes River.
- (2) All siding and roof be of an earth-tone color.
- (3) The development comply with all applicable standards of the Scenic Waterways Act.
- (4) Garden hose outlets shall be plumbed on the exterior of the building and standpipes located at least fifty (50) feet from the building.
- (5) Should electric service and a pump be provided, a separate electric service from the dwelling shall be provided for any pump. This will assure a water supply if the dwelling is burning.
- (6) If a fireplace or woodstove is to be used, a fire-screen shall be placed over the chimney/stovepipe during fire season.

EXHIBIT 4
PAGE 9 OF 54

O.M. Wilson, Jr.
August 6, 1985
Page 2

This permit applies to property described as: Township 7
South, Range 14 East, Section 8D, Tax Lot 101.

The above-referenced decision was based upon the staff report
and testimony received at the hearing. Please note that this
decision is subject to appeal to the County Court. Any appeal
must be filed within ten (10) days of the date of the Planning
Commission decision.

If this office can be of further assistance, please feel free
to contact us at any time.

Sincerely,


James W. Johnson
Associate Planner

cc: Wasco County Court
Wilford Carey, Land Use Counsel
Tom Paul, County Watermaster
Jim Payne, Rivers Program, Dept. of Transportation,
Parks and Recreation Division
Scott M. Kelley
John Hartung
Bureau of Land Mgt., Prineville Dist.

dm

EXHIBIT 4
PAGE 10 OF 54



Department of Transportation
PARKS AND RECREATION DIVISION

525 TRADE STREET SE., SALEM, OREGON 97310

February 10, 1986

O. Meredith Wilson, Jr.
800 Pacific Bldg.
Portland, OR 97204

RE: Deschutes River Scenic Waterway

Dear Mr. Wilson:

Thank you for your letter noting the change in your plans for your residence within the Deschutes River Scenic Waterway. The plans have been noted in our file. Please notify us of any future changes that may occur.

Cordially,

Jim Payne, Assistant Manager
River Programs

JP:jn
9185C

EXHIBIT 4
PAGE 11 OF 54

WASCO COUNTY PLANNING OFFICE

1721 W. 10th STREET

THE DALLES, OREGON 97058

NOTED
J. PAYNE

DANIEL C. DUROW, Director of Planning

PHONE: (503) 298-5169

November 7, 1985

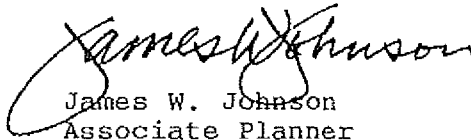
TO: All Parties of Record

RE: Review of The Planning Commission Decision
to Grant a Conditional Use Permit to O.M. Wilson

Enclosed is a copy of the Wasco County Court Order pertaining to the action taken on the above referenced matter. The effective date of this decision is November 6, 1985.

If you should have any questions regarding this matter, please contact this office.

Sincerely,


James W. Johnson
Associate Planner

Encl.

cc: Wasco County Court

dm

EXHIBIT 4
PAGE 12 OF 54

IN THE (JNTY COURT OF THE STATE OF OREGON
IN AND FOR THE COUNTY OF WASCO

IN THE MATTER OF THE REVIEW OF THE)
PLANNING COMMISSION DECISION TO GRANT)
CONDITIONAL USE PERMIT FOR A NON-FARM)
DWELLING TO O.M. WILSON, JR.)

O R D E R

SUE A. PROFFITT
COUNTY CLERK

Nov 6 2 31 PM '85

FILED WASCO CO
THE DISTRICT CLERK

NOW ON THIS DAY, the above-entitled matter having come on regularly for consideration, said day being one duly set in term for the transaction of public business, and a majority of the Court being present; and

IT APPEARING TO THE COURT: That on August 5, 1985, the Wasco County Planning Commission granted with conditions, a request for a Conditional Use Permit to allow a non-farm dwelling:

IT FURTHER APPEARING TO THE COURT: That on August 16, 1985, a petition for appeal of the Planning Commission's decision was received in a timely manner for such appeal;

IT FURTHER APPEARING TO THE COURT: That on September 25, 1985, at 9:30 a.m., in the County Courtroom of the Wasco County Courthouse, The Dalles, Oregon, this Court met to conduct a review hearing on the above

[Page 1 of 3 - ORDER]

EXHIBIT 4
PAGE 13 OF 54

matter and considered the record of the Planning Commission and all testimony from the parties to the above matter. The members of the Court were determined to be qualified to hear the matter.

IT FURTHER APPEARING TO THE COURT that the Court took notice of the record of the Planning Commission, heard the staff report and received all testimony and evidence from the parties and then closed the hearing for further input. The Court then announced it would deliberate and voted to continue the hearing until 1:30 p.m. on October 23, 1985, when based upon the findings of the Planning Commission and Planning Staff, and being fully apprised in the premises, the Court did hereby find as follows:

1. That the petition for appeal was received in a timely manner.
2. That the findings of the staff report and the Planning Commission be adopted.
3. The Court cannot find any evidence in the record to justify the reversal of the Planning Commission's action nor was any testimony presented which would justify the matter being remanded to the Planning Commission.

NOW, THEREFORE, based upon the above findings of fact and conclusion of law and the Court being fully advised in the premises,

IT IS HEREBY ORDERED: That the decision of the Wasco County Planning Commission to grant, with conditions, a conditional use permit for a non-farm dwelling is upheld.

[Page 2 of 3 - ORDER]

EXHIBIT 4
PAGE 14 OF 54

DATED this 6th day of November 1985.

WASCO COUNTY COURT

William L. Hulse
William L. Hulse, Judge

Ray Matthew
Ray Matthew, Commissioner

Jim Comini
Jim Comini, Commissioner

Approved as to Form:

Wilford K Carey
Land Use Counsel for Wasco County

[Page 3 of 3 - ORDER]

EXHIBIT 4
PAGE 15 OF 54

2-120-85 Des.

NOTICE OF REVIEW
OF A DECISION OF THE
PLANNING COMMISSION

STATE OF OREGON)
COUNTY OF WASCO) ss

NOTICE IS HEREBY GIVEN: That at the hour of 9:30 a.m. on September 25, 1985, in the Courtroom of the Wasco County Courthouse, The Dalles, Oregon, a review of the decision of the Planning Commission to grant a Conditional Use Permit, to O.M. Wilson, Jr. for a non-farm dwelling will be held. This review shall be confined to the record of the Planning Commission proceedings and argument by the applicant or parties or their legal representatives at the time of review. The subject parcel is described as: Township 7 South, Range 14 East, Section 8D, Tax Lot 101.

By ORDER of the Wasco County Court.

Sue A. Proffitt
Sue A. Proffitt, Wasco Co. Clerk

for Bernard L. Smith
Wilford K. Carey, Land Use
Counsel for Wasco County



EXHIBIT 4
PAGE 4 OF 54

APPEAL FROM DECISION OF PLANNING COMMISSION

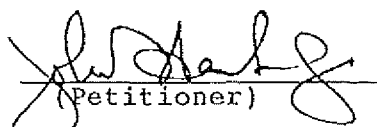
Gentlemen:

The undersigned hereby appeals from a decision of the Planning Commission. The nature of the alleged error, the specific order, requirement, decision or determination appealed from, and any Section or Sections of this Ordinance which the Commission purports to enforce are in error as follows:

O.M. Wilson Conditional Use Permit

~~The decision of the commission was arbitrary, capricious--~~
~~without justifiable basis in fact. The proposed development~~
~~is situated on land that is traditionally grazing land.~~
~~Staff reports without on-site inspection that ^{grazing} ~~this~~ is no~~
~~longer viable. A visit to the area would reveal a large~~
~~flat, sloping to a near vertical hillside. A fragile ecology~~
~~which could not be maintained with a subdivision on the~~
~~property with increased population density, building, auto~~
~~parking and attendant signs of habitation. What is to prevent~~
~~further development on this virgin area? This proposed~~
~~development is against the law- the LCDC and the Comprehensive~~
~~Plan. Further, it constitutes a commercial enterprise in~~
~~an agricultural area. DOWING TO SPACE LIMITATIONS FURTHER INFORMATION~~
~~AVAILABLE ON SEPARATE PAGE. THANK YOU.~~

Dated this 15 day of AUGUST, 1985.

Signed: 

(Petitioner)

Address: 929 SW 10th

Portland, 97205

Filing Fee: \$125.00

EXHIBIT 4
PAGE 17 OF 54



Department of Transportation

PARKS AND RECREATION DIVISION

525 TRADE STREET SE., SALEM, OREGON 97310

September 3, 1985

O. Meredith Wilson, Jr.
800 Pacific Building
Portland, OR 97204

Dear Mr. Wilson:

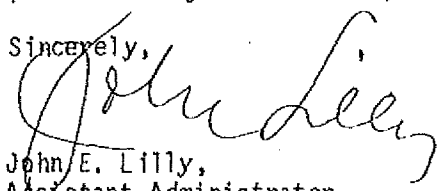
RE: T7S, R14E, Sec. 8, TL 101

Your request to construct a recreational dwelling within the Deschutes River Scenic Waterway as described in your Notification of Intent dated July 18, 1985, has been approved under the authority of the Oregon Transportation Commission. If, in the process of developing this proposal, you contemplate changing these plans you must notify this office immediately. This approval is subject to compliance with the following stipulations:

1. Structure shall be designed and placed as to be topographically screened from view from the river.
2. All Wasco County Planning Department requirements shall be satisfied.
3. All Wasco County sanitation requirements shall be satisfied.
4. Establish and maintain landscaping around the structures that will blend into the natural scene.
5. Construction shall begin within one year and the exterior shall be completed within six months after it has commenced.
6. The Commission shall be notified when construction begins and when the exterior has been completed. Please contact Jim Payne, Assistant Manager, River Programs, 525 Trade Street S.E., Salem, OR 97310.

This approval does not affect any obligations you might have to other persons or agencies--local, state or federal.

Sincerely,


John E. Lilly,
Assistant Administrator

JEL:JP:tsb

7471C

bc: Wasco Co. Planning
Zeke Ziegler

EXHIBIT 4
PAGE 18 OF 54

WASCO COUNTY PLANNING OFFICE

1721 W. 10th STREET

THE DALLES, OREGON 97058

DANIEL C. DUROW, Director of Planning

PHONE: (503) 298-5169

August 20, 1985

O. Meredith Wilson, Jr.
800 Pacific Building
Portland OR 97204

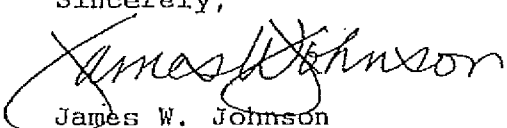
Dear Mr. Wilson:

This letter is to notify you that an appeal has been filed with the Wasco County Court to the Planning Commission's decision to grant you a Conditional Use permit for a non-farm dwelling on your property, described as: Township 7 South, Range 14 East, Section 8D, Tax Lot 101.

You will be notified of the time, date and place of the hearing when set. Please note that any development associated with the Planning Commission's decision is at your own risk, subject to the outcome of the appeal.

If you have any questions regarding this matter, please contact this office.

Sincerely,


James W. Johnson
Associate Planner

cc: Wasco County Court
Wilford Carey, Land Use Counsel
Tom Paul, County Watermaster
✓ Jim Payne, Rivers Program, D.O.T.
Scott M. Kelley
John Hartung
B.L.M., Prineville Dist.

dm

EXHIBIT 4
PAGE 19 OF 54

WASCO COUNTY PLANNING OFFICE

1721 W. 10th STREET

THE DALLES, OREGON 97058

DANIEL G. DUROW, Director of Planning

PHONE: (503) 298-5169

August 6, 1985

O. Meredith Wilson, Jr.
800 Pacific Building
Portland OR 97204

Dear Mr. Wilson:

This letter will serve as your official notification that on August 5, 1985, the Wasco County Planning Commission granted, with conditions, your request for a Conditional Use Permit to allow a non-farm (recreational) dwelling.

The conditions of approval include:

- (1) The height of the dwelling not exceed a height which would be visible from the Deschutes River.
- (2) All siding and roof be of an earth-tone color.
- (3) The development comply with all applicable standards of the Scenic Waterways Act.
- (4) Garden hose outlets shall be plumbed on the exterior of the building and stand-pipes located at least fifty (50) feet from the building.
- (5) Should electric service and a pump be provided, a separate electric service from the dwelling shall be provided for any pump. This will assure a water supply if the dwelling is burning.
- (6) If a fireplace or woodstove is to be used, a fire-screen shall be placed over the chimney/stovepipe during fire season.


O.M. Wilson, Jr.
August 6, 1985
Page 2

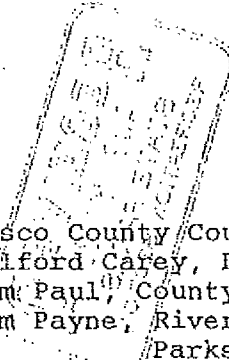
This permit applies to property described as: Township 7
South, Range 14 East, Section 8D, Tax Lot 101.

The above-referenced decision was based upon the staff report
and testimony received at the hearing. Please note that this
decision is subject to appeal to the County Court. Any appeal
must be filed within ten (10) days of the date of the Planning
Commission decision.

If this office can be of further assistance, please feel free
to contact us at any time.

Sincerely,


James W. Johnson
Associate Planner


cc: Wasco County Court
Wilford Carey, Land Use Counsel
Tom Paul, County Watermaster
✓ Jim Payne, Rivers Program, Dept. of Transportation,
Parks and Recreation Division
Scott M. Kelley
John Hartung
Bureau of Land Mgt., Prineville Dist.

dm

EXHIBIT 4
PAGE 21 OF 54

Clarence Wishard
1982

EXHIBIT 4
PAGE 22 OF 34



Department of Transportation
PARKS AND RECREATION DIVISION

525 TRADE STREET SE., SALEM, OREGON 97310

December 21, 1982

Clarence Wishard
6325 NW Vanora Drive
Madras, OR 97741

RE: Notification of Intent
T10, R12, Sec 1, Tax Lot 500
Deschutes River Scenic Waterway

Dear Mr. Wishard:

Your request to construct a single family dwelling within the Deschutes River Scenic Waterway as described in your Notification of Intent dated August 24, 1982, has been approved under the authority of the Oregon Transportation Commission. If in the process of developing this proposal you contemplate changing these plans, you must notify this office immediately. This approval is subject to compliance with the following stipulations:

1. All Jefferson County Planning Department requirements shall be satisfied.
2. All Jefferson County sanitation requirements shall be satisfied.
3. All vegetation on your land between the structure and the river shall be maintained. We are concerned with the removal of vegetation 3" D.B.H. or larger. Notify this office prior to removing any trees that screen your homesite from view from the river.
4. Construction shall begin within one year, and the exterior shall be completed within six months after it is commenced.
5. The Commission shall be notified when construction begins and when the exterior has been completed. Address: John E. Lilly, Assistant Administrator, River Programs, 525 Trade Street SE, Salem, OR 97310.

This approval does not affect any obligations you might have to other persons or agencies--local, state or federal.

Sincerely,

John E. Lilly
John E. Lilly
Assistant Administrator

JEL:ma

EXHIBIT 4
PAGE 23 OF 54

Randall Kaufman
1982

EXHIBIT 4
PAGE 24 OF 54



OREGON STATE HIGHWAY DIVISION

ROBERT W. STRAUB
GOVERNOR

April 12, 1976

CERTIFIED MAIL

F. B. KLABOE
Administrator and
State Highway Engineer

Mr. Randall Kaufmann
15207 S.W. 119th
Tigard, OR 97223

Dear Mr. Kaufmann:

We have learned from Paul Arrasmith of the Bureau of Land Management that you are considering building a house in the Deschutes River country.

The Deschutes is one of eight Oregon streams along which the state enforces certain regulations to ensure protection of natural values.

I am enclosing copies of the Scenic Waterways Act and rules. Forms for notifying the Transportation Commission of your plans are also enclosed.

I think you will find that these are not burdensome if you plan ahead.

Please let me know if you have any questions. My phone in Salem is 378-6500.

Sincerely,

James Murkin
River Programs

JM:lb

Enclosures

EXHIBIT 4
PAGE 25 OF 54



United States Department of the Interior

IN REPLY REFER TO

6223

BUREAU OF LAND MANAGEMENT
District Office
P. O. Box 550
Prineville, Oregon 97754

*CERTIFIED
REPLY*

March 16, 1976

Mr. Robert K. Potter
State Scenic Waterways Coordinator
State Highway Bldg.
Salem, Oregon 97310

Dear Bob:

Attached is a copy of a letter we received from an individual wanting to build a house adjacent to the Deschutes on land previously owned by Gus Delude.

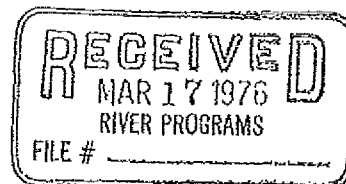
You may want to follow up on the response we sent him.

Sincerely yours,

Paul W. Arrasmith
Paul W. Arrasmith
District Manager

Attachment:

Copy of Randall Kaufman letter
Carbon copy of BLM response



Save Energy and You Serve America!

EXHIBIT 4
PAGE 26 OF 54

Bureau of Land Management
Prineville, Oregon

Dear Sirs:

I would like to build a house along the Deschutes River at Trout Creek just north of Gateway. Are there any restrictions in regard to your jurisdiction and the pending Scenic Rivers Act which would prohibit this? Would there be any other State Dept. or Federal bureau which I could also contact in regard to this matter? Thank you very much. Oh, this is private land along the river just off the public road in the area.

Randall Kaufmann
15207 SW 119th
Tigard, Ore 97223

Camille Hardy

CO	ACTION	INFO	W
<input checked="" type="checkbox"/>	D.M.		<input checked="" type="checkbox"/>
	RES. INQUIRY		
	OPERATIONS		
	ADMIN.		
	CENTRAL OREGON		
<input checked="" type="checkbox"/>	DESCHUTES		
	READING	FILE	

EXHIBIT 4
PAGE 27 OF 54



United States Department of the Interior

IN REPLY REFER TO

6223

BUREAU OF LAND MANAGEMENT
District Office
P. O. Box 550
Prineville, Oregon 97754

March 16, 1976

Mr. Randall Kaufmann
15207 SW 119th
Tigard, Oregon 97223

Dear Mr. Kaufmann:

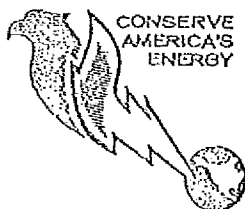
The Deschutes River from the Pelton Re-gulating Dam to its confluence with the Columbia River (which includes the Trout Creek area) is being considered for possible inclusion in the National Wild and Scenic Rivers System. This action will not have any affect on the use or development of any private land until such time as the river is formally designated and a scenic easement is purchased by the government. This same river segment has also been designated by the State of Oregon as a State Scenic Waterway. This requires any landowner within 1/4 mile of the Deschutes River to obtain a permit from the state for any changes in the use or development of a tract of land.

I am forwarding a copy of your letter to Robert Potter, the coordinator for the State Scenic Waterways System. He will be better able to answer any questions you may have regarding necessary permits to build your house in this area.

Sincerely yours,

Paul W. Arrasmith
District Manager

cc: Robert Potter



Save Energy and You Serve America!

EXHIBIT 4
PAGE 28 OF 54

George Jackson
1979

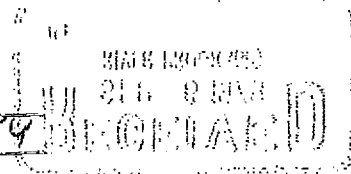
EXHIBIT 4
PAGE 29 OF 54

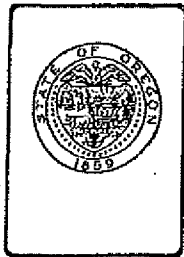
NOTIFICATION OF INTENT TO MAKE IMPROVEMENTS
CHANGE LAND USE, OR ENGAGE IN REGULATED ACTIVITIES
WITHIN THE OREGON SCENIC WATERWAYS SYSTEM

To process your application promptly, the Oregon Department of Transportation must have complete, detailed information fully describing your plan to make improvements, change land use, or engage in regulated activities within a scenic waterway. Please supply all the information requested below which is in any way applicable and tell us of anything else which may effect the situation.

1. Name George W. Jackson Telephone 395-2280
2. Address Rt. 1 Box 4 Maduin, Ore. 97037
3. Name and address of legal landowner if different from above:
 - a. Name _____ Telephone _____
 - b. Address _____
4. Location of improvement, land use change or activity:
County Wasco Township 51 Range 14 Section 6 Tax Lot _____
5. Type of improvement, change of land use or activity proposed and its purpose:
Build home on 2.5 acres
6. When do you want to begin? 10-1-79
How long will it take? Appx 2 years
7. Attach a map showing the following: (The map may be hand-drawn, need not be professional, but accuracy of detail, distances, scale, etc., are important. Appropriate photographs may be helpful.)
 - a. North
 - b. Shape, size and dimensions of the property
 - c. Location of the river and direction of its flow
 - d. Principal features of terrain and vegetation
 - e. Roads, driveways, etc. (existing and/or proposed)
 - f. Existing structures and improvements
 - g. Well or other water supply (existing and/or proposed)
 - h. Sewage disposal system (existing and/or proposed)
 - i. Utility poles and lines (power and telephone, existing and proposed)
 - j. Location of proposed structures, improvements or activities
 - k. Nearest distance from proposal to river

TOS, RHE Sec. 6





Department of Transportation
PARKS AND RECREATION BRANCH
525 TRADE STREET S.E., SALEM, OREGON 97310

September 11, 1979

WASCO COUNTY PLANNING OFFICE
DAVID R. MOON, DIRECTOR OF PLANNING
401 WEST 4TH STREET
THE DALLES OR 97058

Dear Mr. Moon:

RE: T5S, R14E, Sec. 6

Enclosed is a Notification of Intent from George W. Jackson. Mr. Jackson proposes to construct a single-family residence within the Deschutes River Scenic Waterway.

Your comments on this proposal are solicited. We would appreciate hearing from you no later than September 25, 1979.

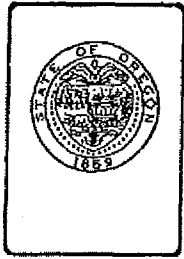
Sincerely,

Jim Payne
Jim Payne
Rivers Program

JP:nmw

enclosures

EXHIBIT 4
PAGE 31 OF 54



Department of Transportation
PARKS AND RECREATION BRANCH
525 TRADE STREET S.E., SALEM, OREGON 97310

September 11, 1979

WASCO COUNTY SANITATION
WASCO COUNTY COURTHOUSE
THE DALLES OR 97058

Dear Sir:

RE: T5S, R14E, Sec. 6

Enclosed is a Notification of Intent from George W. Jackson.
Mr. Jackson proposes to construct a single-family residence within
the Deschutes River Scenic Waterway.

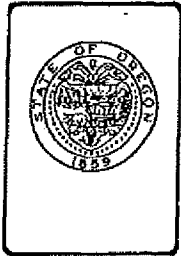
Your comments on this proposal are solicited. We would
appreciate hearing from you no later than September 25, 1979.

Sincerely,

Jim Payne
Rivers Program

JP:nmw

enclosures



Department of Transportation

PARKS AND RECREATION BRANCH

625 TRADE STREET S.E., SALEM, OREGON 97310

September 11, 1979

GEORGE W. JACKSON
RT 1 BOX 4
MAUPIN OR 97037

Dear Mr. Jackson:

We have received your Notification of Intent to construct a single-family residence within the Deschutes River Scenic Waterway. Your application is being processed at this time.

Should you have any questions, please feel free to contact me in Salem at 378-6747.

Sincerely,

A handwritten signature in cursive script that reads "Jim Payne".

Jim Payne
River Programs

JP:nmw

EXHIBIT 4
PAGE 33 OF 54

WASCO COUNTY PLANNING OFFICE

1721 W. 10th St. THE DALLES, OREGON 97058

DAVID R. MOON, Director of Planning

PHONE: (503) 298-5169

September 19, 1979

Mr. Jim Payne
Rivers Program
Parks & Recreation Branch
525 Trade Street, S.E.
Salem, OR 97310

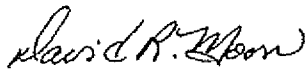
RE: Township 5 South,
Range 14 East,
Section 6

Dear Mr. Payne:

The application by Mr. George W. Jackson is in compliance with the applicable rules and regulations of the Wasco County Zoning Ordinance and Comprehensive Plan.

Zoning verification will be given after application has been made for a building permit.

Sincerely,



David R. Moon
Planning Director

DRM/acm

EXHIBIT 4
PAGE 34 OF 54



Department of Transportation
PARKS AND RECREATION DIVISION

525 TRADE STREET S.E., SALEM, OREGON 97310

October 1, 1979

GEORGE W JACKSON
RT 1 BOX 4
MAUPIN OR 97037

Dear Mr. Jackson:

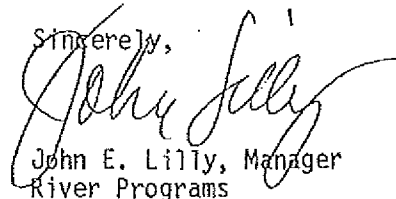
RE: T5S, R14E, Sec. 6

Your request to construct a single-family residence within the Deschutes River Scenic Waterway as described in your Notification of Intent dated September 6, 1979, has been approved under the authority of the Oregon Transportation Commission. This approval is subject to compliance with the following stipulations:

1. All Wasco County Planning Department requirements shall be satisfied.
2. All Wasco County sanitation requirements shall be satisfied.
3. All vegetation on your land between the structure and the river shall be maintained.
4. Construction shall begin within one year, and the exterior shall be completed within six months after it is commenced.
5. The Commission shall be notified when construction begins and when the exterior has been completed.
Address: John E. Lilly, Manager, Scenic Waterways Programs,
525 Trade Street SE, Salem, OR 97310.

This approval does not affect any obligations you might have to other persons or agencies--local, state or federal.

Sincerely,


John E. Lilly, Manager
River Programs

JEL:js
cc: Wasco County Planning Office
Wasco County Sanitation
Wally Hibbard

EXHIBIT 4
PAGE 35 OF 54



STATE OF OREGON

Parks and Recreation

378-6747

INTEROFFICE MEMO

TO: File Memo

DATE: July 25, 1980

FROM: Jim Payne
River Programs

SUBJECT: George Jackson--Deschutes River Scenic Waterway

On the morning of July 25, 1980, I had a telephone conversation with George Jackson, Deschutes River Scenic Waterway about possible building violations within the Descutes Scenic Waterway. Mr. Jackson informed me that the shed that was now presently on his property was indeed moved there from the Fir Mountain Lumber Company and that he was using it for a shed, but as soon as his home was completed, he would build another room on to this facility and use it as a residence. He indicated during a meeting with Dan Durow, planner representing the City of Maupin, that the dwelling was outside the $\frac{1}{4}$ -mile boundary of the Deschutes River Scenic Waterway. I called Dan Durow to confirm this. Dan said he did not have a formal meeting with Mr. Jackson the meeting had been during a council meeting and that his maps had been out on the table and he felt that Mr. Jackson at that time had decided that his dwelling was outside the Deschutes River Scenic Waterway.

JP:nmw

Contains
Recycled
Materials

81-125-1367

EXHIBIT 4
PAGE 36 OF 54

SP-25663-125



Department of Transportation
PARKS AND RECREATION DIVISION

525 TRADE STREET S.E., SALEM, OREGON 97310

January 8, 1981

George W. Jackson
Rt 1 Box 4
Maupin, OR 97037

Dear Mr. Jackson:

RE: T5S, R14E, Sec 6

We have not heard from you since the Transportation Commission approved your development plan within the Deschutes River Scenic Waterway. The Commission stipulated that construction shall begin within one year from the date of their approval. For your convenience, we have enclosed a copy of the Commission's letter.

In order for the requirements of the Commission's approval to be satisfied, we need to know the current status of your proposal.

We have enclosed a pre-addressed questionnaire that will help in updating our files. Please take a minute to complete this card and return it to us.

If we can be of assistance, please feel free to contact me at 1-800-452-7813 extension 86747.

Thank you,

Jim Payne
Jim Payne
River Programs

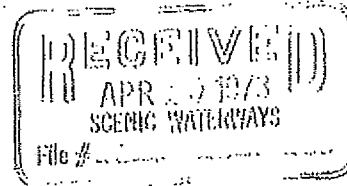
JP:ma

Enclosures

EXHIBIT 4
PAGE 37 OF 54

R.H. Morrison
1973

EXHIBIT 4
PAGE 38 OF 54



April 9, 1973

Mr. R. K. Potter, Coordinator
Scenic Waterways, Parks Division
Highway Building, 3rd Floor
Salem, Oregon

Dear Bob:

Please accept this letter as my application to erect a one-story, three-bedroom dwelling on the Deschutes River directly downstream from the See subdivision, immediately below Pelton Re-Regulating Dam.

I am enclosing a plat of the location, an aerial photo, plus the house and floor plans and building material specifications.

I plan to use a muted color of green paint for the exterior.

This homosite will require only the barest minimum of leveling and filling, if any.

Your earliest consideration for approval will be appreciated.

Sincerely,

R. H. Morrison

RHM

Enclosures

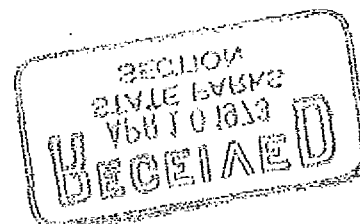


EXHIBIT 4
PAGE 39 OF 54

April 11, 1973

Mr. R.H. Morrison
P.O. Box 205
Warm Springs, OR 97761

Dear Mr. Morrison:

This is to acknowledge receipt of your 9 April 1973 letter notifying us of your plans to construct a single-family dwelling within the Deschutes River Scenic Waterway.

Your notification will be processed with as little delay as possible.

Thank you for your cooperation.

Sincerely,

Wallace A. Hibbard
Assistant to the Coordinator
Oregon Scenic Waterways System

WAH:jw

EXHIBIT 4
PAGE 40 OF 54



GAME COMMISSION

OFFICE OF THE DIRECTOR

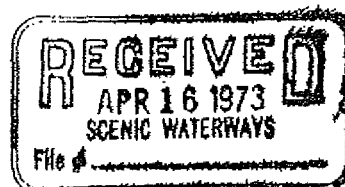
P.O. BOX 3503 • 1634 S.W. ALDER ST. • PORTLAND, OREGON • 97208 • Ph. 229-5551

TOM McCALL
GOVERNOR

COMMISSIONERS

DAN CALLAGHAN, Chairman
ALLAN L. KELLY, Member
J. PAT METKE, Member
FRANK A. MOORE, Member
JAMES W. WHITTAKER, Member
JOHN W. McKEAN
State Game Director

April 12, 1973



Mr. Wallace A. Hibbard
Assistant to the Coordinator
Oregon Scenic Waterways System
Highway Building
Salem, Oregon 97310

Dear Wally:

It's almost impossible to make sound judgment from the information submitted by Mr. R. H. Morrison for construction of a house on the Deschutes River.

Immediately my questions are:

1. Is the proposal consistent with your zoning regulations?
2. Is there a satisfactory plan to handle sewage?
3. Is the soil suitable for a septic tank drain field?

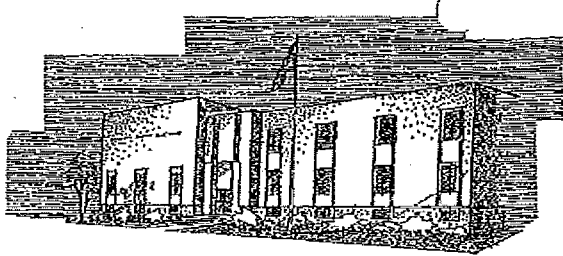
If these criteria are satisfied, we do not have any legitimate objections.

Sincerely yours,

Bob

R. H. Stein
Planning Coordinator

EXHIBIT 4
PAGE 4/ OF 54



Jefferson County

Madras, Oregon 97741

April 13, 1973

Mr. Wallace A. Hibbard
Assistant to the Coordinator
Oregon Scenic Waterways System
Highway Building
Salem, Oregon 97310

Dear Mr. Hibbard,

In answer to your letter of April 11, 1973 regarding notification of intent from R. H. Morrison who proposes construction of a single-family dwelling within the Deschutes River Scenic Waterway, the Planning Commission has no objection other than he have approval of the county sanitarian for sub-surface sewage disposal and any other state regulations that pertain to building of homesites.

The area is not presently zoned.

Sincerely,

PLANNING COMMISSION - JEFFERSON COUNTY

Bryan Christian

By

Bryan Christian

BC:ab

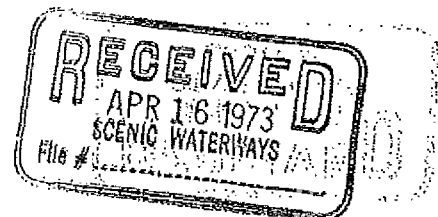


EXHIBIT 4
PAGE 42 OF 54

OREGON STATE HIGHWAY DIVISION

INTER-DEPARTMENT CORRESPONDENCE

Salem, Oregon

April 11, 1973

To: George Baldwin
Administrator of Highways

SUBJECT: Scenic Waterways
Notification of Intent #2-57-73
Deschutes River, Jefferson County
R.H. Morrison

B U I L D I N G

The attached scenic waterway file deals with the above proposal for construction of a single-family residence within the Deschutes River Scenic Waterway in Jefferson County. The proposal is compatible with the Act and with the Commission's rules and regulations.

I recommend your approval under the authority delegated to you by the Commission 19 September 1972.

A draft of a letter to the Commission advising them of your action and a letter draft to the applicant are attached for your consideration.

This is not an agenda item.



David G. Talbot
State Parks Superintendent

DGT:jw
Attachment

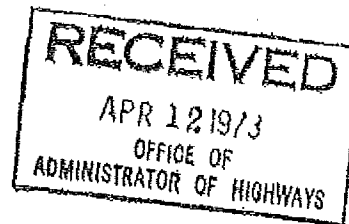


EXHIBIT 4
PAGE 43 OF 54

OREGON STATE HIGHWAY DIVISION

INTER-DEPARTMENT CORRESPONDENCE

Salem, Oregon

April 11, 1973

To: Dave Talbot
State Parks Superintendent

SUBJECT: Scenic Waterways
Notification of Intent #2-57-73
Deschutes River, Jefferson County
R.H. Morrison

O F F I C E

Mr. R.H. Morrison of P.O. Box 205, Warm Springs, Oregon 97761, has submitted notification of his intent to construct a home in Section 1, Township 10 South, Range 12 East, Willamette Meridian, Jefferson County, within the Deschutes River Scenic Waterway. The site is on the right bank of the river, approximately 1200 feet downstream from the Pelton Reregulating Dam. The area is classified in the Commission's rules as a River Community Area.

The proposed building site is located adjacent to the See Addition, an established subdivision which contains 12 houses. The addition of another residence within this area will not substantially alter the present scene.

Mr. Morrison's proposal is for a three-bedroom, 1300-sq. ft. family dwelling of simple, contemporary design. The house is to be sided in resawn fir plywood painted green.

I recommend approval of Mr. Morrison's proposal, subject to the following stipulations:

1. All sanitation requirements shall be met.
2. Roofing material shall be nonreflective and muted in tone.
3. Construction work shall begin within one year of approval and exterior work shall be completed within six months after it has begun.
4. The Commission shall be notified when work commences and when it is completed.

Bob Potter

Bob Potter, Coordinator
Oregon Scenic Waterways System

RKP:jw

Attachments:

1. Morrison letter to Potter, 9 April 1973
2. Sketch map of homesite
3. Copy of aerial photo showing homesite
4. Schematic of floorplan
5. Building specifications

GP 52475-714

EXHIBIT 4
PAGE 44 OF 54

10 April 73 3:45 p.m.

Talked to Judge Herschel Read concerning
Morrison proposal and Jefferson County Zoning
Requirements. He said that County had
no zoning yet and the only control of over
development is sanitation and road requirements.

11 April 1973 11:45 AM

Talked to Bryan Christian - Jefferson County
Planner. He confirmed what Judge Herschel Read
told me on the 10th.

EXHIBIT 4
PAGE 45 OF 54

APR 17 1973

Mr. R. H. Morrison
P.O. Box 205
Warm Springs, Oregon 97761

Dear Mr. Morrison:

This is to advise you that approval under authority of the State Highway Commission has been given for your plans to construct a dwelling on Section 1, Township 10 South, Range 12 East, Jefferson County, near the Polton Reregulating Dam within the Deschutes River Scenic Waterway, as described in your April 9, 1973, notification of intent. Approval is subject to compliance with these stipulations:

1. All sanitation requirements shall be met.
2. Roofing material shall be nonreflective and muted in tone.
3. Construction work shall begin within one year of approval and exterior work shall be completed within six months after it has begun.
4. The Commission shall be notified when work commences and when it is completed.

This approval by the Highway Commission under the Scenic Waterways Act does not affect any obligation you might have to other governmental agencies, local, state, or federal.

Your cooperation is appreciated. Please let me know if you have any questions or if we can be of assistance.

Sincerely,

George M. Baldwin
Administrator of Highways

cc: David Talbot
J. F. Putnam

WH:jw kw

EXHIBIT 4
PAGE 46 OF 59

April 17, 1973

Oregon State Highway Commission

Gentlemen:

Using the authority delegated to me at your regular meeting on September 19, 1972, I have approved the following proposal for construction within the Deschutes River Scenic Waterway in Jefferson County:

<u>File No.</u>	<u>Name</u>	<u>Type of Improvement</u>
2-57-73	R. H. Morrison	Single-family dwelling

Plans for this proposal meet the standards for design, siting, finish and density established in your scenic waterways rules and regulations and are compatible with the Act.

Sincerely,

George H. Baldwin
Administrator of Highways

cc: David Talbot

WH:jw kw

EXHIBIT 4
PAGE 47 OF 54

RECEIVED STATE HWY ENGR							
FORM E-30, (REV. 1-1-73) MAY 10 1973							
REFER TO							
FOR							
Info	Inves	RID	DIR	Sign	Act	File	

OREGON STATE HIGHWAY DIVISION
INTER-DEPARTMENT CORRESPONDENCE

Salem, Oregon
May 10, 1973

PAR 12-5
Deochuted
Morrison,
R. H.

SUBJECT:

To: J.F. Putnam
Regional Engineer
Bend

Thank you for forwarding Bob Lammert's report on Mr. R.H. Morrison's Highway 26 access situation and its relation to his scenic waterways proposal.

Bob Lammert's concluding statement that this office has by-passed the region is incorrect. I am unable to understand how he could have come to this conclusion; the correspondence and telephone conversations to which he responded clearly confirm that this office has consulted him before proceeding with our investigation and report.

It should be remembered that the provisions of the Scenic Waterways Act could compel the Commission to buy this expensive property if a change of use is denied *under terms of the Act*. The access question must be dealt with separately.

You may be sure that our final recommendation in the matter will not in any way jeopardize a sound decision in the question of access.

Robert K. Potter, Coordinator
Oregon Scenic Waterways System

RKP:jw

cc: D.G. Talbot
A.E. Johnson ✓
R.L. Lammert

NOTED
A. E. JOHNSON

EXHIBIT 4
PAGE 48 OF 54



**OREGON STATE
HIGHWAY DIVISION**

HIGHWAY BUILDING • SALEM, OREGON • 97310

TOM McCALL
GOVERNOR

F. B. KLABOE
Administrator of Highways

December 21, 1973

Mr. R.H. Morrison
P.O. Box 205
Warm Springs, Oregon 97761

Dear Mr. Morrison:

How are your plans for construction within the Deschutes River Scenic Waterway progressing? In order to keep our records up to date we would like to know if you have started construction.

Please let us know if you have any questions concerning your approved construction or if we can be of assistance in any way.

Sincerely,

Wallace A. Hibbard

Wallace A. Hibbard
Assistant to the Coordinator
Oregon Scenic Waterways System

WAH:jw

EXHIBIT 4
PAGE 49 OF 54

R. H. MORRISON
PRESIDENT

PHONE 553-1249

K. L. MORRISON
VICE PRESIDENT

DUKE PROPERTIES CORP.

MAILING ADDRESS — P. O. BOX 208, WARM SPRINGS, OREGON 97761.

January 20, 1974

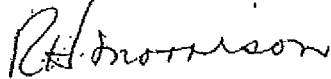
Mr. Wallace A. Hibbard
Assistant to the Coordinator
Oregon Scenic Waterways System
Highway Building
Salem, Oregon 97310

Dear Mr. Hibbard:

In reply to your letter of December 21, 1973, my construction plans have not moved as rapidly as I had hoped or expected.

Please bear with me for a while and I will keep you advised.

Sincerely,



R. H. Morrison
President

RHMbt

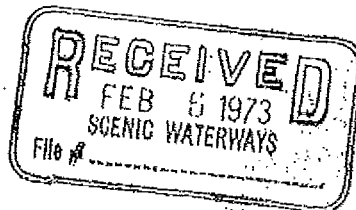


EXHIBIT 4
PAGE 50 OF 54



March 25, 1974

Mr. Robert K. Potter, Coordinator
Oregon Scenic Waterways System
Highway Building
Salem, Oregon 97310

Dear Bob:

To bring you up to date on the progress of building a dwelling on the river property adjoining the See Addition below Pelton Dam, we have done some filling of dirt, concrete forms are on the site and some excavation started for the foundation.

Will keep you advised.

Sincerely,

R. H. Morrison

RHM:t

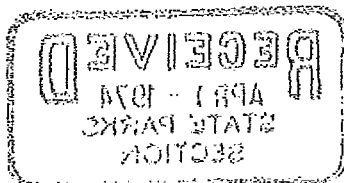
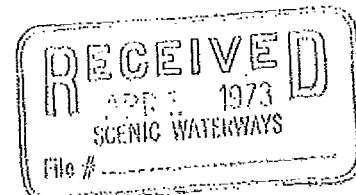
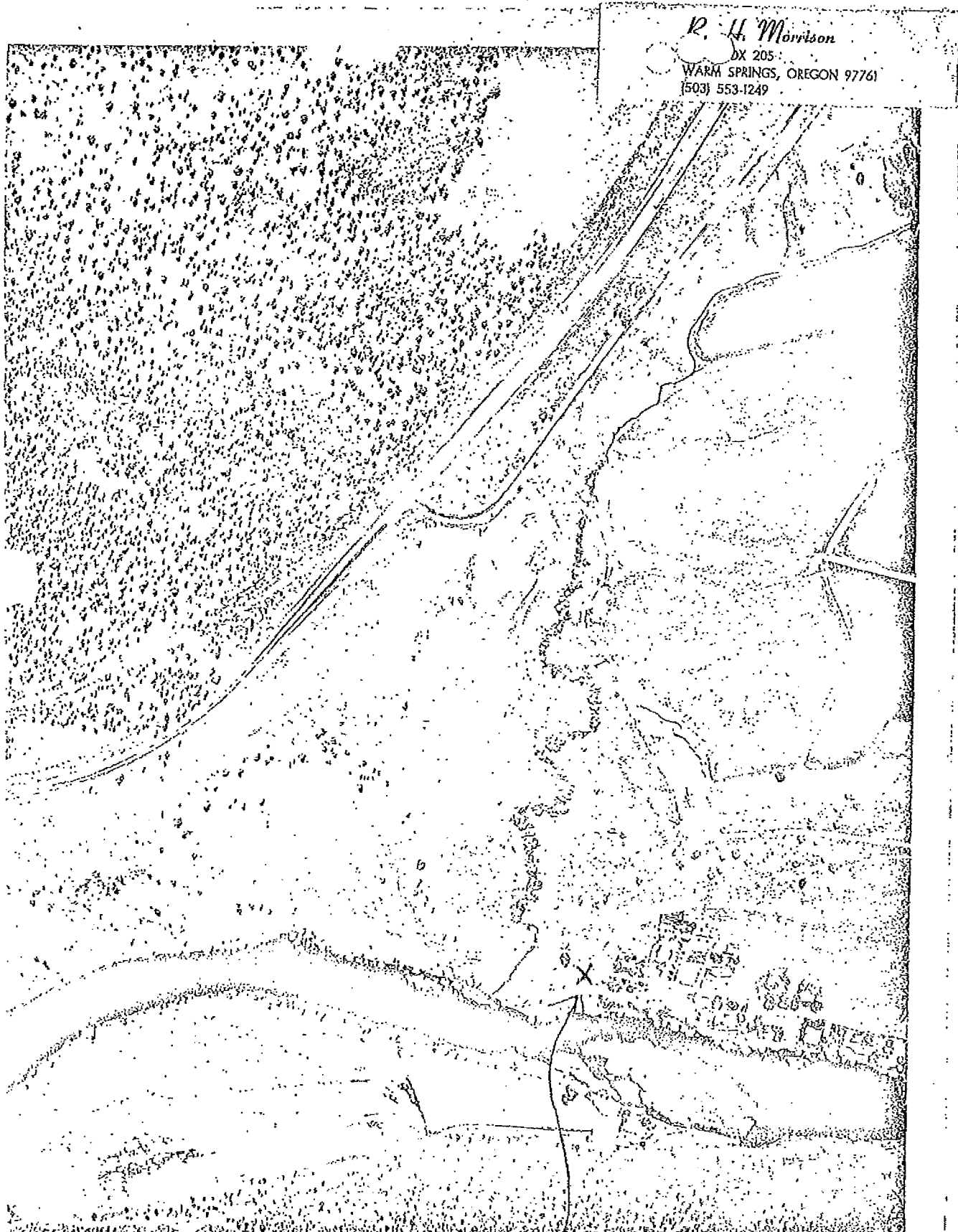


EXHIBIT 4
PAGE 51 OF 54



Proposed Home site marked BY X
P86



STATE OF OREGON
Parks and Recreation

DEPT.

378-6747

TELEPHONE

INTEROFFICE MEMO

TO: The Files

DATE: June 6, 1979

FROM: Jim Payne *JP*
River Programs

SUBJECT: Deschute River Proposals by Duke Morrison

In a telephone conversation on June 6, 1979 with Duke Morrison, on several of his proposals that he has not taken any action on in a considerable amount of time, Mr. Morrison informed that due to the change of times and present problems with DEQ and local planning, has held him up on doing any further action with his proposals to us. I asked Mr. Morrison if he would please send me something sometime in the next month stating what his proposals were for the property on file, Juniper Springs, Canyon Park Trailer Park and a house proposal. Mr. Morrison said that he should be able to supply me with something by next month, as he was having tests run on all his property for feasibilities.

JP:nmw

EXHIBIT 4
PAGE 53 OF 54

July 3, 1979

Mr. Jim Payne, River Programs
Scenic Waterways System
Highway Building
525 Trade Street
Salem, Oregon 97310

Dear Jim:

In order for you to bring your files up to date as to progress made on development of Juniper Springs Resort and the property below Warm Springs bridge, both of which come under Scenic Waterways approval to develop, are both in limbo at present. This is due to the Jefferson County Planning Commission's new proposed ruling to change their zoning ordinance from a minimum of 10,000 sq. ft. per home site lots to $2\frac{1}{2}$ acre minimum home sites. They are having a public hearing on this sometime in July 1979 (un-announced as yet).

Until we are certain of the new ruling requirements, it is impossible for us to make any definite plans as yet.

Certainly appreciate your patience in this matter and will advise you as soon as we know where we stand.

^{Hope}
Certainly you will give me a call anytime you might be in this area in the near future.

Sincere wishes,

R. H. Morrison

R. H. Morrison

RHMbt

EXHIBIT 4
PAGE 54 OF 54

Win Francis
1973

EXHIBIT 5
PAGE 1 OF 17

**OREGON PARKS AND RECREATION DEPARTMENT
NOTIFICATION OF INTENT TO MAKE IMPROVEMENTS,
CHANGE LAND USE, OR ENGAGE IN REGULATED ACTIVITIES
WITHIN THE OREGON SCENIC WATERWAY SYSTEM**

To process your application promptly, the Oregon Parks and Recreation Department must have completed, detailed information fully describing your plan to make improvements, change land use, or engage in regulated activities within a scenic waterway. Please supply all the information requested below which is in any way applicable and tell us of anything else which may affect the situation.

1. Name C.E. "Win" Francis Telephone (541) 389-5010

2. Address 1148 NW Hill Street, Bend, OR 97701

3. Name and address of legal landowner if different from above:

a. Name Portland Deschutes Club Telephone (503) 221-0141

b. Address 888 SW Fifth Ave., #800, Portland, OR 97204

4. Location of improvement, land use change or activity:

County Wasco Township 6 South Range 14 EWM Section Tax Lot 1600

5. Scenic Waterway Deschutes River

6. Type of improvement, change of land use or activity proposed and its purpose:
replacement dwelling

7. Logging Proposal - Please complete Timber Harvest or Salvage Activities supplement sheet.

8. When do you want to begin? upon approval (2011-2012)
How long will it take? 6 months

9. ☒ Attach an 8 1/2" x 11" map showing the following: (The map may be hand-drawn, need not be professional, but accuracy of detail, distance, scale, etc. is important. Appropriate photographs may be helpful.)

- | | |
|--|--|
| <input checked="" type="checkbox"/> a. North | <input checked="" type="checkbox"/> g. Well or other water supply (existing and/or proposed) |
| <input checked="" type="checkbox"/> b. Shape, size and dimensions of the property. | <input checked="" type="checkbox"/> h. Sewage disposal system (existing and/or proposed) |
| <input checked="" type="checkbox"/> c. Location of the river and direction of its flow | <input checked="" type="checkbox"/> i. Utility poles and lines (power and telephone, existing or proposed) |
| <input checked="" type="checkbox"/> d. Principal features of terrain and vegetation | <input checked="" type="checkbox"/> j. Location of proposed structures, improvements or activities |
| <input checked="" type="checkbox"/> e. Roads, driveways, etc. (existing and/or proposed) | <input checked="" type="checkbox"/> k. Nearest distance from proposal to river |
| <input checked="" type="checkbox"/> f. Existing structures and improvements | |

10. Complete the following where applicable:

A. Proposed building or structure:

1. Exterior dimensions: Length 69' Width 27' Height from natural grade 28'

2. Siding: Material and Color Wood - natural (oil)

3. Roof: Material and Color Steel - green or grey

4. Architectural style: sustainable

5. How much clearing of vegetation will be necessary?

1 - 2 trees

6. Does the site need leveling or grading? ☐ Yes ☒ No

7. If so, how much?

8. How will excess material be disposed of?

if any, it will be removed

☐ 9. Attach drawings, photographs or working plans of the proposed structure which will clearly show its exterior appearance on all sides. Documentation should not be larger than 8½" x 11" in size.

B. Road construction:

1. Width n/a Length (in feet) _____

2. Equipment to be used _____

3. Percent of slope _____

4. Type of surface _____

5. How will the road be drained?

6. How will excess material be disposed of?

11. ☐ If the proposed improvements, change of land use or activity are not fully and clearly described in by the foregoing, attach a detailed description.

12. Signature of applicant C. G. J. Date 4-9-11

13. Signature of legal landowner Dale Fowler, President, Deschutes Club Date April 4, 2011

NOTICE: Legal landowner is responsible for any violations under the Scenic Waterway Act (ORS 390.805 to 390.925). You should not begin any regulated activity until written approval is obtained. If you have any questions, please contact Oregon Parks and Recreation Department, 1115 Commercial St. NE, Suite 1, Salem, OR 97301-1002; telephone 503-378-6305.

PROPOSALS RELATING TO OREGON SCENIC WATERWAYS SHOULD BE SUBMITTED DIRECTLY TO THE APPROPRIATE SCENIC WATERWAY COORDINATOR AS LISTED ON THE FOLLOWING PAGE.



EXHIBIT 5
PAGE 4 OF 17

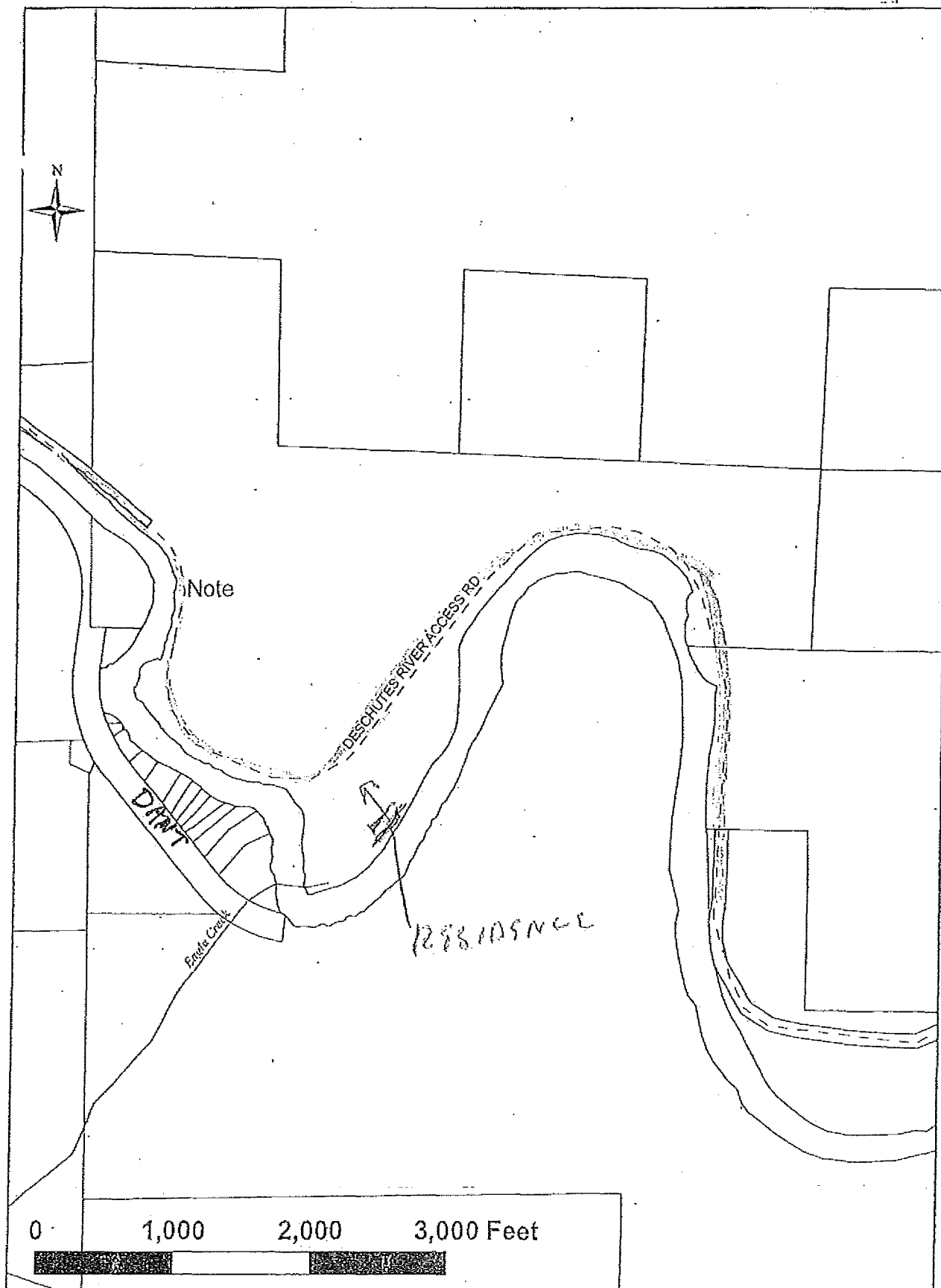


EXHIBIT 5
PAGE 5 OF 17



Resized - No longer to scale ☐

DISCONTINUED RIVALS

DECLASSIFIED
APPROX 1980

Plaposa
54426

44-38861-10A

Sumit

7. 10. 1941

DATE _____

P 95

PAGE 7 OF 17

Dwelling
being
replaced

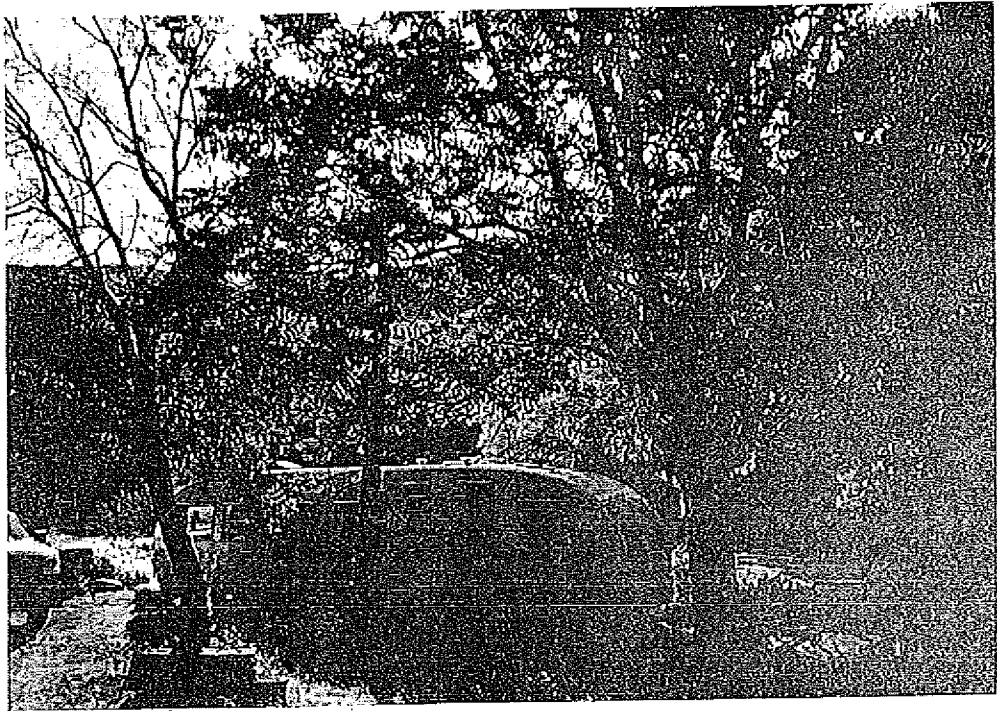
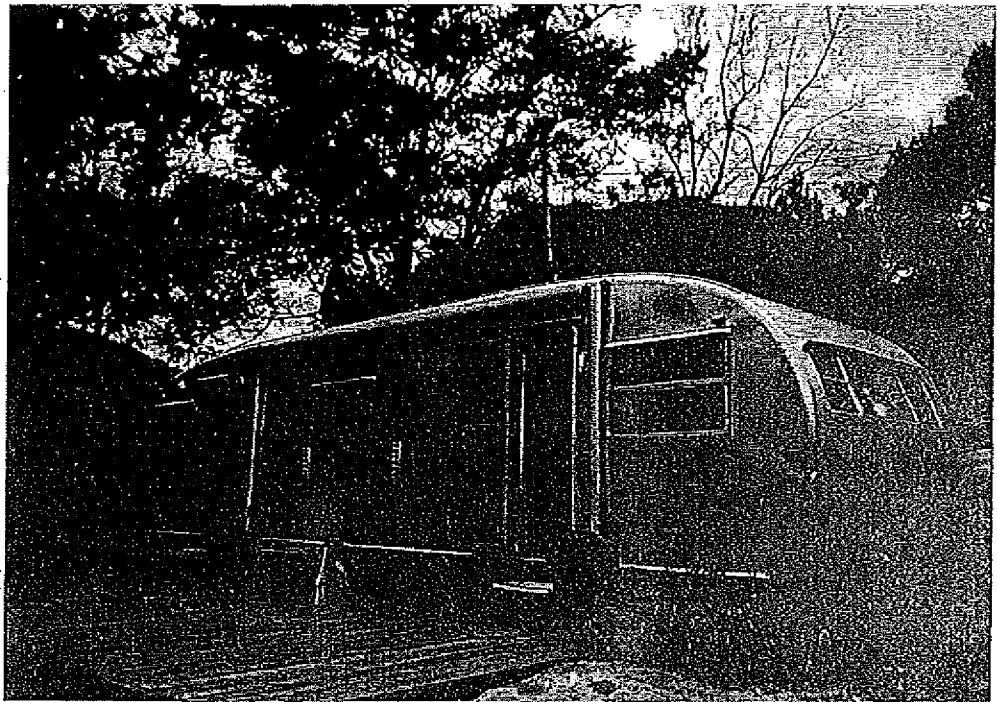


EXHIBIT 5
PAGE 8 OF 17

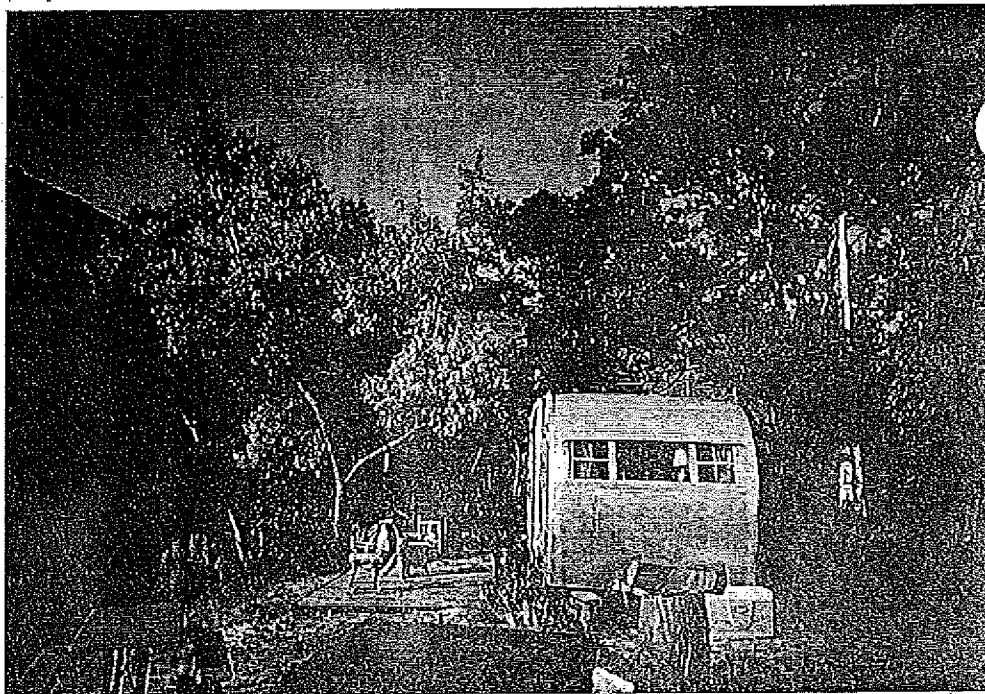


EXHIBIT 5
PAGE 9 OF 17

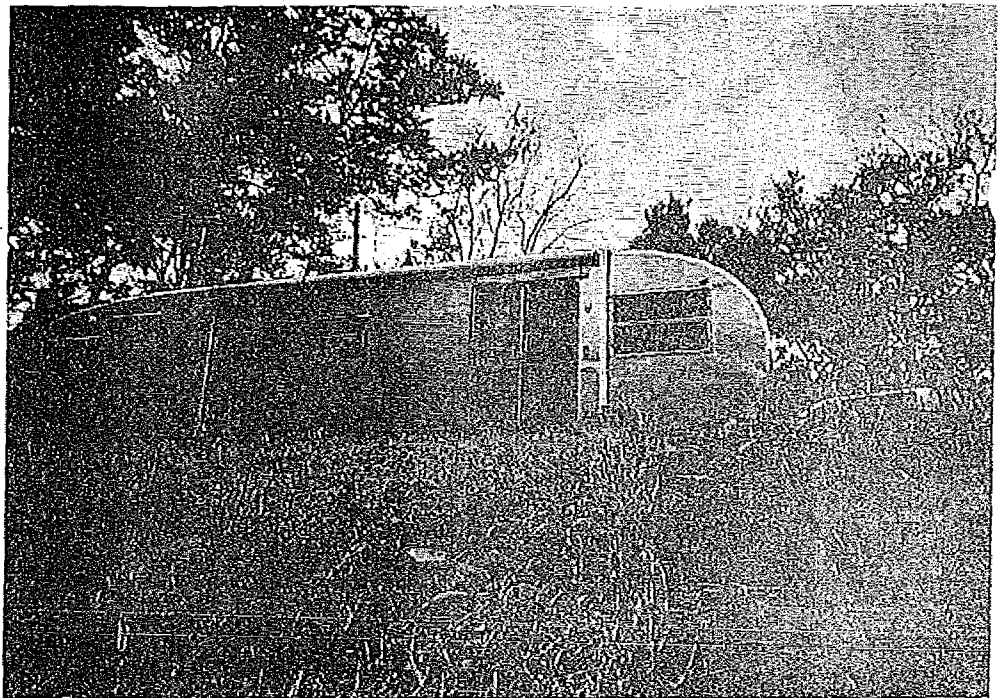
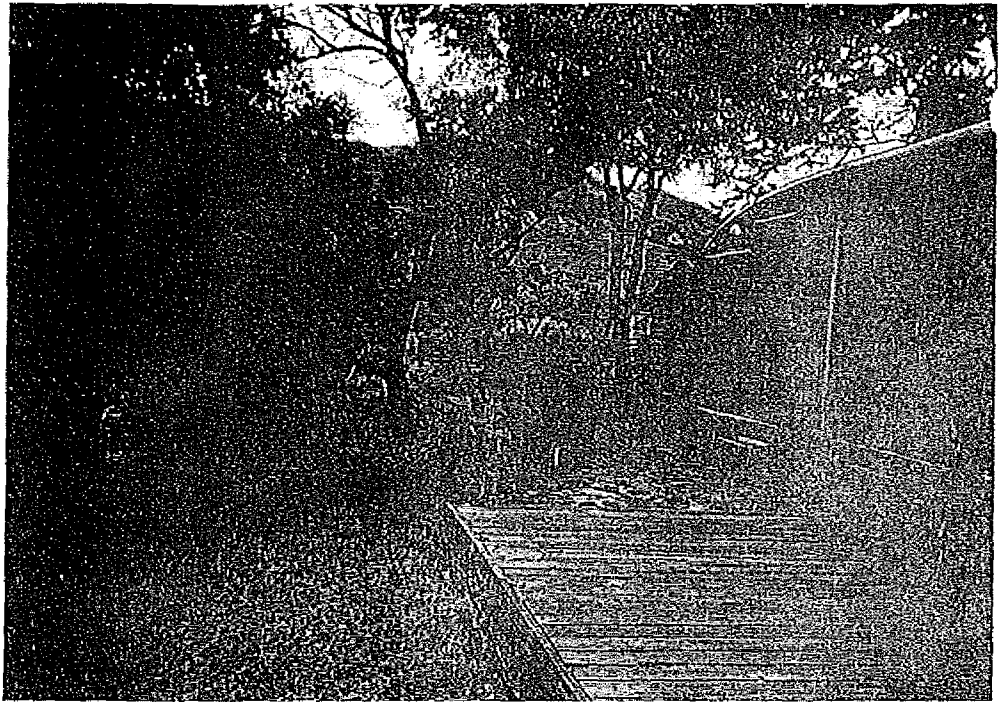


EXHIBIT 5
PAGE 10 OF 17

Robert Parr
1974

NOTIFICATION OF INTENT TO MAKE IMPROVEMENTS,
CHANGE LAND USE, OR ENGAGE IN REGULATED ACTIVITIES
WITHIN THE OREGON SCENIC WATERWAYS SYSTEM

To process your application promptly, the State Highway Commission must have complete, detailed information fully describing your plan to make improvements, change land use, or engage in regulated activities within a scenic waterway. Please supply all the information requested below which is in any way applicable and tell us of anything else which may affect the situation.

1. Name Robert R. Parr, Builder Telephone 475-2687
2. Address Warm Springs Rt., Madras, Ore , 97741
3. Name and address of *legal* landowner if different from above:
 - a. Name Mr. & Mrs. Carl Anderson Telephone 639-1055
 - b. Address 11650 S. W. Ann, Tigard, Ore. 97223
4. Location of improvement, land use change or activity:
County Jefferson Township 10 S Range 12 E Section 11 Lot ---
5. Type of improvement, change of land use or activity proposed and its purpose:
Lot has been used to park a mobile home for the last fifteen years.
Now plan to build a new home. No change of land use.
6. When do you want to begin? In about thirty days, from today.
How long will it take? Approximately four months.
7. Attach a map showing the following: (The map may be hand-drawn, need not be professional, but accuracy of detail, distances, scale, etc., are important. Appropriate photographs may be helpful.)
 - a. North
 - b. Shape, size and dimensions of the property
 - c. Location of the river and direction of its flow
 - d. Principal features of terrain and vegetation
 - e. Roads, driveways, etc. (existing and/or proposed)
 - f. Existing structures and improvements
 - g. Well or other water supply (existing and/or proposed)
 - h. Sewage disposal system (existing and/or proposed)
 - i. Utility poles and lines (power and telephone, existing and proposed)
 - j. Location of proposed structures, improvements or activities
 - k. Nearest distance from proposal to river

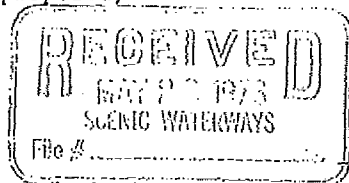


EXHIBIT 5
PAGE 12 OF 17

8. Complete the following where applicable:

A. Proposed building or structure:

1. Exterior dimensions: Length 44' Width 26'-4" Height from natural grade 8'
2. Siding: Material and color Cedarboard, sage green color.
3. Roof: Material and color 235 lb. asphalt shingles, Silver gray.
4. Architectural style Spanish influence.
5. How much clearing of vegetation will be necessary?
None what so ever. Mobile homesite to be used.

6. Does the site need leveling or grading? Just the dirt from crawl
7. If so, how much? space to be leveled. Most of lawn is in.
8. How will excess material be disposed of? none.
9. Attach drawings, photographs, or working plans of the proposed structure which clearly show its exterior appearance on all sides.

B. Road construction: None...

1. Width _____ Length in feet _____
2. Equipment to be used _____
3. % slope _____
4. Type of surface _____
5. How will road be drained? _____
6. How will excess material be disposed of None.

9. If the proposed improvements, change of land use or activities are not fully and clearly described by the foregoing, attach a detailed description.

10. Signature of applicant Robert R. Pass Date May 29, 1974
Builder
11. Signature of legal landowner _____ Date _____

Remember: You should not begin any regulated activity until the State Highway Commission's written approval is obtained. If you have any questions, please get in touch with the appropriate District Highway Engineer (see attached list) or with Robert K. Potter, Scenic Waterways System Coordinator, Parks and Recreation Section, State Highway Division, Salem 97310, telephone 378-6500.

May 28, 1974

Mr. and Mrs. Carl Anderson
11650 S.W. Ann
Tigard, Oregon 97223

Dear Mr. and Mrs. Anderson:

Approval under authority of the Oregon Transportation Commission has been given for your plan to construct a new home in the See Subdivision within the Deschutes River Scenic Waterway.

This approval does not affect any obligations you might have to other persons or agencies and is subject to the following stipulations:

1. Requirements of the Jefferson County Planning Commission shall be satisfied.
2. Requirements of the County Sanitarian shall be satisfied.
3. Work shall commence within one year of approval and exterior work shall be completed within six months after it begins.
4. The Commission shall be notified when work begins and when exterior work is completed.

We hope you will enjoy your new home in this lovely area.

Sincerely,

DGT:jw

cc: Geo. Baldwin
F.B. Klaboe
Bob Lammert
Gary Sund
C.W. Head
Andy Ryan
Bob Potter
Brian Christian
Jefferson County Sanitarian

Ravid G. Talbot
State Parks Superintendent

EXHIBIT 5
PAGE 14 OF 17

OREGON STATE HIGHWAY DIVISION
INTER-OFFICE CORRESPONDENCE
Salem, Oregon
May 28, 1974

FILE:

FROM: Bob Potter, Coordinator
Scenic Waterways System

TO: Dave Talbot
State Parks Superintendent

SUBJECT: Scenic Waterways
Notification #2-69-74
Deschutes River
Jefferson County
Carl Anderson

Mr. Robert Parr, a Madras builder, acting for Carl and Dorothy Anderson, 11650 S.W. Ann, Tigard 97223, has submitted notification of his intent to construct a residence in Township 10 South, Range 12 East, Section 1, See Addition, Jefferson County, within the Deschutes River Scenic Waterway.

The proposed house would replace an existing mobile home in this classified River Community Area adjacent to the Pelton Reregulating Dam. The proposal satisfies the Commission's rules in all respects. I recommend your administrative approval, subject to the following stipulations:

1. Requirements of the Jefferson County Planning Commission shall be satisfied.
2. Requirements of the County Sanitarian shall be satisfied.
3. Work shall commence within one year of approval and exterior work shall be completed within six months after it begins.
4. The Commission shall be notified when work begins and when exterior work is completed.

RKP:jw

Attachments:

1. Parr notification with plot plan and photo
2. Potter letter, 21 May 74
3. Building specifications
4. Plans, two sheets

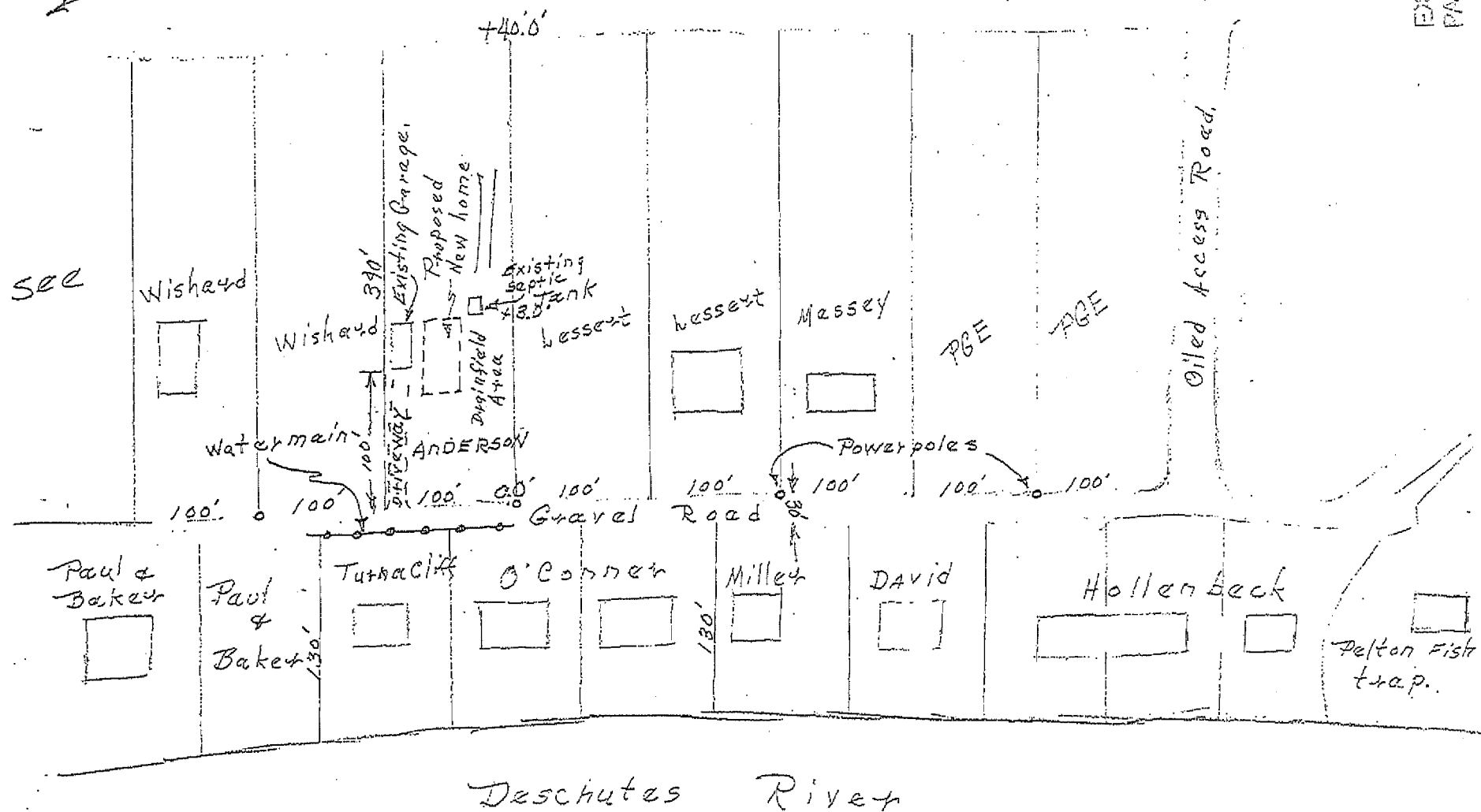
EXHIBIT 5
PAGE 15 OF 17

S.W. 1/4 S.E. 1/4 SEC. 1 T. 10S. R. 12E. W.M.

JEFFERSON COUNTY

(SEE ADDITION)

EXHIBIT
PAGE 16 OF 17



P104

May 21, 1974

Mr. and Mrs. Carl Anderson
11650 SW Ann
Tigard, Oregon 97223

Dear Mr. and Mrs. Anderson:

In order to process your plans to build a new house in the See Addition within the Deschutes River Scenic Waterway we will need certain information in addition to that supplied by Mr. Parr.

Copies of a form for notification of intent are enclosed, with copies of the Scenic Waterways Act (ORS 390.805 to 390.925) and the Commission's rules.

Work should not commence until written approval is received.

Please specify the colors planned for roofing and siding, bearing in mind that white or bright colors are not acceptable.

You may be sure that the matter will be attended to promptly upon receipt of the necessary information. Your cooperation is appreciated.

Sincerely,

Robert K. Potter, Coordinator
Oregon Scenic Waterways System

RKP:jw
Encls.
cc: Robert Parr

EXHIBIT 5
PAGE 17 OF 17

Nick Kaiser
1982

EXHIBIT 6
PAGE 1 OF 26



Department of Transportation
PARKS AND RECREATION DIVISION

525 TRADE STREET SE., SALEM, OREGON 97310

October 12, 1982

MR NICK KAISER
1845 BALBOA
EUGENE OR 97401

Dear Mr. Kaiser:

RE: Deschutes River Scenic Waterway
T6S, R14E, Sec. 1, TL 600

I am pleased to transmit to you the approval for your request to construct a cabin within the Deschutes River Scenic Waterway as described in your notification of intent dated March 26, 1982, and in accordance with the stipulations of your letter of concurrence signed by you on October 7, 1982. This approval has been made under the authority of the Oregon Transportation Commission. If, in the process of developing this proposal, you contemplate changing these plans, you must notify this office immediately.

Consistent with our conversation of October 7, the Division agrees that the measurements referred to in stipulation #5 of the attached letter shall be held as approximate. We understand that the actual location of the new cabin will be about 175 feet west of the river and about 195 feet south of the original cabin location.

This approval does not affect any obligations you might have to other persons or agencies--local, state or federal.

Thank you for your cooperation.

Sincerely,

John E. Lilly
John E. Lilly
Assistant Administrator

JEL:js

cc: Dan Durow, Wasco Co. Planning Dept.
Maurice Ziegler, BLM Prineville

enclosure

EXHIBIT 6
PAGE 2 OF 26



Department of Transportation

PARKS AND RECREATION DIVISION

525 TRADE STREET SE., SALEM, OREGON 97310

August 25, 1982

NICK KAISER
1845 BALBOA
EUGENE OR 97401

Dear Mr. Kaiser:

RE: T6S, R14, Sec. 1, TL 600

Your letter of August 12, 1982, with the enclosed aerial depicting a new location for your cabin on the Deschutes River Scenic Waterway, is appreciated. Your new proposed location for the cabin would still have an impact on the view from the river. While planting some vegetation will help screen the cabin, it will take several years to accomplish adequate screening. We feel that a more central location on the flat and surrounded by landscaping will meet the scenic waterway requirements. This would provide maximum screening and would be less obtrusive on the view from the river. We have enclosed an aerial depicting the location we feel would be acceptable. Give it some thought and get back to us. You may want us to get together again on-site to discuss it further. Should you approve of our suggestion, we would like you to give consideration to these stipulations of approval:

1. All Wasco County Planning Department requirements shall be satisfied.
2. All Wasco County sanitation requirements shall be satisfied.
3. There would be no alteration of existing contours of the natural river bank, and no clearing of riparian vegetation along the river bank.
4. All soils disturbed during the construction of the cabin must be leveled and replanted to grass or appropriate native plant species.
5. The cabin would be located near the center of the lot which would be approximately upstream from the old site 200 feet and approximately 200 feet from the river, as indicated on the enclosed aerial.

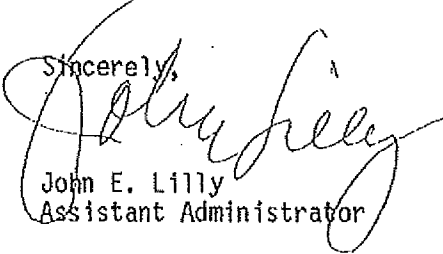
EXHIBIT 6
PAGE 3 OF 26

Nick Kaiser
August 25, 1982
Page 2

6. Adequate landscaping shall be planted and maintained to allow for partial screening of the structure from view from the river within a reasonable amount of time. Choice of landscape materials shall be agreed upon prior to planting. Planting shall take place within 120 days of completion of the cabin. Such plant materials as poplar, Russian olive, and tree of heaven will be considered appropriate.
7. Construction shall begin within one year, and the exterior shall be completed within six months after it is commenced.
8. The Commission shall be notified when construction begins and when the exterior has been completed. Address: John E. Lilly, Assistant Administrator, River Programs, 525 Trade Street, SE, Salem, OR 97310.

If you concur with the above stipulations, please sign the enclosed copy of this letter and return it in the enclosed envelope within 14 days. Should you have any questions concerning this matter, please feel free to contact this office at any time. The telephone number in Salem is 378-5000 (toll free from Portland 229-5700, ext. 85000 or anywhere else in Oregon 1-800-452-7813, ext. 85000).

Sincerely,

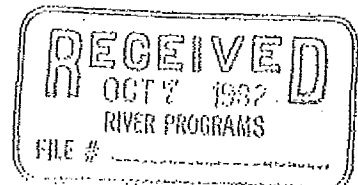

John E. Lilly
Assistant Administrator

JEL:JP:md
enclosures

I concur with the stipulations included in this letter dated

August 25, 1982 Nick Kaiser 10-7-82
(date)

EXHIBIT 6
PAGE 9 OF 26



John Lilly
Nick Kaiser Des R.
Nick Kaiser
1845 Balboa
Eugene, Oregon
97401

John Lilly
Department of Transportation
Parks and Recreation Department
525 Trade Street S.E.
Salem, Oregon 97310

Dear John:

After receiving your letter of May 25, 1982, I felt there should be further investigation on my part to develop a compromise that would fit both my needs and that of the Scenic River Act. I would like to restate the reasons why I feel the house should remain at the current location.

1. The house is at it's current location because of the Homestead Act requirement to build a house on a proved up piece of ground. The homestead house was built fifty years ago to meet the Homestead Act requirements which are still valid today.
2. The only access to my property is by crossing the river. All general activity, whether farming or recreational, would commence by boat, which by necessity, only has access to the river side of the railroad. Utilization of a house on the river side of the railroad would be required to make all or any activities economically and practically feasible.
3. Access by railroad can only be used when large amounts of material and equipment need to be sent to the property.
4. Power access is by crossing the river to only the river side of the railroad.
5. Visability from the river is limited.
6. Wasco County has zoned all my riverfront property as Improved Recreational Property, and I am paying a large tax assessment because of this zoning. *EFK?*

After our discussions, (on the river), I felt confident that we could reach a compromise on the house location. In fact, I believed that prior to our departure, the idea of moving the house back somewhat closer to the railroad property line and improving screening from the river with a planting of indigenous trees and shrubs would be acceptable. I would like to recommend the original proposal with an emphasis on moving the house back and planting specific tree and shrub

EXHIBIT 6
PAGE 5 OF 26

species that will improve isolation from the river. Trees and shrubs to be planted would be Alder and Locust trees and Red Sumac. I will provide you with site drawings of the house location.

I would hope that you would agree to this compromise so that I can proceed with my plans in a timely and feasible manner. This would allow me to utilize my property to the benefit of both the Scenic River Act and myself as a private property owner.

Thank you for considering this request.


Nick Kaiser

EXHIBIT 6
PAGE 6 OF 26



Department of Transportation
PARKS AND RECREATION DIVISION

525 TRADE STREET SE., SALEM, OREGON 97310

July 26, 1982

MR NICK KAISER
1845 BALBOA
EUGENE OR 97401

Dear Mr. Kaiser:

Thank you for your recent letter which I received on July 14 concerning your plans to move your proposed new cabin back away from the river and provide for more landscaping.

While we continue to hope that you would be able to find a location on your property with more topographic screening, I recognize that for various reasons that a site closer to the river may be more convenient for you. We are more than willing to entertain any options that you may want to put before us. In order to help us in our discussion, I have included several copies of an aerial photograph of your property. If you want to locate your alternative house locations on these photos and return them to me, that will speed up the discussion.

Thank you for your reply to our May 25 letter. I look forward to hearing from you at your earliest convenience.

Very truly yours,

John E. Lilly
John E. Lilly
Assistant Administrator

JEL:js

cc: Jim Payne

EXHIBIT 6
PAGE 7 OF 26

Nick Kaiser
1845 Balboa
Eugene, Oregon
97401

August 12, 1982

Mr. John E. Lilly
Dept. of Transportation
Parks and Recreation Division
525 Trade Street S.E.
Salem, Oregon 97310

Dear John:

I would like to respond to your letter of July 26th pertaining to my cabin location. As I mentioned in my phone conversation with you on August 11th, it will be difficult to show you exactly where the cabin location will be on the aerial photo, but I feel the location I have shown is fairly close. I have also indicated on the aerial photo what improved screening from the river might look like.

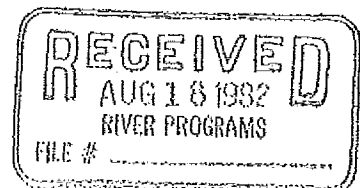
I appreciate your expedience in dealing with the approval process and would hope I could get final agreement soon.

Please contact me if you need more information or a trip to the river to again review the indicated site location.

Nick Kaiser
Nick Kaiser

John - It's gonna take another on-site discussion. I'd like him to move it closer to the center of the flat. What do you think?
John

EXHIBIT 6
PAGE 8 OF 26





STATE OF OREGON
Parks and Recreation Division

INTEROFFICE MEMO

378-5000

TO: The Files

DATE: June 29, 1982

FROM: John E. Lilly
Assistant Administrator

SUBJECT: Nick Kaiser Proposal - Deschutes River Scenic Waterway

On the morning of June 23, I had a telephone conversation with Eric Larsen, an attorney in Gresham (665-1161). Mr. Larsen says that he represents Nick Kaiser. Mr. Kaiser has submitted a notification of intent to rebuild a cabin on his property on the Deschutes River. The cabin was destroyed by fire in 1971. Mr. Larsen called to let me know that he had read over the law and rules. He asked for an explanation of our position on this case. He also said that Mr. Kaiser had provided him with our correspondence. I told Mr. Larsen that, at this point, we did not dispute Mr. Kaiser's right to rebuild his structure. However, our dispute is over the particular location that he has chosen. I told him that it was our opinion that putting the cabin where it would be in full view of the river would substantially impair the natural beauty of the scenic waterway. I went on to say that I felt that placing a structure behind the railroad grade would give it a measure of topographic screening and soften its impact on the river's visual scene.

There was some discussion over the state's timetable in terms of acquisition by condemnation. I told him that our year was running and that we were in the process as defined by law. I gave him a little history on past actions in terms of numbers of notifications reviewed, approved, negotiated, parcels purchased, and condemnation utilized.

He said that he would be visiting the site this weekend with Mr. Kaiser and would probably be getting back to us next week.

JEL/js

cc: Dale Hormann
Jim Payne

EXHIBIT 6
PAGE 9 OF 26





STATE OF OREGON
Parks and Recreation Division

INTEROFFICE MEMO

378-6500

TO: The Files

DATE: June 7, 1982

FROM: James L. Payne, Assistant Manager
River Programs

SUBJECT: Nick Kaiser -- Wasco County Coop, Inc., Services

On June 3, 1982, I had a telephone conversation with the clerk at the Wasco County Electric Co-op in The Dalles, Oregon, about the placement of a power pole and line to the Nick Kaiser property. She researched the files and gave me the following information.

Services were put in but never used in 1965; the end of the contract was 1975. Also, there was a note on the file about the cabin burning in 1976 or 1977. There was a question mark after the 1977. She was not sure when the cabin burned. Records show no usage through 1978, '79, and I believe that the clerk was alluding to the fact they removed the meter sometime during this period.

JLP:kc

EXHIBIT 6
PAGE 10 OF 26





Department of Transportation
PARKS AND RECREATION DIVISION

525 TRADE STREET SE., SALEM, OREGON 97310

May 25, 1982

MR NICK KAISER
1845 BALBOA ST
EUGENE OR 97401

Dear Mr. Kaiser:

Thank you for the opportunity to meet with you and your father on your property located within the Deschutes River Scenic Waterway in Wasco County. Our visit to the site allowed us to get a very clear picture of the possible impact of your proposed house on the scenic waterway. At this time, we are preparing to recommend to the Transportation Commission that your proposed new cabin be approved but only for construction at a site west of the railroad grade. It is our feeling that the placement of the cabin on the site you chose would substantially impact the natural beauty of the scenic waterway. Our primary concern here is for allowing as much topographic screening between the new structure and the river as possible. Placement of the structure behind the railroad grade and away from the river would in our opinion appear to strike a balance between our objective to protect the river's natural beauty and your objectives of developing a new cabin for your own personal recreational or agricultural pursuits. Basically, we do not object to your proposal to construct a cabin on this property; the issue here is exactly where the cabin should be placed.

I would ask that you and your father mull this proposal over. If it is agreeable to you, I believe that I can, following consultation with our legal counsel, give administrative approval to your plan. However, should you not agree, I will submit the issue to the Oregon Transportation Commission for their consideration at either their June or July meeting. At that time, our staff recommendation would be to approve the project only if constructed on the location west of the railroad grade.

I look forward to your response.

Very truly yours,


John E. Lilly
Assistant Administrator

JEL:kc
cc: David Talbot
Dale Hormann

EXHIBIT 6
PAGE 11 OF 26



STATE OF OREGON

Parks and Recreation Division

INTEROFFICE MEMO

378-6500

TO: The Files

DATE: May 24, 1982

FROM: Jim Payne
River Programs

SUBJECT: Nick Kaiser - Deschutes River Scenic Waterway

On May 4, John Lilly and I met with Nick Kaiser and his father to discuss Nick Kaiser's application for a cabin on the Deschutes River Scenic Waterway. The cabin would be situated on the left bank of the Deschutes River at approximate river mile 67. The cabin would be placed on an old cabin site. The structure would be visible from the river. Vegetation would offer no screening for the property. Mr. Kaiser did comment, however, that he would plant some vegetation to help break up the contours of the home. There would be no development of roads. Sanitation would be septic tank. It appears that there is no drainfield, however, connected to the septic tank. Kaiser owns approximately 78 acres. Small portions of it once were farmed, but no agricultural use has been made of the area for some time.

In reviewing the administrative rules for the Deschutes River, this area is classified as a Recreational River Area. "No new structures or improvements which are visible from the river other than those erected or making connection with compatible existing use or those needed for public outdoor recreation or resource protection will be permitted." I think our rules are fairly clear that this cabin would not be allowable as it is not needed for an agricultural use. The cabin can be placed on the east side of the Burlington Northern railroad tracks and be screened from view of the river. Mr. Kaiser does not feel that this would be adequate for his needs and would like to stand by his notification as submitted to this office.

There is some doubt as to the actual burning of the original cabin. It appears that the cabin may have been destroyed before the Scenic Waterway Act went into effect. Mr. Kaiser maintains, however, that the cabin burned the same year that the Scenic Waterway went into effect. If this statement is accurate, this would be a period of about 10 years that there has been no cabin on this site.

After reviewing our rules and reviewing the site, my recommendation from Mr. Kaiser's proposal would be:

1. That the cabin be placed behind the Burlington Northern Railroad tracks out of view from the river.

EXHIBIT 6
PAGE 12 OF 26

File Memo
May 24, 1982
Page 2

2. I would recommend denial of this proposal as submitted based upon definition for the Recreational River Area for the Deschutes River.

I do not think that Mr. Kaiser can substantially prove that his need for an agricultural use facilitates having a cabin on the bank of the Deschutes River.

JP/js

EXHIBIT 6
PAGE 13 OF 26

WASCO COUNTY PLANNING OFFICE

1721 W. 10th STREET

THE DALLES, OREGON 97058

DOROTHY M. BROWN, Director of Planning

PHONE: (503) 298-5169

File
NOTED
J. PAYNE

April 8, 1982

Mr. Jim Payne,
Assistant Manager
Rivers Program
Parks and Recreation Division
525 Trade Street, S.E.
Salem, OR 97310

RE: Township 6 South, Range
14 East, Tax Lot 600 -
Nick Kaiser

Dear Mr. Payne:

Reference is made to your letter of April 1, 1982 regarding the Notification of Intent from Nick Kaiser.

This property, consisting of approximately 78.43 acres, is zoned "A-1" Exclusive Farm Use with a minimum lot size of eighty (80) acres. The density is one dwelling unit per 80 acres. Dwellings in conjunction with farm use are permitted in this zone as long as the following setbacks can be met:

Front Yard: Twenty-five (25) Feet

Side Yard: Twenty-five (25) Feet

Rear Yard: Forty (40) Feet

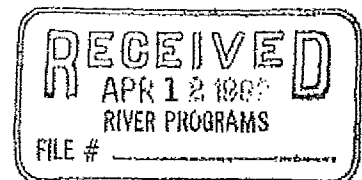
Stream Setback: One hundred (100) feet measured at right angles.

A Conditional Use for a dwelling not in conjunction with farm use can be granted by the Planning Commission upon a demonstration that the use is compatible with farm use and is consistent with the legislative intent of Oregon Revised Statute 215.243 and the County Comprehensive Plan; does not interfere with accepted farming practices on adjacent lands devoted to farm use; does not materially alter the stability of the over-all land use pattern of the area; and is situated upon generally

-1-

EXHIBIT 6
PAGE 14 OF 26

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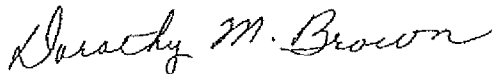
Letter to Jim Payne
April 8, 1982
Page 2

unsuitable land for the production of farm crops, live-stock and wildlife; and complies with other conditions the Planning Commission may consider necessary.

It appears that unless the applicant's residence is in conjunction with farm use, a Conditional Use permit from the Planning Commission would be required.

I trust this is the information you desire, but if you have further questions, please do not hesitate to contact this office at any time.

Sincerely,



Mrs. Dorothy M. Brown
Director of Planning

DMB/dm

EXHIBIT 6
PAGE 15 OF 26



United States Department of the Interior

IN REPLY REFER TO

BUREAU OF LAND MANAGEMENT
District Office
P.O. Box 550
Prineville, Oregon 97754

April 7, 1982

Jim Payne
Dept. of Transportation
Parks and Recreation Div.
525 Trade Street S.E.
Salem, OR 97310

Dear Jim:

The request of Nick Kaiser to rebuild a cabin burned in 1971 appears to meet the objectives along the scenic waterways. We have no additions to this proposal.

Sincerely yours,

Maurice Ziegler
Maurice Ziegler
Area Manager



EXHIBIT 6
PAGE 16 OF 26



Department of Transportation
PARKS AND RECREATION DIVISION

525 TRADE STREET SE., SALEM, OREGON 97310

April 2, 1982

NICK KAISER
1845 BALBOA
EUGENE, OR 97401

Dear Mr. Kaiser:

We have received your Notification of Intent to rebuild a cabin that burned down in 1971 within the Deschutes River Scenic Waterway. Your application is being processed at this time.

Should you have any questions, please feel free to contact me in Salem at 378-6500, or toll free at 1-800-452-7813, extension 86500.

Sincerely,

Jim Payne, Assistant Manager
River Programs

JP:md

EXHIBIT 6
PAGE 17 OF 26



Department of Transportation
PARKS AND RECREATION DIVISION

525 TRADE STREET SE., SALEM, OREGON 97310

April 1, 1982

WASCO COUNTY PLANNING
DOROTHY BROWN
1721 WEST 10TH STREET
THE DALLES, OR 97058

Dear Ms. Brown:

RE: T6S, R14

Enclosed is a Notification of Intent from Nick Kaiser. Mr. Kaiser proposes to rebuild a cabin that was burned down in 1971 within the Deschutes River Scenic Waterway.

Your comments on this proposal are solicited. We would appreciate hearing from you no later than April 15.

Sincerely,

Jim Payne, Assistant Manager
Rivers Program

JP:md

Enclosures

EXHIBIT 6
PAGE 13 OF 26



Department of Transportation
PARKS AND RECREATION DIVISION

525 TRADE STREET SE., SALEM, OREGON 97310

April 1, 1982

ZEKE ZIEGLER
PRINEVILLE BLM
185 EAST 4TH STREET
PO BOX 550
PRINEVILLE OR 97754

Dear Mr. Ziegler:

RE: T6S, R14

Enclosed is a Notification of Intent from Nick Kaiser. Mr. Kaiser proposes to rebuild a cabin that burned down in 1971 within the Deschutes River Scenic Waterway.

Your comments on this proposal are solicited. We would appreciate hearing from you no later than April 15.

Sincerely,

Jim Payne, Assistant Manager
Rivers Program

JP:md

Enclosures



Department of Transportation

PARKS AND RECREATION DIVISION

525 TRADE STREET SE., SALEM, OREGON 97310

April 1, 1982

WASCO COUNTY SANITATION
1721 WEST 10TH STREET
THE DALLES, OR 97058

Dear Sir:

RE: T6S, R14

Enclosed is a Notification of Intent from Nick Kaiser. Mr. Kaiser proposes to rebuild a cabin that was burned down in 1971 within the Deschutes River Scenic Waterway.

Your comments on this proposal are solicited. We would appreciate hearing from you no later than April 15.

Sincerely,

Jim Payne, Assistant Manager
Rivers Program

JP:md

Enclosures

EXHIBIT 6
PAGE 20 OF 28

FIELD OBSERVATION
MAY 8 & 1955
P. 101 (101-101)

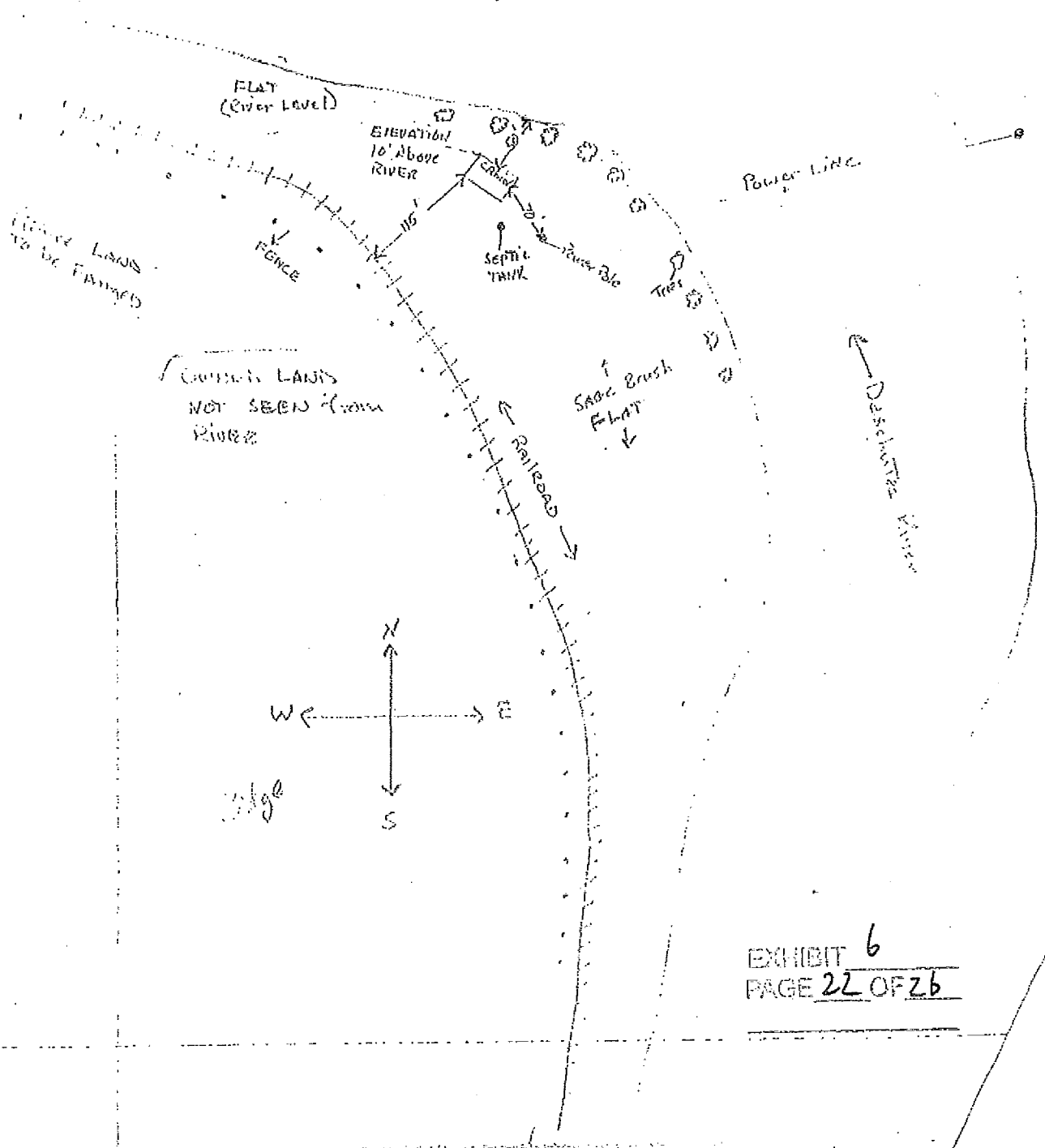


EXHIBIT 6
PAGE 22 OF 26

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GENERAL HIGHWAY MAP WASCO COUNTY OREGON

PREPARED BY THE
OREGON STATE HIGHWAY DIVISION
IN COOPERATION WITH THE
U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
1972

POPULATION OF WASCO COUNTY, 1971 Census
20,000

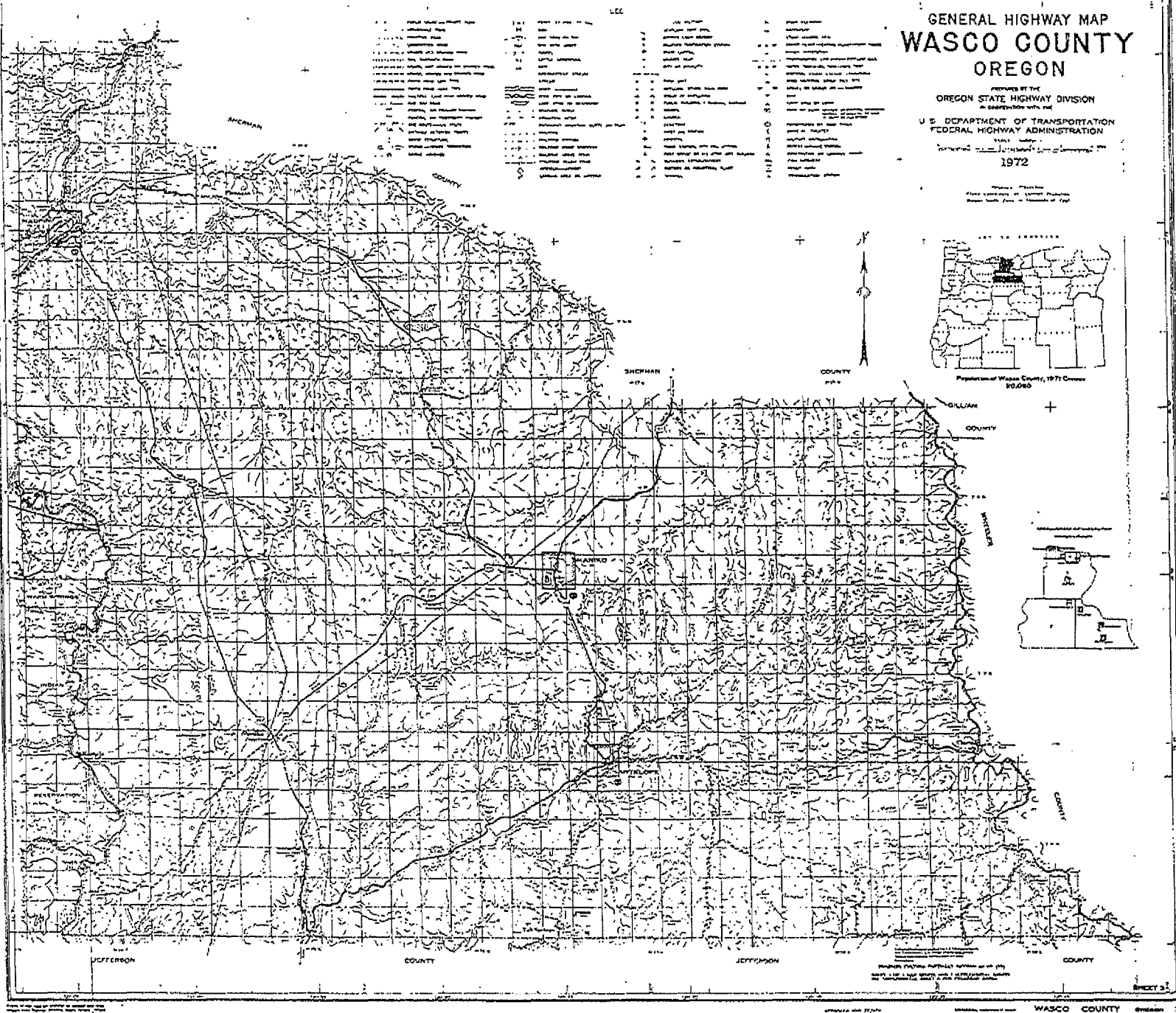
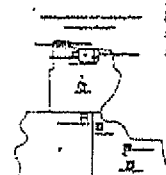
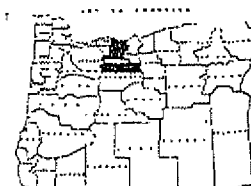
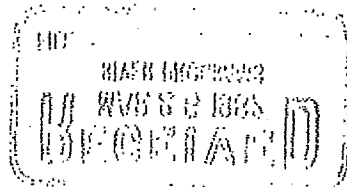


EXHIBIT 6
PAGE 23 OF 26



NOTIFICATION OF INTENT TO MAKE IMPROVEMENTS
CHANGE LAND USE, OR ENGAGE IN REGULATED ACTIVITIES
WITHIN THE OREGON SCENIC WATERWAYS SYSTEM

To process your application promptly, the Oregon Department of Transportation must have complete, detailed information fully describing your plan to make improvements, change land use, or engage in regulated activities within a scenic waterway. Please supply all the information requested below which is in any way applicable and tell us of anything else which may effect the situation.

1. Name NICK KAISER Telephone 687-0977
2. Address 1845 BALBOA Eugene, OR 97401
3. Name and address of legal landowner if different from above:
 - a. Name Same Telephone _____
 - b. Address _____
4. Location of improvement, land use change or activity:
County WASCO Township 6S Range 14 Section 00 Tax Lot 6.00
5. Type of improvement, change of land use or activity proposed and its purpose:
Rebuild Cabin That burned down in 1971
6. When do you want to begin? 7-1-82
How long will it take? 6 months
7. Attach a map showing the following: (The map may be hand-drawn, need not be professional, but accuracy of detail, distances, scale, etc., are important. Appropriate photographs may be helpful.)
 - a. North
 - b. Shape, size and dimensions of the property
 - c. Location of the river and direction of its flow
 - d. Principal features of terrain and vegetation
 - e. Roads, driveways, etc. (existing and/or proposed)
 - f. Existing structures and improvements
 - g. Well or other water supply (existing and/or proposed)
 - h. Sewage disposal system (existing and/or proposed)
 - i. Utility poles and lines (power and telephone, existing and proposed)
 - j. Location of proposed structures, improvements or activities
 - k. Nearest distance from proposal to river

EXHIBIT 6
PAGE 24 OF 26

John Hartung
1999



Oregon

John A. Kitzhaber, M.D., Governor

Parks and Recreation Department
Central Oregon
Area 5

Empire Corporate Park
20300 Empire Ave. Ste. 1
Bend, OR 97701
(541) 388-6211
FAX (541) 388-6391

RECEIVED

NOV 5 1999

November 3, 1999

Mr. John Hartung
4325 NE 21st Avenue
Portland, OR 97211



Re: Notification File No.: 2-162-96
Property Location: T07S R14E Sec.8D TL400


Dear Mr. Hartung:

The Oregon Parks and Recreation Commission grants approval to replace a flood damaged dwelling within the Lower Deschutes River Scenic Waterway. This approval is for the project outlined in your Notification of Intent Application which was verified as complete on October 12, 1999. THIS APPROVAL IS SUBJECT TO THE FOLLOWING CONDITIONS:

1. This approval is based upon the information submitted. Any substantial change in the approved development information will require a new notification.
2. Any permits from Wasco County shall be acquired prior to making any land use change. All Wasco County requirements shall be satisfied.
3. In no case shall debris, silt or other materials will be allowed to reach the waters of the Lower Deschutes River Scenic Waterway.
4. All vegetation between the structure and the river shall be retained and maintained.
5. Construction shall begin within one year (November 3, 2000). If, due to unforeseen circumstances, the project cannot be started by this date, you may request a time extension. A time extension may be granted based on submittal of a revised schedule for completion.
6. The exterior shall be completed within six months after construction has commenced.
7. The Commission shall be notified in writing when construction has commenced and when the exterior has been completed. Notices shall be sent to Rivers Program, Oregon Parks and Recreation Department, at 20300 Empire Avenue #B1, Bend, OR 97701.

This approval does not affect any obligation you might have to other persons or agencies, — local, state or federal.

Sincerely,


Jan E. Houck
Program Coordinator
/jeh

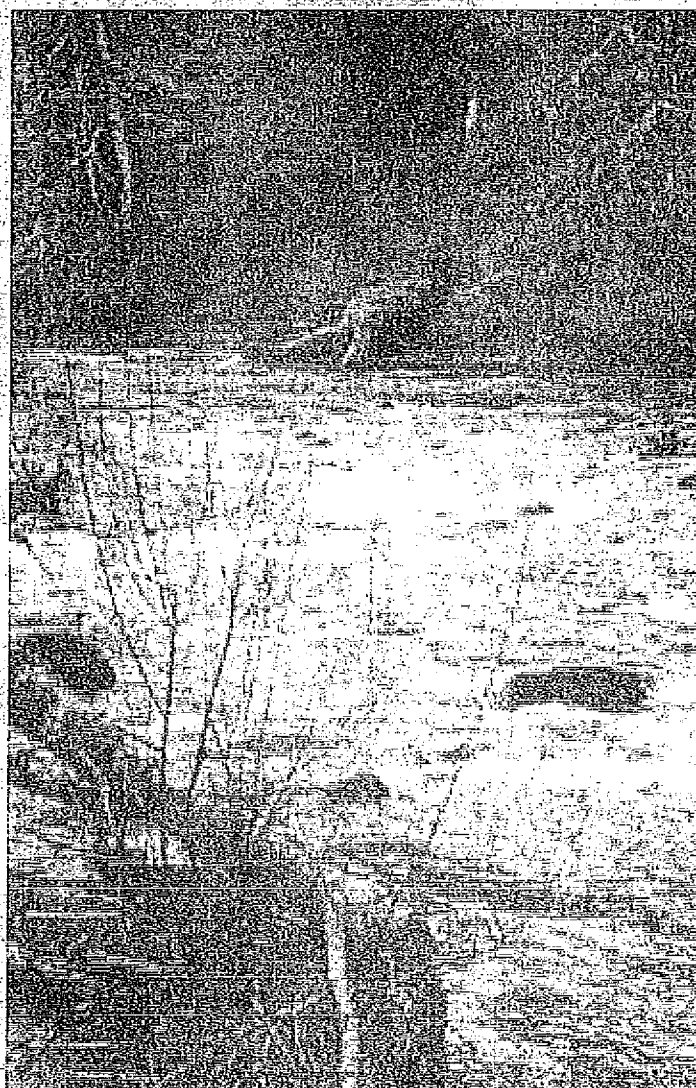
c: Dawn Baird, Wasco County Planning Department

EXHIBIT 6
PAGE 26 OF 26



Nature
HISTORY
Discovery

THE OREGON SCENIC WATERWAYS PROGRAM



A Landowner's Guide

EXHIBIT 7
PAGE 1 OF 23

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THE OREGON SCENIC WATERWAYS PROGRAM *A Landowner's Guide*

Preface

This publication is a guide for private landowners who live and work along Oregon's scenic waterways. It provides a general explanation of the Oregon law governing the development and conservation of the areas designated as scenic waterways (see map on page 22). It describes how the program works, what activities along the state's scenic waterways require approval, and offers a step-by-step process of how to get it all done. Conservation measures that can enhance the value of private property and protect scenic waterways are also suggested.

All activities within Oregon Scenic Waterways must be undertaken according to the Oregon Scenic Waterways Act and its rules. Any questions about your project should be directed to the Oregon Parks and Recreation Department (OPRD) before any activity begins.

Copies of this publication are available from the Oregon Scenic Waterways Program, Oregon Parks and Recreation Department, 1115 Commercial Street, NE, Suite 1, Salem, OR 97301-1002, or call 503-378-4168 x 235. It is also available online at www.oregonstateparks.org.

On the cover: Nestucca River

EXHIBIT 7
PAGE 2 OF 23

THE OREGON SCENIC WATERWAYS ACT

History of the Act

Oregon is blessed with a diversity of river systems that richly contribute to our quality of life. Wise stewardship of the state's natural resources becomes increasingly important as the population along our rivers increases and development quickly follows.

Landowners along an Oregon Scenic Waterway likely feel a special "ownership" of the river. These people, along with many other Oregonians, seek to conserve and protect these rivers for their enjoyment today, and for their children's tomorrow. By a 2:1 margin, the people of Oregon voted to establish the Oregon Scenic Waterways Program in 1970, recognizing that taking responsibility for these "special" rivers and adjacent lands was necessary if they were to remain unspoiled.

Passage of the Scenic Waterways Act, in 1970, immediately set into motion a state protection program for certain rivers in Oregon. The program promotes cooperative protection and wise use of these rivers by federal, state and local agencies, individual property owners and recreation users. This Act is Oregonians' response to protecting the state's beautiful rivers. It tries to achieve a balance between protecting natural resources and granting the wishes of riverbank property owners.

What the Act Does

A major function of the Scenic Waterways Program is to protect the natural and scenic diversity of waterways by encouraging new development to blend in with what is already there. No attempt is made to restore scenic waterways to a pristine condition, and no claim is made to their beauty being present only in a natural, unaltered state. This program applies to all new developments. The ability to fit in and be concealed determines whether or not new development is acceptable.

Under the Act, OPRD must be notified of certain changes that landowners may want to make to their property, and those changes may be subject to review (for details, see pages 10-11).

The Scenic Waterway Program's goals are:

- To protect the free-flowing character of designated rivers for fish, wildlife and recreation. No dams, reservoirs, or impoundments are allowed on scenic waterways.
- To protect and enhance scenic, aesthetic and natural values, recreation, scientific research, and fish and wildlife qualities along scenic waterways. New development or changes of existing uses within a scenic waterway are reviewed before they may take place.
- To protect private property rights. The Act discourages unsightly structures or inappropriate developments that could be a nuisance to neighboring landowners or even depreciate property values. It prohibits pollution and the disturbance of adjacent surface lands by placer mining. It also prohibits the public use of private property without explicit consent of the landowner.
- To promote expansion of the scenic waterways system. The Act sets up a process and establishes criteria for adding new rivers to the system.
- To encourage other state agencies to act consistently with the goals of scenic waterways management. OPRD reviews plans and decisions made by other state agencies for possible impact on the scenic waterways system.

The Act Does Not:

- Restrict the use of existing water rights along scenic waterways. Once a river is designated, developments may remain and are protected.
- Allow public use of private property without consent of the landowner.
- Require the removal of existing development or private property uses.

OPRD administers the Oregon Scenic Waterways Act. Other state agencies, such as the Division of State Lands, and the Oregon Water Resources Department, also have special responsibilities. For a complete list of other agencies involved in the Act, see page 15.

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PAGE 3 OF 23

THE PROGRAM

Scenic Waterways Designation

A river or river segment can be designated as an Oregon Scenic Waterway by one of three ways:

- **By the governor.** After studies by OPRD and favorable recommendations from OPRD and the Water Resources Commission, the governor may designate a scenic waterway. The new designation becomes effective if the Legislature has no objections.
- **Direct legislative action.** The Clackamas River was added to the system by the Legislature in 1975. In

fact, parts of new rivers (and one lake) were added this way in 1983, 1985 and 1987. The governor can veto this legislation at any point.

- **Public initiative.** The voters of Oregon, following a successful initiative campaign, established the program in 1970 by a vote of 2 to 1. In 1988 the system doubled as a result of Ballot Measure 7. The governor or the Legislature cannot veto public initiative.

Scenic Waterways Boundary

A scenic waterway includes the river and its shoreline, and all land and tributaries within one quarter mile (1320 feet) of its banks. Land outside of this isn't in the jurisdiction of the Scenic Waterways Program and isn't affected by the Oregon Scenic Waterways Act.

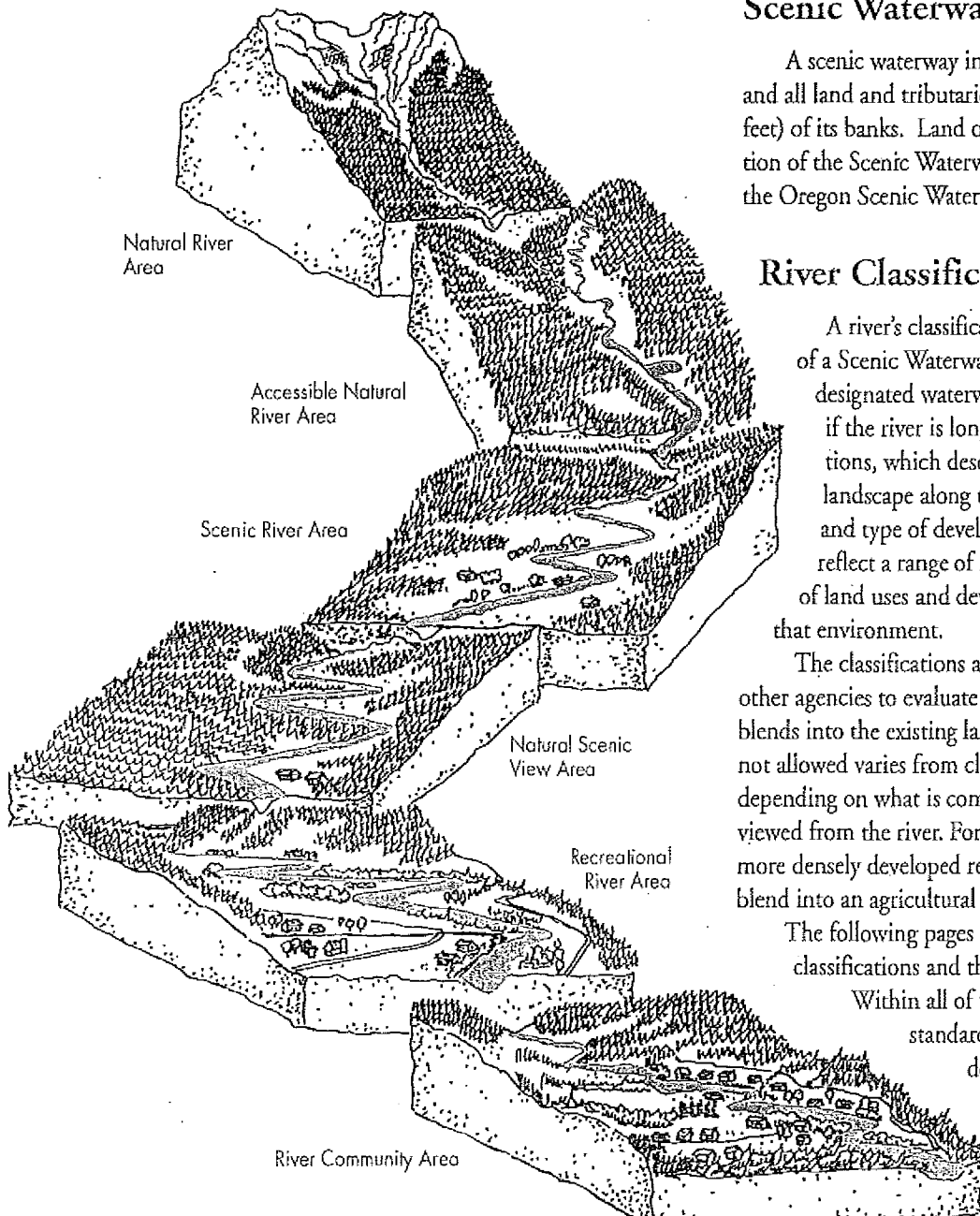
River Classification

A river's classification is an important component of a Scenic Waterway Management Plan. Each designated waterway is given one (or possibly more, if the river is long or complex) of six classifications, which describe the general appearance of the landscape along the river as well as the amount and type of development. These classifications reflect a range of river environments and a variety of land uses and development densities for that environment.

The classifications are also guidelines for OPRD and other agencies to evaluate how well new development blends into the existing landscape. What is allowed and not allowed varies from classification to classification, depending on what is compatible with the existing scene as viewed from the river. For example, uses that fit into a more densely developed residential area will not necessarily blend into an agricultural or forested setting.

The following pages illustrate examples of the classifications and their standards of development.

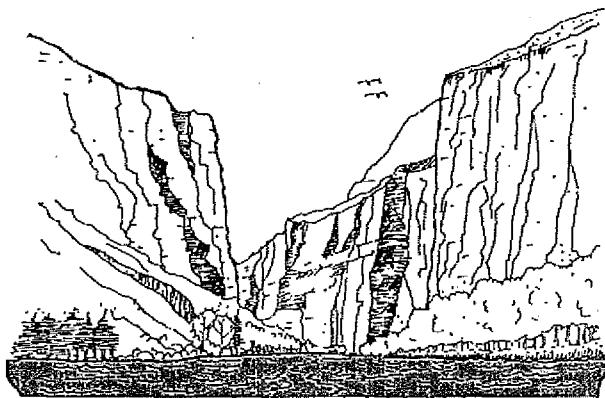
Within all of these classifications, development standards vary depending on existing development and the appearance of the landscape.



PT35

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PAGE 4 OF 23

Natural River Area



A Natural River Area is undeveloped, and pristine or near pristine. It is accessible only by trail, boat or airplane. While the landscape of a Natural River Area can vary from steep-walled canyons to forested foothills, its character is consistent: primitive, very scenic, and conveying a sense of solitude. Evidence of human use in a Natural River Area is usually limited and any structures or indication of settlement are rare or scattered.

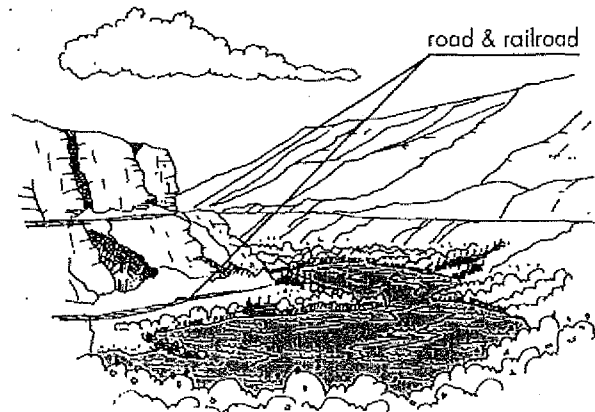
Because a Natural River Area is undeveloped, any change has great potential to affect its natural beauty. A Natural River Area is designed to preserve and protect its primitive natural condition. Stringent standards for concealing all developments from the river are applied. River recreation activities compatible with a primitive setting and with very low visual impact are allowed.

Conditions for Use

A Natural River Area's dominant feature is its natural, primitive character. To assure adequate protection within the corridor:

- All new structures and developments must be completely hidden (screened) from the river, usually by topography (landform).
- Public recreation facilities and natural resource protection measures (e.g., stream bank protection) may be visible from the river only if absolutely necessary. Their appearance must blend into the natural landscape and in no way dominate the view from the river.

Accessible Natural River Area



An Accessible Natural River Area is similar to a Natural River Area in character and lack of development, but an Accessible Natural River Area can be usually reached by road. Typically, the access road is unpaved and passable only during warm, dry seasons.

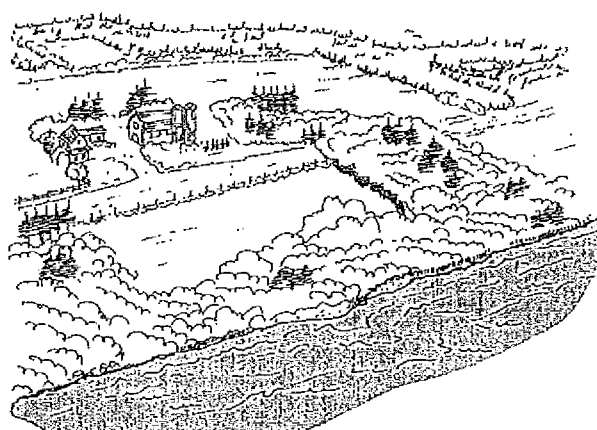
An Accessible Natural River Area is managed like a Natural River Area. The undeveloped, pristine character of the area is protected and preserved, with stringent standards for screening new development that can be seen from the river.

Conditions for Use

To protect and preserve the natural character of the view from the river:

- All new developments must be completely screened from the river, usually by topography.
- Existing roads cannot be extended or improved.
- Public recreation facilities compatible with the undeveloped, primitive condition of the landscape are allowed.

Scenic River Area



A Scenic River Area may have nearby development, but for the most part is undeveloped and natural appearing. The dominant human influences in a Scenic River Area are

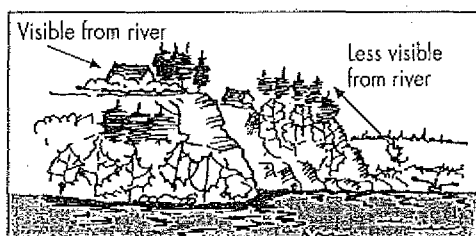
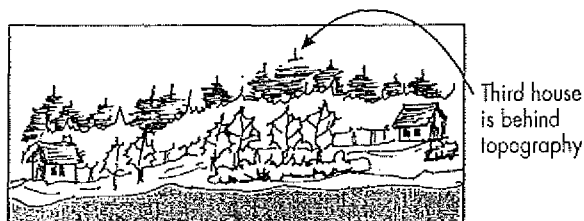
agriculture and grazing. Roads may be nearby, but are lightly traveled and not easily seen from the waterway. Power lines may be visible.

A Scenic River Area is managed to protect the scenic quality created by the combination of agricultural and natural features. Agriculture and recreation activities compatible with existing land uses are allowed.

Conditions for Use

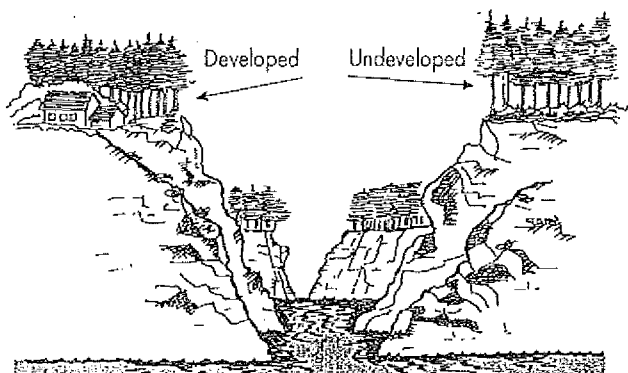
In general, certain structures and improvements can be visible from the river, but they must:

- Be related to agricultural, residential or recreation activities already visible.
- Meet the general design standards for building (height, color and materials).
- Meet local zoning requirements or density standards* established by the waterways program.



* An example of a density standard exists along the Rogue River. Only two residences per mile may be visible along each bank of its Scenic River Area. If the density standard is already met, new structures must be screened from view by topography. If only one house is visible, the new house may be seen, but must meet the uniform standards for color, wall and roof materials, and height.

Natural Scenic View Area



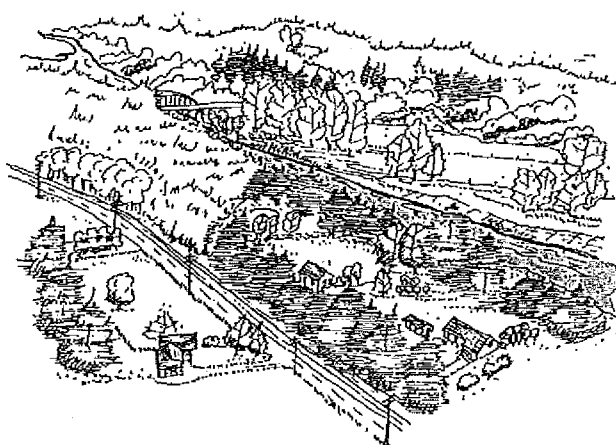
A Natural Scenic View Area contains one undeveloped and largely pristine riverbank while the opposite bank is more developed.

Conditions for Use

Standards for development within a Natural Scenic View Area are similar to those for a Natural River Area or Accessible Natural River Area:

- New development along the waterway must be completely screened from view from the river, usually by topography. Vegetative screening of new development may be allowed in a forested area.
- Existing roads within a Natural Scenic View Area usually cannot be improved or extended.
- Public recreation facilities and resource protection measures can be visible, if their appearance blends in with the natural character of the surroundings.

Recreational River Area



A Recreational River Area contains mixed agricultural, residential and commercial development along the shore and adjacent lands. A Recreational River Area is often rural or pastoral in character and easily accessible from local roads.

A Recreational River Area is managed to protect the view from the river, allow development consistent with existing land uses and provide for a wide range of recreational activities within the scenic waterway.

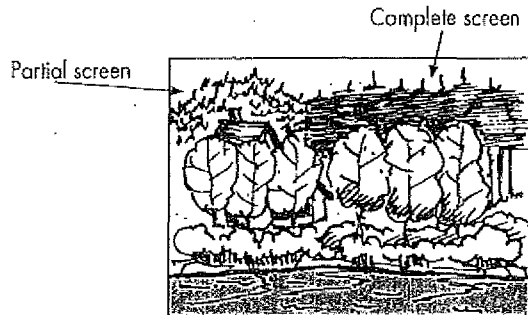
Conditions for Use

In general:

- Development is allowed if it does not interfere with the natural scene from the river. On scenic waterways where the natural landscape is dominant, such as the Deschutes River, this means that development other

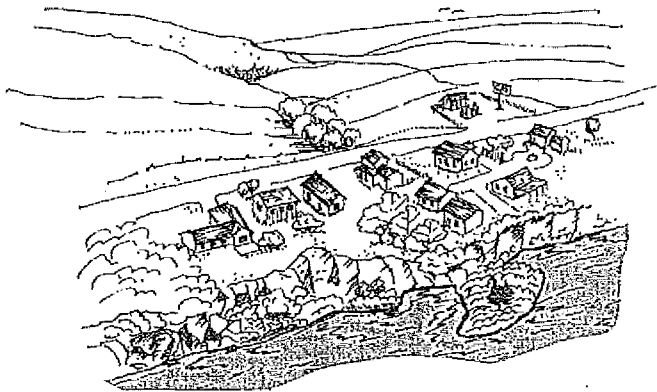
EXHIBIT 7
PAGE 6 OF 23

than that needed for agricultural, recreational or resource protection uses is not allowed to be visible and requires complete screening. On other rivers where development is visible and dominant, development may be visible if it meets certain requirements for screening, density or use. For example, on the Rogue River, agricultural, commercial or residential structures can be visible from the river but are limited to four per mile per bank, and must meet the uniform standards for color, material and height.



Existing uses, public recreation facilities and natural resources protection projects can be seen from the river. They must blend into the natural scene as much as possible.

River Community Area



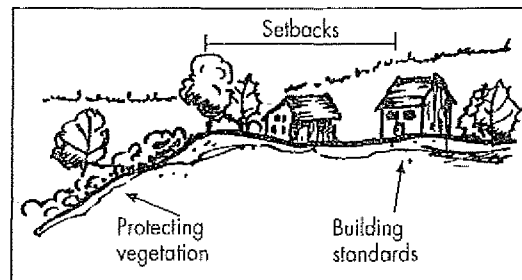
A River Community Area is a densely developed area, such as a residential tract or platted subdivision.

A River Community Area is managed to allow development compatible with local zoning, and must blend into the natural character of the surrounding landscape. This also means protecting existing riparian vegetation, and encouraging activities that protect the resources or improve the landscape.

Conditions for Use

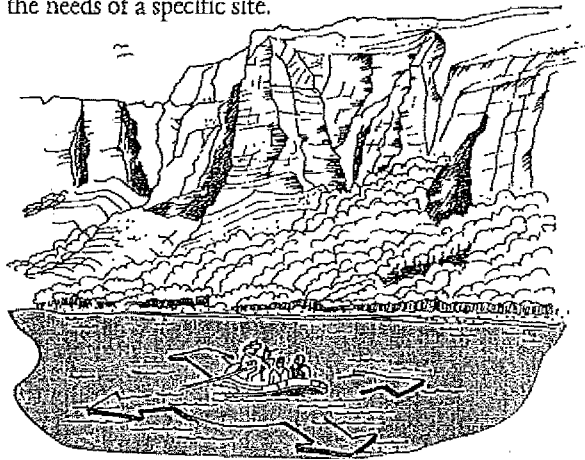
In general:

- Development compatible with existing local zoning is allowed.
- New improvements may be visible from the river if they meet the design standards (height, color, materials). A density standard may exist for the number of structures visible from the river.
- OPRD encourages landowners to protect riverbank vegetation.



RULES OF LAND MANAGEMENT

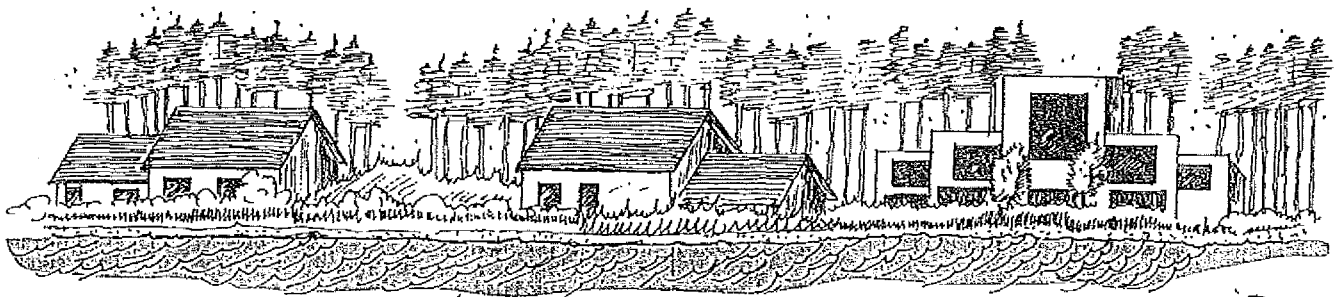
Part of managing a scenic waterway is adhering to performance and design standards. These standards, called "Rules of Land Management," apply to all uses of land and new development within any classification. The standard is tailored to fit the individual character of the river landscape and the types of uses found within its classification. In this way, the standards respond to the natural and visual features of a particular waterway and to the needs of a specific site.



The view from the river occurs in all directions. Its protection is important in evaluating new development.

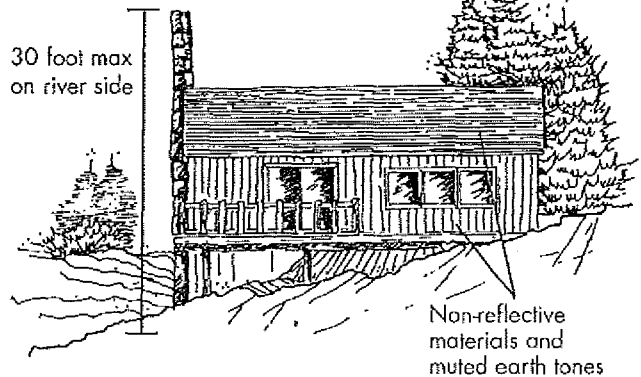
Compatibility

Much of the Scenic Waterways' value depends on the beauty of their settings. Changes to riverbank settings either visually preserve or visually degrade the existing beauty of the landscape. Careful planning allows new development to conform to the natural setting by blending it into the existing environment. For example, painting a new house dark green helps it become invisible against a conifer forest backdrop. New activities can therefore fit into their surroundings with skill and care.



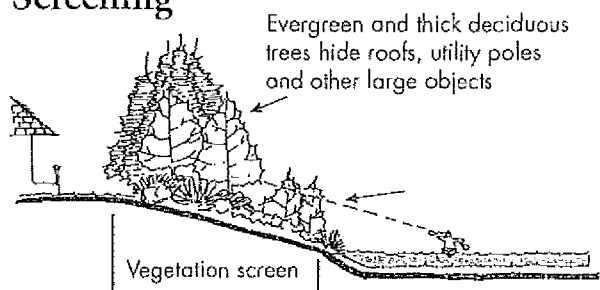
The far right building would fit in with adjacent structures if it were similar to them in scale, materials, color and style.

Buildings

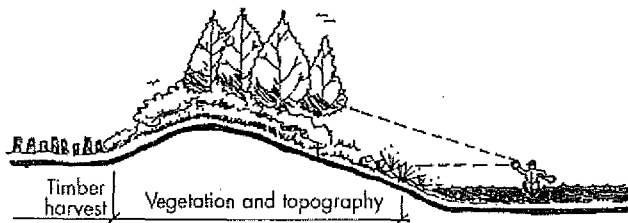


All new structures visible from a scenic waterway are subject to specific design criteria. For example, structures cannot be taller than 30 feet on sides facing the river. Large exterior surfaces, like roofs, must be non-reflective, and finished in muted colors that blend in with the surroundings. Construction disturbance should be minimal, and re-vegetation is always an important post-construction measure.

Screening

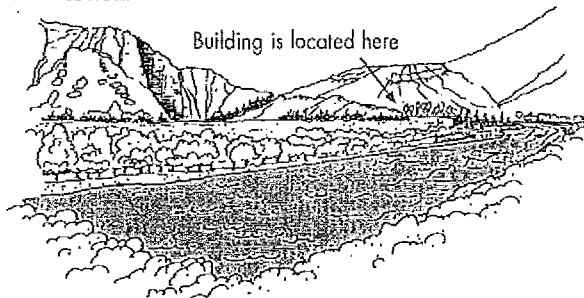


Screening standards are designed to camouflage structures and new uses from a scenic waterway. The effects of development can be dramatic: a new house in a heavily-forested area can be highly visible if all vegetation on the site has been cleared away. Roads, telephone poles and buildings show up very easily in desert areas.



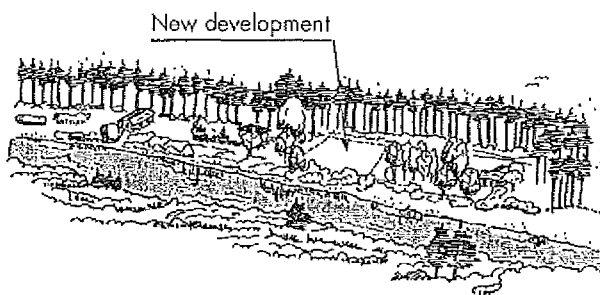
Screening standards require using vegetation and topography (landform) to conceal structures and certain uses from the waterway's view. Structures seen from the river must "... be located in such a way that topography and natural vegetation make them as inconspicuous as reasonably practicable, and in no case obtruding on the view from the river." (OAR 736-40-035(7)).

Because of their obvious visual intrusion, most signs and all advertising are not allowed. Specifically, "no signs or other forms of outdoor advertising that are visible from waters within a scenic waterway shall be constructed or maintained." (OAR 736-40-035(11)). Property protection signs such as "No Hunting" or "No Trespassing" are allowed.



Topography or landform, like vegetation, can be used to conceal structures and activities.

Land Uses



Performance standards and rules require certain conditions for activities such as tree cutting, mining, logging, road construction and utilities installation. For example, all new roads or utilities must be located "... to minimize impairment of the natural beauty of the scenic waterway." Also, "... it will be desirable to place electrical and telephone lines underground wherever reasonably practicable." (OAR 736-40-035(6)(b)). All timber harvest proposals must include a plan detailing "timber to be cut, road locations, logging methods, slash cleanup, soil stabilization, re-vegetation measures and any "other details as the Commission may require." (OAR 736-40-035(1)).

Water Rights

Because all unappropriated water belongs to Oregonians, the law requires that any person taking water from a stream must have a water right. A Scenic Waterway designation has no impact on current water rights. However, the Scenic Waterways Act outright prohibits dams, reservoirs, or impoundments.

If you need to obtain a new water right, the Oregon Water Resources Department must assure that the new out-of-stream use will not diminish the flows necessary to support the fish, wildlife or recreational uses of the river. Questions about water rights or water use should be directed to the local water master or the Oregon Department of Water Resources (503-378-8455).

Placer Mining

Placer mining is the "process of extracting minerals from a placer (gravelly soil) utilizing mechanized or hydraulic equipment". A permit from the Division of State Lands is required to engage in recreational placer mining. The Scenic Waterways Act prohibits placer mining on waters within scenic waterways other than recreational placer mining.

Recreational placer mining must not hurt fish, fish passage or habitat. It also must not interfere with recreation.

Recreational Prospecting

Recreational prospecting is permissible in scenic waterways without a permit. Recreational prospecting is limited to non-motorized methods and the movement or alteration of small quantities of gravel. Call your local district fish biologists (listed under Oregon Department of Fish and Wildlife), the Division of State Lands (503-378-3805) or the Oregon Water Resources Department (503-378-8455).

Recreational prospecting is not allowed at any site where fish eggs are present.

Existing Uses and New Development

The classification system and performance and design standards apply to new development along scenic waterways only. All uses that existed along a river before it was designated as a scenic waterway are not affected, and existing uses are allowed to remain. Activities that maintain the condition of the existing use are also allowed to continue. However, any change to the use, whether new development, replacement or alteration, must meet the standards set out in the management plan for each scenic waterway.

NOTIFICATION PROCESS

OPRD must be notified of certain activities that change your existing property. These are activities that noticeably alter or modify a part of your property, such as new building construction, building replacement, land clearing, road construction, timber harvesting, etc. For information on additions to existing structures, contact OPRD.

You do not need to notify OPRD about activities that continue the use of your property without major alteration. These include repainting your house or outbuilding in their existing color, fence construction, some landscaping, some garage construction, cutting dangerous trees, or selling your property.

How to Notify OPRD of Your Project

Step 1

- Contact your local county planning or zoning office. They will explain the local regulations and tell you what permits you need. Local regulations vary from county to county and can be more stringent than the Scenic Waterways requirements. Obtaining a local land use or building permit is not the same as getting scenic waterway approval for improvements or changes.

Step 2

- Design the project to best fit into the area's scenic beauty. Be sure to consider the effect the proposed project will have when seen from the river.
- Obtain the notification form from OPRD. (See reference section, page 1)
- Fill out the form.
- Complete the required drawings.

Step 3

- Return the notification form and required drawings to OPRD.
- Be sure to complete supplementary forms for timber harvest and salvage if these activities are part of your proposal. These forms are also available from OPRD.

Step 4

- Wait until OPRD takes action on the proposal. Your project cannot begin until you receive written approval from OPRD, which usually takes about eight weeks.

Even though OPRD can legally take up to one year to review a proposal and take formal action, most proposals are handled in six to eight weeks. Remember, approval from OPRD and other permitting agencies is required before a project can begin.

If you are at all unsure about your proposal, contact OPRD. If written notification is required, the process is simple and there is no fee. Instructions for completing the notification forms are included on the form. If your proposal doesn't need OPRD approval, you will be contacted quickly.

For sample maps and applications see pages 1-4 in the reference section.

Project Review

In reviewing a project, an OPRD employee may call for information or arrange to visit the site. Other agencies may be asked to look at the project.

After thorough review, OPRD will take one of three actions on the proposal:

1. A proposal is approved outright if it doesn't affect the natural beauty of the scenic waterway and meets the specific management rules for the river classification for which it is proposed. OPRD notifies the landowner in writing with any conditions, such as screening. This approval process generally takes six to eight weeks.
2. OPRD may determine that a proposal would harm the scene when viewed from the river. OPRD will then work with you to find a mutually acceptable modification to the proposal, which usually involves a modest change to the original plans. This process sometimes takes longer than the normal six to eight week period.
3. If negotiations fail to reach a conclusion acceptable to OPRD's standards and the landowner's plans, OPRD may deny the application. If the project is denied, OPRD can purchase the property outright for fair market value, or trade or buy an easement from the landowner. Condemnation, though legal, is rarely used. If OPRD does not purchase the land or reach an agreement with the landowner within one year of the original proposal, the landowner may proceed with the original proposal.

Acquisition of Property

The focus of the Scenic Waterways Program is to manage by negotiation and compromise. Acquiring private property by condemnation is a potential course of action, but only under these very special circumstances:

- OPRD rejects a proposal that will harm the natural beauty of a scenic waterway. OPRD can then purchase or exchange property, or purchase a scenic easement.
- A property owner is developing land in a way that damages the natural beauty of the river, or violates the river management plan, notification requirements or conditions of project approval.

In certain special cases, OPRD may acquire properties or easements that have special scenic, natural or recreational qualities. These purchases are made only from willing sellers.

If someone is violating scenic waterways standards, please call OPRD.

Special Permits for Riverbank Work

Very strict standards apply for working in the river or on the bank. The State Land Board must approve any project that involves placing fill, removing material or any other project where the riverbank is altered in any way.

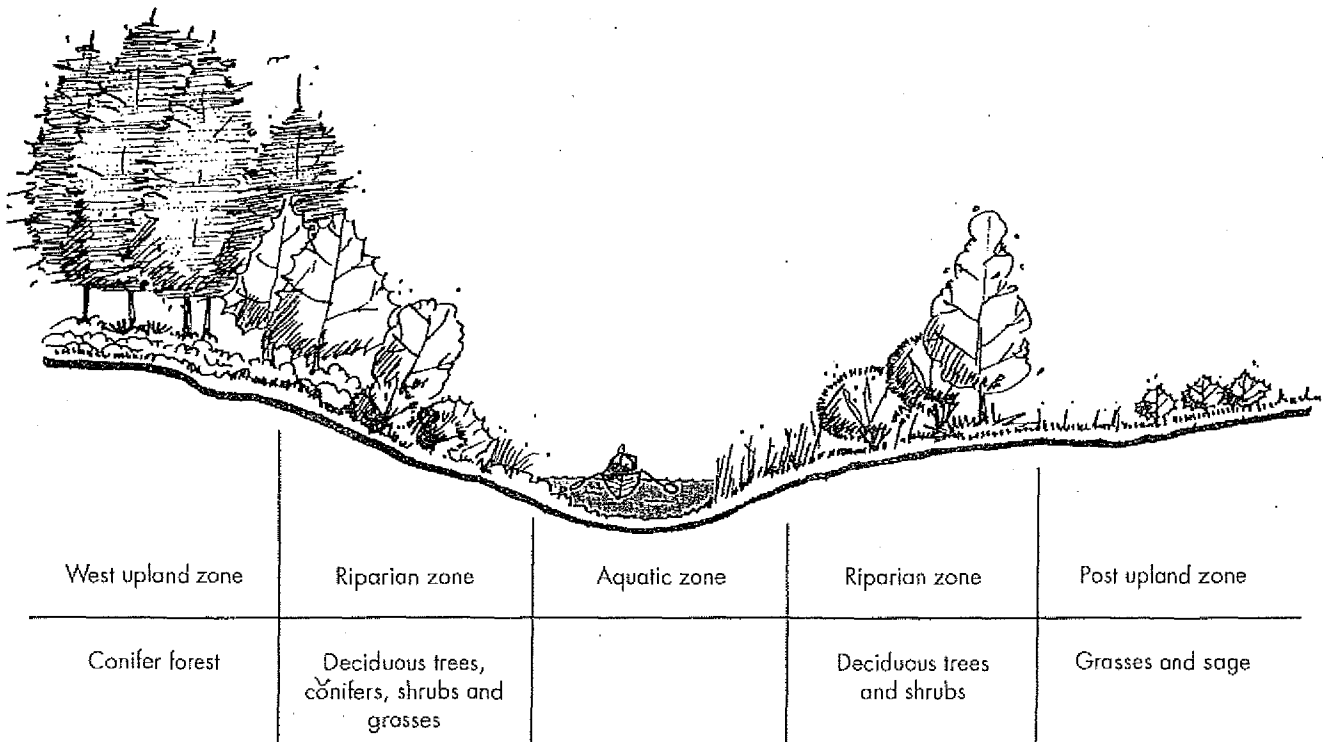
The Division of State Lands (DSL) issues permits for removal, filling or altering more than 50 cubic yards of material along state waters. However, removing, filling or altering **any amount** of material along a scenic waterway requires a permit.

OPRD works closely with DSL to assure that new work meets Scenic Waterway standards. Most permits are approved, sometimes with conditions requiring re-vegetation and scheduling to avoid recreation or fishery conflicts. Maintaining the natural beauty of the river is a consideration, and erosion control measures such as bank shaping or re-vegetation are favored over rock riprap. Car chassis, asphalt, and broken concrete must never be used to stabilize the stream bank. Typical projects requiring Removal-Fill permits include constructing bulkheads, placing riprap, erosion control projects involving grading or re-vegetation, removing gravel, filling, or pipeline crossings.

Copies of the Oregon Removal-Fill Law, rules for administering the law, and information on applying for a permit are available from the Division of State Lands. The county planning office, Soil and Water Conservation District Office, or local Oregon Fish and Wildlife representative may also be able to help.

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CONSERVING RIVERBANKS



The Scenic Waterways Act was implemented to protect special rivers in Oregon. Screening development is not the only way to protect a river though. The following section talks about other efforts that can help preserve our beautiful rivers in the years to come.

Preserving Riparian Zones

Riverbanks vary a great deal in character depending on their location and the amount of natural or human disturbance that has occurred along them. Some banks have well-developed areas of native, water-dependent vegetation adjacent to the river, which are called riparian zones. In western Oregon, grasses, shrubs and deciduous trees between the river and conifer forests characterize riparian zones. In eastern Oregon, riparian zones contain grasses, forbs and sedges, woody shrubs and trees, which are easy to distinguish from the drier vegetation on higher ground.

Regardless of their location, riparian zones are extremely important. They provide critical food, cover and water for fish and wildlife. They form important migration corridors for wildlife along rivers, maintain riverbank stability, reduce erosion, protect water quality and buffer the effects of flooding. Riparian zones are attractive places and contribute to the overall appearance of riverfront property.

The riparian zone is special and distinct. It occupies a small area and possesses a climate, water temperature, soil makeup and plant arrangement very different from the land surrounding it. The simplest and most effective technique for protecting the riparian zone is to leave natural vegetation, soil, and debris such as leaves and fallen trees undisturbed. The area will be less vulnerable to damage, and a home will be protected from flooding, storms and sun glare. An undisturbed riparian zone also provides privacy from the public using the river.

The Oregon Plan

The Oregon Plan began as a state effort to restore salmon, but has turned into a cooperative effort of state, local, federal, tribal, private organizations and people to restore the habitats of all native Oregon fish. In 1997, the Legislature established the Oregon Plan and approved funding to begin the task of restoring native fish populations to productive, sustainable levels.

The Oregon Plan currently has two parts: the Coastal Salmon Restoration Initiative (CSRI), the original effort to restore Coho Salmon, and the Healthy Streams Partnership, which focuses on improving Oregon's water quality. The first supplement to the Oregon Plan, and the next step

in this process, is a steelhead restoration effort.

Thus far, Oregon Plan efforts have been successful. Water conservation programs are up and running, pollution control is receiving funds, and measures are being taken to preserve riparian zones. None of these efforts makes a difference unless you do your part, though. For this program to be successful and achieve long-term results, everyone needs to be committed to helping.

The Soil Conservation Service reached through the local Conservation District or the Cooperative Extension Service can help you identify ways to protect your property's riparian zone.

Planning Riverfront Activities

Land adjacent to a riverbank is valuable for a variety of activities, but they can harm the riverbank because of its vulnerability to trampling, soil compaction, erosion, loss of vegetation, and degradation of water and scenic quality. The following is a list of activities that can be harmful to the scenic waterway environment.

Roads. Whether logging, farming, building a house or recreation site, locating all roads away from the river is one of the most important actions you can take.

Timber Harvesting. Practice selective harvesting, directional felling and use "minimal impact" equipment to create the least amount of disturbance.

Building Construction. Avoiding building construction along the riverbank prevents erosion and decreases the chance of personal property loss during a flood.

Recreation Facilities. Locate campgrounds, recreation buildings, picnic table, trails and other facilities away from the riverbank to prevent erosion and trampling.

Farming. Keep a wide vegetation strip between farmland and riverbank to avoid losing valuable topsoil and cropland.

Grazing. Keep animals either away from the river, or build a fence in the riparian zone to keep animals in one area.

Garbage. Keeping the riverfront free of trash, litter and debris is important to the health of the river and is vital to protecting its beauty.

Historic and Archaeological Artifacts

Native Americans and early settlers of Oregon often camped or settled along Oregon's rivers. Although many of these sites have long been abandoned, artifacts such as arrowheads, scrapers, pottery shards, nails, and farm implements are sometimes unearthed by wind or erosion, or by land development.

If you find an artifact or other object of historical significance, please call the State Historic Preservation Office (503-378-4168 x. 232). They will help determine the importance of the discovery and suggest how to preserve it.

On Native American lands, historically significant sites and artifacts such as petroglyphs often have special importance. On public lands, they are given special protection. Remember: it is a violation of state and federal law to remove, destroy, or deface petroglyphs, arrowheads, or other artifacts found on public lands.

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NATIONAL WILD AND SCENIC RIVERS

Congress established the National Wild and Scenic Rivers System in 1968 to preserve the nation's "outstandingly remarkable, free-flowing rivers." As in Oregon's scenic waterway legislation, the federal law emphasizes protection of scenic, historic, natural and recreational qualities.

More than 40 of Oregon's rivers boast National Wild and Scenic status, with 20 of those designated as state scenic waterways segments also. The Rogue was among the eight "charter" wild and scenic rivers.

National Wild and Scenic River boundaries may not exceed an average of 320 acres per mile, but can vary in distance from a river to include all special "outstandingly remarkable values." When private property in the Oregon Scenic Waterway corridor also falls within the federal river boundary, the land is subject to state regulations. Federal agencies can control the uses of private property unless by purchasing it, or through purchased conservation easements.

A key difference between the two systems involves classification. A National Wild and Scenic River is divided into three classifications: Wild, Scenic or Recreational. Congress establishes these categories. The Oregon Scenic Waterways uses six classifications: Natural River Area, Accessible Natural River Area, Scenic River Area, Natural Scenic View Area, Recreational River Area and River Community Area.

Federal

- Boundary not to exceed average of 320 acres per river mile. Must be established within three years of designation. May vary in distance from river.
- Control of private lands limited to purchase of easements or by "fee simple." No condemnation or fee acquisition can occur if more than 50% of a segment is publicly owned.
- Land activities on federal lands controlled by classification and management plan.
- Potential exists for regulation of upstream federal uses.

- Some interest in stream flows for recreation, fish and wildlife.
- Timber harvest highly restricted on federal lands in "Wild" classified sections; less so on "Scenic" and "Recreation" sections.
- New mining claims banned only in "Wild" sections.
- No new controls authorized over existing valid patented mining claims.
- No federal assistance or permits provided to new dam projects.
- BLM or U. S. Forest Service recognized as lead agency, depending on ownership.

State

- Boundary 1/4 mile on either side of the scenic waterway.
- Stricter control exercised over in-stream fill and removal activities.
- Condemnation authority authorized, but rarely used.
- Some regulation of land use activities authorized by issuing permits.
- Some control over new water rights both within and upstream of scenic waterway.
- Strong concern for preservation of upstream flows for fish, wildlife and recreation.
- Timber harvest regulated.
- Placer mining banned, but allows some kinds of recreational placer mining.
- Licensing or approval of dams by state prohibited.
- State Parks recognized as lead agency, with responsibilities also assigned to Division of State Lands and Water Resources department, and to local government.

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REFERENCE

Administration and Assistance

The Oregon Scenic Waterways Program is administered by OPRD in accordance with ORS 390.805-390.940.

Administrative rules (OAR 736-40-005 to 736-40-095) have been adopted to govern the program.

The department operates the Scenic Waterways Program through a notification and review process (see page 10).

OPRD welcomes the opportunity to work with anyone living within the boundaries of a scenic waterway. Staff will answer questions, review plans, explain scenic waterway standards, make suggestions on how to make a proposal work and refer landowners to other sources for more information.

Management Partners

By virtue of the Scenic Waterways Act and other laws applying to the use of lands/water along Oregon's rivers, OPRD has several management partners. Each of the following agencies has regulatory authority affecting a scenic waterway, and each provides technical information to help enhance and protect the natural and scenic value of private property.

Oregon Parks and Recreation Department
(503) 378-4168 ext. 293
<http://www.oregonstateparks.org>

Oregon Water Resources Department
(503) 378-8455
<http://www.wrd.state.or.us>

Division of State Lands
(503) 378-3805
<http://statelands.dsl.state.or.us>

Oregon Department of Fish and Wildlife
(503) 872-5255
<http://www.dfw.state.or.us>

Oregon Department of Environmental Quality
(503) 229-5696
<http://www.deq.state.or.us>

Oregon State Department of Forestry
(503) 945-7475
<http://www.odf.state.or.us>

Local Governments

City and county governments issue local permits and provide emergency services and law enforcement.

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**OREGON PARKS AND RECREATION DEPARTMENT
NOTIFICATION OF INTENT TO MAKE IMPROVEMENTS,
CHANGE LAND USE, OR ENGAGE IN REGULATED ACTIVITIES
WITHIN THE OREGON SCENIC WATERWAY SYSTEM**

To process your application promptly, the Oregon Parks and Recreation Department must have completed, detailed information fully describing your plan to make improvements, change land use, or engage in regulated activities within a scenic waterway. Please supply all the information requested below which is in any way applicable and tell us of anything else which may affect the situation.

1. Name _____ Telephone _____

2. Address _____

3. Name and address of legal landowner if different from above:

a. Name _____ Telephone _____

b. Address _____

4. Location of improvement, land use change or activity:

County _____ Township _____ Range _____ Section _____ Tax Lot _____

5. Scenic Waterway _____

6. Type of Improvement, change of land use or activity proposed and its purpose:

7. Logging Proposal - Please complete Timber Harvest or Salvage Activities supplement sheet.

8. When do you want to begin? _____

How long will it take? _____

9. ☐ Attach an 8½" x 11" map showing the following: (The map may be hand-drawn, need not be professional, but accuracy of detail, distance, scale, etc. is important. Appropriate photographs may be helpful.)

☐ a. North

☐ b. Shape, size and dimensions of the property.

☐ c. Location of the river and direction of its flow

☐ d. Principal features of terrain and vegetation

☐ e. Roads, driveways, etc. (existing and/or proposed)

☐ f. Existing structures and improvements

☐ g. Well or other water supply (existing and/or proposed)

☐ h. Sewage disposal system (existing and/or proposed)

☐ i. Utility poles and lines (power and telephone, existing or proposed)

☐ j. Location of proposed structures, improvements or activities

☐ k. Nearest distance from proposal to river

10. Complete the following where applicable:

A. Proposed building or structure:

1. Exterior dimensions: Length _____ Width _____ Height from natural grade _____

2. Siding: Material and Color _____

3. Roof: Material and Color _____

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4. Architectural style: _____
5. How much clearing of vegetation will be necessary?

6. Does the site need leveling or grading? ☐ Yes ☐ No
7. If so, how much? _____
8. How will excess material be disposed of?

- ☐ 9. Attach drawings, photographs or working plans of the proposed structure which will clearly show its exterior appearance on all sides. Documentation should not be larger than 8½" x 11" in size.

B. Road construction:

1. Width _____ Length (in feet) _____
2. Equipment to be used _____
3. Percent of slope _____
4. Type of surface _____
5. How will the road be drained?

6. How will excess material be disposed of?

11. ☐ If the proposed improvements, change of land use or activity are not fully and clearly described in by the foregoing, attach a detailed description.

12. Signature of applicant _____ Date _____

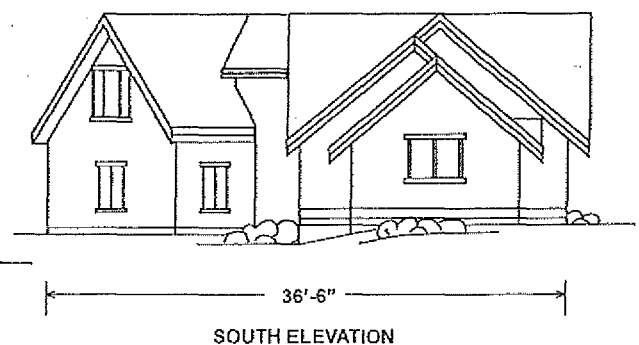
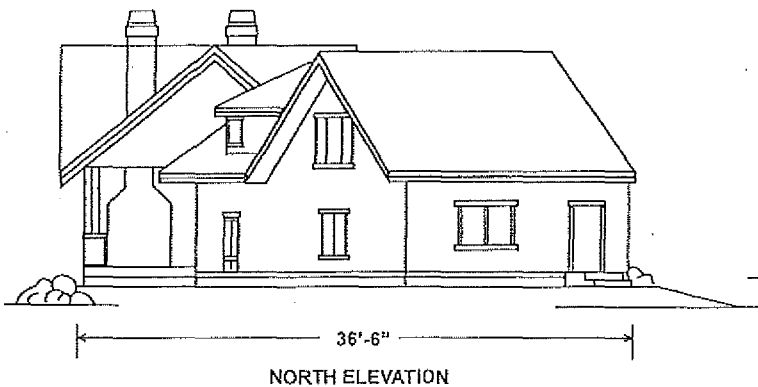
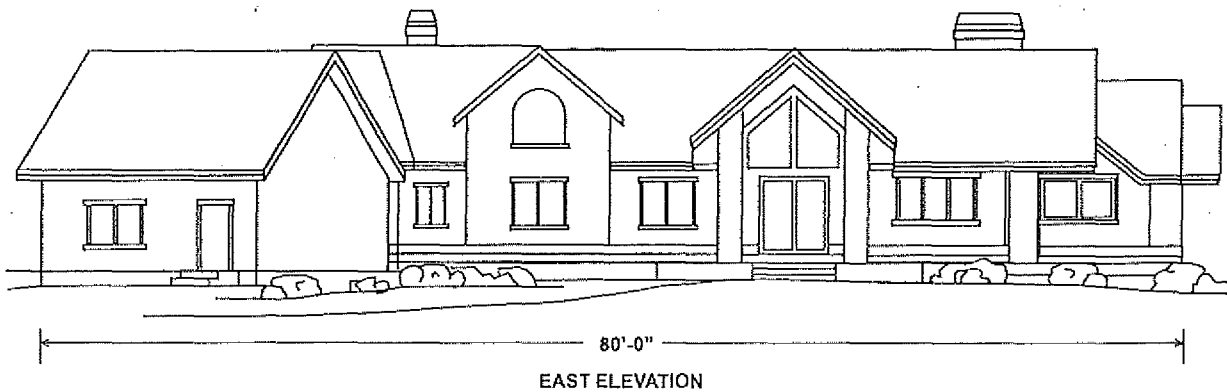
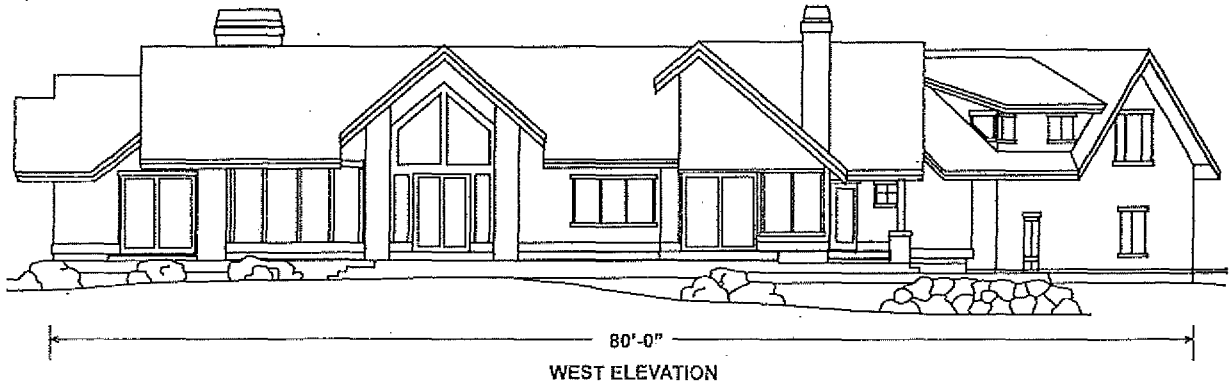
13. Signature of legal landowner _____ Date _____

NOTICE: Legal landowner is responsible for any violations under the Scenic Waterway Act (ORS 390.805 to 390.925). You should not begin any regulated activity until written approval is obtained. If you have any questions, please contact Oregon Parks and Recreation Department, 1115 Commercial St. NE, Suite 1, Salem, OR 97301-1002; telephone 503-378-6305.

PROPOSALS RELATING TO OREGON SCENIC WATERWAYS SHOULD BE SUBMITTED DIRECTLY TO THE APPROPRIATE SCENIC WATERWAY COORDINATOR AS LISTED ON THE FOLLOWING PAGE.

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Sample Applications and Drawings



- A. Be sure to illustrate all sides of the building.
- B. Building features and descriptions.
- C. Siding materials and colors.
- D. Roof materials and colors.

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Locate the following information on your map:

- Existing terrain features
- Existing vegetation
- Existing and proposed structure and improvements
- Nearest distance from your proposal to the river.
- Existing and proposed disposal system.
- River name and direction of flow
- Existing and proposed roads and driveways.
- Existing and proposed utilities.
- North arrow.
- Township, Range, Section, County.
- Property lines and dimensions.

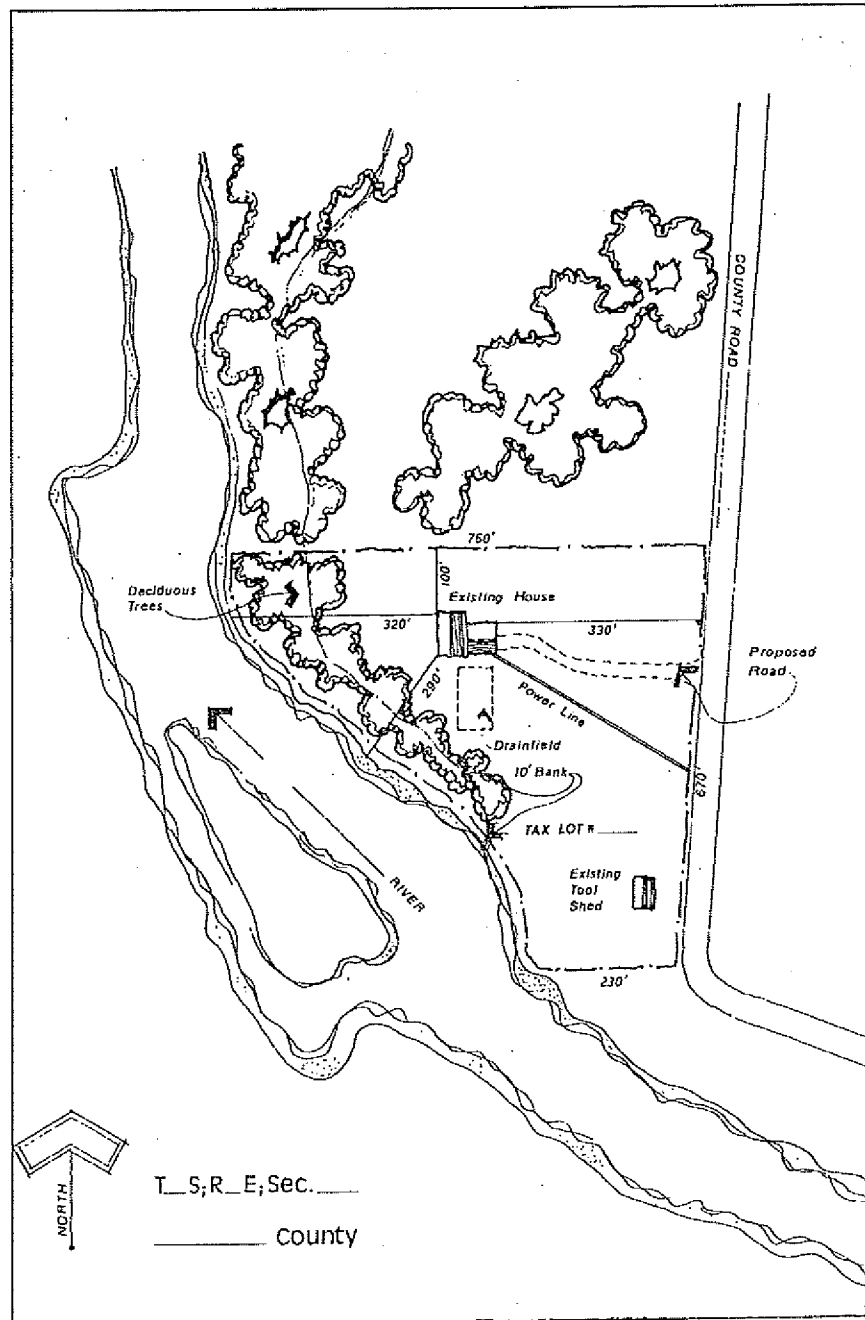


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QUESTIONS AND ANSWERS

Q: Will trespass be allowed on private lands?

A: No.

Q: What restrictions apply to residences? To farm buildings (maintenance, expansion, new construction)? To other buildings (recreation, commercial, industrial)? Will landowner's lose any use of development rights to their property?

A: Landowners wishing to develop, mine, build roads, cut timber, etc. must submit a notification to state parks. The project will then be evaluated as to its effect as seen from the river. If there is no effect, parks advise the landowner and he/she is free to proceed. If there is an effect, parks may make suggestions for change in the project design. If the suggestions are accepted the project can proceed. If they are not and the Parks Commission disapproves the project, parks must purchase the property or allow the project to go ahead. All this must happen within one year.

Q: Can cropping patterns be changed (e.g. allow for introduction of higher value crops) or rotated? What restrictions, if any, would apply to such changes or rotations?

A: Yes, in almost all cases, except where a very primitive undeveloped area is proposed for cultivation. In that case, notice must be given and the work evaluated for its impact on the view from the river. The procedures described under the previous question would be followed.

Q: What limitations or procedures apply to timber harvesting on private lands in the river corridors, other than those under the Oregon Forest Practices Act?

A: Notification is required. Projects must not substantially impair the natural beauty of the scenic waterway as seen from the river. The procedures described above would apply.

Q: What restrictions and procedures apply to construction, improvements or maintenance of private roads within the corridor?

A: Notice and approval is required of improvements to existing roads or the construction of new ones. No review and approval is needed for road maintenance.

Q: What is the "bank of the river" that the quarter-mile boundary is measured from? Is it the bank of the main channel, or the bank of side channels?

A: The river includes all side channels, so the measurement would be taken from the main channel or a side channel, if it exists.

Q: What happens in the event of a major flood and the river changes course (i.e., creates a new channel)? What happens to the scenic waterway boundary?

A: The boundary is measured from the bank of the river, regardless of where it is. During times of catastrophic high water, channels do change and cause some properties to be out of the boundary and new properties to be included.

Q: How long does the scenic waterway review process take?

A: By law, a landowner may not take action on a property until one year after submitting a proposal to the Oregon Parks and Recreation Commission. However, we try to complete reviews and issue approvals within six weeks of receiving a complete notification.

Q: Counties and cities typically average the height of a house. Do the scenic waterway rules average house height?

A: No. The height of a structure is measured from natural grade, on the riverside, to the highest point of the structure (including chimney, vents, antennas, etc.).

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Q: What are "muted tones" when considering house colors?

A: Muted tones are colors that blend with the indigenous soils, rocks and vegetation of a particular river.

Q: If I sell my property after my notification is denied, can the new owner carry out the project after waiting one year from the date of notification?

A: No. In the event of a denial, the original owner may only carry out the proposed action, after the one-year period has expired.

Q: I have timber harvest rights on another person's property within a scenic waterway. Can I apply for the notification alone, or does the owner's signature also have to be included in the application?

A: The property owner must sign the application.

Q: My scenic waterway notification was denied. What are my options?

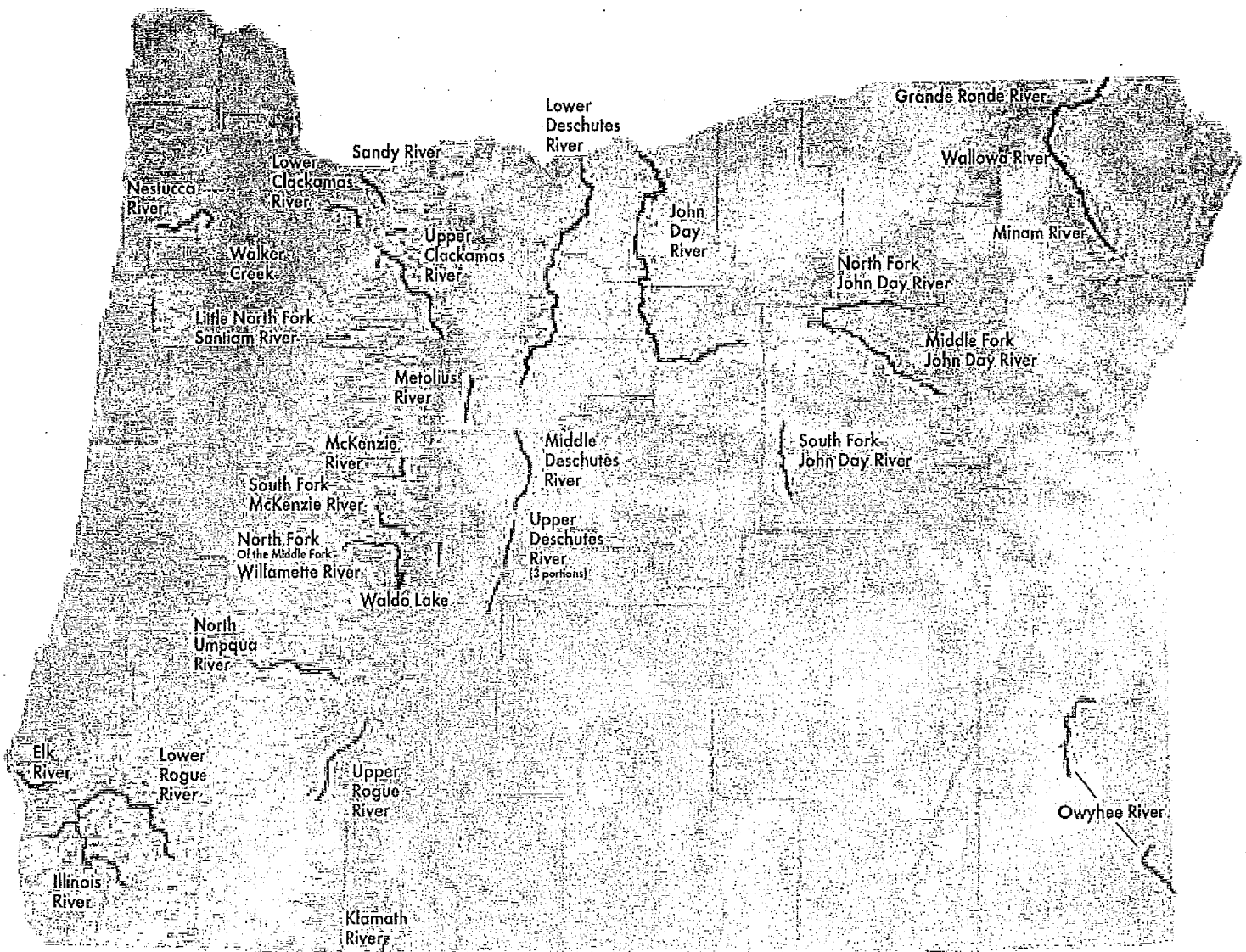
A: You may 1) wait one year from the original date of approval, and then begin the project as originally proposed, or 2) Agree to modifications to the proposal so that the project would not substantially impair the scenic beauty of the scenic waterway, or otherwise violate scenic waterway regulations. 3) Enter into further negotiations to establish a land use plan for the area.

Q: After receiving approval for my scenic waterway notification, I've decided to make some changes to my original proposal. Do I have to submit a new notification?

A: Yes, unless the changes are insignificant and conform to the original plan.

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OREGON'S SCENIC WATERWAYS



Scenic Waterways Directory

Oregon's Scenic Waterways system originally included 496 free-flowing miles on segments of six rivers: the Deschutes, Illinois, John Day, Owyhee and Rogue, plus all of the Minam. A 12-mile segment of the Sandy River was added by Governor's designation in 1972; the Oregon Legislature designated a 12-mile stretch of the Clackamas River in 1975, the North Fork of the Middle Fork of the

Willamette River in 1983, all 6,672 acres of Waldo Lake in 1983, and a seven-mile portion of the Little North Fork of the North Santiam in 1985.

In 1989, the system doubled, thanks to Oregon voters, who passed an initiative supported by 55 conservation, sporting, outdoor recreation, religious and business organizations. The additions totaled 573 river miles.

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Oregon Parks and Recreation Department

1115 Commercial St. NE

Salem, OR 97301-1002

www.oregonstateparks.org



Printed on Recycled Paper

This publication is available in alternative formats on request.
Write to: OPRD, 1115 Commercial St. NE, Salem, OR 97301-1002.
Or call (503) 378-6305 or for the hearing impaired 1-800-735-2900.
73410-8033 (10/01)

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NORTH CENTRAL PUBLIC HEALTH DISTRICT

419 East Seventh Street

The Dalles, OR 97058

(541) 506-2600

AUTHORIZATION NOTICE

OWNER: Gabe Watson DATE: 11-4-2012
PROPERTY ADDRESS: North Junction
TYPE OF SEPTIC SYSTEM: sealed vault pit privy
TWP. 7S RANGE 14E SEC. 8D TAX LOT 300

THIS AUTHORIZATION NOTICE ACKNOWLEDGES THAT THE ON-SITE
SEWAGE SYSTEM LOCATED ON THE PARCEL IDENTIFIED APPEARS
ADEQUATE, ON THE BASIS OF A N/A

(FIELD INSPECTION OR RECORD REVIEW)

TO SERVE A N/A WITH A

(NUMBER OF BEDROOMS AND TYPE OF STRUCTURE)

SEWAGE FLOW UP TO N/A GALLONS PER DAY.

SPECIAL CONDITIONS OF APPROVAL:

No water supply to this property. Vault must be one piece.
(ex. concrete with bottom and sides poured at one time as one
piece) Vault must be approved before construction. A final
inspection must be completed by this office before this privy
is put into use.

Karin Zumbado EHS

ENVIRONMENTAL HEALTH SPECIALIST

NOTE:

1. THIS AUTHORIZATION NOTICE DOES NOT GUARANTEE SATISFACTORY
OR CONTINUOUS OPERATION OF THE ON-SITE SYSTEM IDENTIFIED.

2. A PERMIT AND INSPECTION OF THE BUILDING SEWER CONNECTION TO
THE SEWAGE SYSTEM MAY BE REQUIRED BY THE DEPARTMENT OF
COMMERCE OR ITS AUTHORIZED REPRESENTATIVE.

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4/4/2011

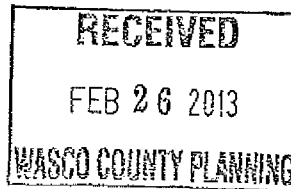
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ZALUTSKY, KLARQUIST & REINHART, P.C.
ATTORNEYS AT LAW

KENNETH S. KLARQUIST, JR.
Admitted in Oregon & Washington

THE WALDO BLOCK
215 SW WASHINGTON ST 3RD FL
PORTLAND, OREGON 97204
(503) 248-0300
FAX (503) 274-8302
E-MAIL SKIP@ERISALAW.COM
WWW.ERISALAW.COM

February 25, 2013



John Roberts, AICP
Planning Director,
Wasco County Planning Department
2705 East Second St.
The Dalles, OR 97058

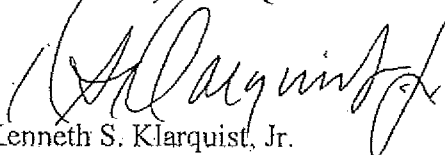
Re: Gabriel Watson Proposed Project at North Junction
File PLAQJR-12-08-0001

Dear Mr. Roberts:

I see from the e-mails between you and Mark Whitlow, that I do not have party status.
Please add me as a party. Thank you.

Very truly yours,

ZALUTSKY, KLARQUIST & REINHART, P.C.


Kenneth S. Klarquist, Jr.

KSK:tb

NORTH CENTRAL PUBLIC HEALTH DISTRICT

419 East Seventh Street
The Dalles, OR 97058
(541) 506-2600

AUTHORIZATION NOTICE

OWNER: Gabe Watson DATE: 11-4-2012
PROPERTY ADDRESS: North Junction
TYPE OF SEPTIC SYSTEM: sealed vault pit privy
TWP. 7S RANGE 14E SEC. 8D TAX LOT 300

THIS AUTHORIZATION NOTICE ACKNOWLEDES THAT THE ON-SITE
SEWAGE SYSTEM LOCATED ON THE PARCEL IDENTIFIED APPEARS
ADEQUATE, ON THE BASIS OF A N/A
(FIELD INSPECTION OR RECORD REVIEW)

TO SERVE A N/A WITH A
(NUMBER OF BEDROOMS AND TYPE OF STRUCTURE)
SEWAGE FLOW UP TO N/A GALLONS PER DAY.

SPECIAL CONDITIONS OF APPROVAL:

No water supply to this property. Vault must be one piece.
(ex. concrete with bottom and sides poured at one time as one
piece) Vault must be approved before construction. A final
inspection must be completed by this office before this privy
is put into use.

Kevin Wendt EHS

ENVIRONMENTAL HEALTH SPECIALIST

NOTE:

1. THIS AUTHORIZATION NOTICE DOES NOT GUARANTEE SATISFACTORY OR CONTINUOUS OPERATION OF THE ON-SITE SYSTEM IDENTIFIED.
2. A PERMIT AND INSPECTION OF THE BUILDING SEWER CONNECTION TO THE SEWAGE SYSTEM MAY BE REQUIRED BY THE DEPARTMENT OF COMMERCE OR ITS AUTHORIZED REPRESENTATIVE.

NORTH CENTRAL PUBLIC HEALTH DISTRICT

419 East Seventh Street
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AUTHORIZATION APPLICATION

Fee: _____
Date Paid: _____

Date: _____
RE: Twp. _____ Range _____ Section _____ Tax Lot _____

I have no information that the existing on-site sewage disposal system located on property referenced above has ever failed by discharging sewage onto the ground surface or into public waters, by clogging or backing up in household plumbing, or in any other manner.

The existing system consists of _____ (linear feet of disposal field) and last served or now serves a dwelling having _____ bedrooms (include all rooms that could be used as bedrooms though actually used for other purposes, such as dens or sewing rooms) or business _____ (type of) consisting of _____ (number of employees or occupancy) on _____ (date).

To the best of my knowledge, the existing septic tank has a _____ gallon liquid capacity; determined by _____ (pumping record, permit, etc.).

The existing on-site system was installed on _____ (date).

I intend to connect a dwelling having _____ bedrooms (include all rooms that could be used as bedrooms even though they may actually be used for other purposes, such as dens, sewing rooms or business _____ (type of) consisting of _____ (number of employees or occupancy) on _____ (date).

Or: I intend to add to my existing structure (state all the rooms to be added) _____

Property Owner's Signature

COMPLETE THIS SIDE ONLY

4/4/2018



Deschutes River

River Bank

1100's

Hartung

P159

Existing Road
With
Recorded
Easement

Hand-drawn site plan of a property. The overall dimensions are 40' by 29'. The plan includes a 'WATER EXIST' area of 1120 sq ft, a 'STED' area of 216 sq ft, a 'Parking Area' of 420 sq ft, and a 'Vault Toilet'.

20th
Parking Area
420 sq.

TL 300

25


- utility Powe

Kew

~~X~~: lightning

Ö: Existenz

☐: Additional Screening



Shaded
Area is
 $> 25'$
Setback

SITE PLAN MAP

Map, Tax Lot #: 300

Applicant: Watson, G

Owner(s): Gabriel
Watson

Contact#: 503-729-3521

Date: 11.8.12

NOTE: Lpl Dimensions and setbacks must be included numerically and drawn to the scale selected below:

* See back for required site plan information.

SCALE:

(select one)

1.30

1:100

☐

1:200

☐

Planner Only:

File # _____

Resized - No longer to scale. ☐