

FILED WASCO CTY
THE DALLES OR.

IN THE STATE OF OREGON

OCT 23 1 25 PM '97

IN AND FOR THE COUNTY OF WASCO

KAREN R. LECRETON
COUNTY CLERK

IN THE MATTER OF CLARIFYING PROCEDURES FOR)
ORDINANCE 94-105, ADMINISTERING THE LOW) ORDINANCE
ELEVATION BIG GAME HABITAT (PERIODIC) NO. 94-105B
REVIEW WORK TASK 2), TO BE INCLUDED AS PART) CONSENT FOR
OF THE COUNTY PROGRAM TO ACHIEVE) CLARIFICATION
COMPLIANCE WITH STATEWIDE LAND USE GOAL 5.)
)

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 February 3, 1982, this Court unanimously passed and adopted a Comprehensive Plan Ordinance and implementing ordinances for Wasco County;

IT FURTHER APPEARING TO THE COURT: That on August 25, 1983, the Land Conservation and Development Commission (LCDC) reviewed the Wasco County Comprehensive Plan and found Wasco County to be in compliance with the Statewide Land Use Planning Goals.

IT FURTHER APPEARING TO THE COURT: That on August 9, 1994, the State of Oregon Land Conservation and Development Commission approved the Wasco County Work program to conduct the required Periodic Review of its Comprehensive Plan and Land Use and

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Development Ordinance, and make amendments as necessary to bring them into compliance with current standards and laws.

IT FURTHER APPEARING TO THE COURT: That on Monday, August 29, 1994, in the Bonneville Power Administration building, on Highway 197 south of The Dalles, Oregon, the Wasco County Planning Commission and Wasco County Citizen Advisory Group met to conduct a legislative hearing on the amendments to the Wasco County Comprehensive Plan, Chapter II(M) Fish and Wildlife Resources (file #PR-94-105-L). The Planning Commission held hearings to gather public input on the consequences of protecting or not protecting the wildlife resource and conflicting resources, and on adoption of a background resource inventory document and an Environmental, Social, Economic, and Energy (ESEE) consequences analysis. Those members of the Planning Commission and Citizen's Advisory Group present were determined to be qualified to hear the matter. The Commission and Advisory Group heard the staff report, and received testimony and evidence. Based upon the evidence and testimony presented and upon the findings of fact and conclusions of law as described in the ESEE consequences analysis, the Planning Commission and Citizen's Advisory Group, being fully apprised in the premises, did approve, on a 6-2 vote, to make a recommendation to the County Court to adopt the inventory information, and the program as presented in the ESEE consequences analysis, and supporting maps and documents.

IT FURTHER APPEARING TO THE COURT: That on October 19, 1994 in the Wasco County Courthouse, this Court met to conduct a legislative hearing to make a decision on the recommendation by the Citizens Advisory Committee and Planning Commission on the fish and

wildlife inventory, ESEE consequence analysis, and plan map amendment. The Court heard the staff report. The Court deliberated and decided that there was not sufficient public testimony to determine under the Goal 5 administrative rule whether or not what restriction, if any, should be applied to the wildlife habitat and conflicting natural resources or land uses. The Court determined to hold a public informational meeting on November 21, 1994, in order to gather more information and public input. The Court then continued the public hearing until December 7, 1994, at a time certain, to gather information and public testimony whether or not the wildlife resource should be protected through zoning as determined by the ESEE consequences analysis.

IT FURTHER APPEARING TO THE COURT: That at the hour of 1:30 p.m. on December 7, 1994, in the Wasco County Courtroom, of the Wasco County Courthouse, in The Dalles, this Court met to conduct a legislative hearing on the matter . The Court opened the hearing and heard testimony from those parties who wished to be heard and then continued the hearing until December 21, 1994 at a time certain.

IT FURTHER APPEARING TO THE COURT: That on December 21, 1994 at the hours of 1:30 p.m. and 6:00 p.m., in the Wasco County Courtroom, of the Wasco County Courthouse, this Court re-opened the hearing and heard testimony from those parties who wished to be heard on this matter. The Court then closed the hearing and deliberated upon testimony received. Based upon the evidence and testimony presented and upon the ESEE consequences analysis and the staff report , the County Court did determine, on a unanimous vote, the following: (1) Whereas, the existing big game wildlife habitat has land uses and wildlife resource uses that are important relative to one another, and that both the wildlife resource and the conflicting land uses should be

limited in a manner to allow each to occur. Based upon the ESEE consequences analysis and the staff report, the Court determined that no further protection measures are required for the existing big game winter range, and that protection of big game habitat is addressed through the current Land Use and Development Ordinance; (2) Whereas, wildlife habitat and land uses have not changed substantially to justify adopting further measures to protect the low elevation habitat and, based on the ESEE analysis and the staff report, the Court determined no protection measures are required for the low elevation big game winter range, nor acknowledgment of the low elevation boundary for inclusion in the plan map, nor acknowledgment of the background document noting prior review of that document on January 15, 1992.

IT FURTHER APPEARING TO THE COURT: That the Department of Land Conservation and Development remanded the County's decision on this matter. DLCD directed the County on remand to 1. Amend the County Land Use and Development Ordinance to include clear and objective siting standards that minimize conflicts from dwellings approved in the high elevation (existing) big game habitat area; and 2. Amend the Background Document of the Comprehensive Plan to designate the low elevation big game habitat and based on the ESEE analysis, adopt clear and objective siting standards that minimize conflicts from dwellings approved in the low elevation habitat area.

IT FURTHER APPEARING TO THE COURT : That on July 20, 1995 in the Wasco County Courtroom this Court re-opened the record to take additional evidence on these issues only and including evidence contained in the record of the DLCD remand order. The Court reviewed testimony from those parties who wished to be heard and then closed the hearing. The Court,

being fully apprised in the premises, determined by a vote of 2-1 the following: 1. To amend the Wasco County Land Use and Development Ordinance (LUDO) to include clear and objective siting standards that minimize conflicts with dwellings approved in the high elevation (existing) big game habitat area; 2. To apply the same clear and objective siting standards for dwellings approved on public lands and on private lands where there is a "voluntary agreement" with fish & wildlife, and within an area designated on the plan maps, and by this reference incorporated herein, two plan maps entitled (1) Wasco County Winter Range and (2) Area of Voluntary Siting Standards, dated 8/6/95 and 7/31/95.

IT FURTHER APPEARING TO THE COURT: That on October 25, 1995, objections to the Wasco County Court decision were received from the Oregon Department of Land Conservation and Development and Oregon Department of Fish & Wildlife for the following reasons: (1) both agencies believed that the County decision did not comply with Statewide Planning Goal 5 and Oregon Administrative Rule (OAR) 660-16-010(3) regarding whether the County's "voluntary agreement" with fish & wildlife constitutes a program which provides protection for the low elevation big game habitat, and (2) the Oregon Department of Fish & Wildlife objected that the County did not apply clear and objective siting standards to the low elevation winter range, designated as the "Area of Voluntary Siting Standards" on the plan map.

IT FURTHER APPEARING TO THE COURT: That on December 13, 1996, the Oregon Department of Fish & Wildlife withdrew their objection. On October 22, 1997, the County Court met to consider the objection by the Oregon Department of Land Conservation and Development, and adopted provisions to define the implementation process, or program for

administering the "voluntary agreement", with fish & wildlife adopted in the August 16, 1995 decision.

IT FURTHER APPEARING TO THE COURT: That adopting the above provisions satisfies two objectives: (1) to work closely with landowners on a voluntary basis, rather than a regulatory basis, to protect habitat; and (2) to satisfy the Department of Land Conservation and Development objective that a program be in place to achieve compliance with Goal 5.

THEREFORE: Based upon the findings of fact and conclusions of law and the Court being fully apprised in the premises,

THE WASCO COUNTY COURT ORDAINS AS FOLLOWS: The Wasco County Court determined to:

1. Maintain the County Court decision of August 16, 1995, which amended the Wasco County Land Use and Development Ordinance to include clear and objective siting standards for dwellings approved in the high elevation (existing) big game habitat, and
2. Maintain the County Court decision of August 16, 1995, which applied the same siting standards for dwellings on public and private lands where there is a "voluntary agreement" with fish & wildlife, and
3. To adopt provisions in the Wasco County Land Use and Development Ordinance, Section 3.810, Division 8, by clarifying procedures describing the "voluntary agreement" to achieve compliance with Goal 5, including:
 - A. For lands within the Area of Voluntary Siting Standards (adopted August 16, 1995), the Wasco County Land Use and Development Ordinance will require a meeting between the applicant or applicant's representative, and the Oregon Department of Fish & Wildlife if ODFW determines habitat

values exist which may be important to discuss with the applicant. The result of the meeting shall be included as information in the county review of a land use application. The pre-application meeting will not be required in excluded areas of the Seven Mile Hill and Cherry Heights Areas identified and mapped by the Oregon Department of Fish & Wildlife; and

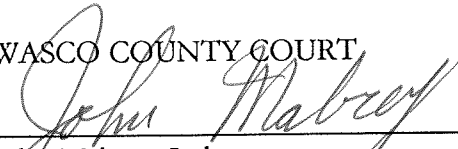
- B. The County will adopt a Comprehensive Plan policy #7 which requires the County, in cooperation with the Oregon Department of Fish & Wildlife, to annually provide the Oregon Department of Fish & Wildlife with a record of development approvals within the Area of Voluntary Siting Standards to allow the Oregon Department of Fish & Wildlife to monitor and evaluate the program for a "voluntary agreement" to determine if there is a significant detrimental effect on the habitat.

NOW, THEREFORE, THE WASCO COUNTY COURT ORDAINS AS FOLLOWS: The 1983 Comprehensive Plan and Wasco County Land Use and Development Ordinance is amended by the adoption of the findings of fact and conclusions of law in the revised ESEE Determination on the Low Elevation Big Game Habitat, incorporated herein, the provisions of which are referenced and which clarify the "voluntary agreement" with the Oregon Department of Fish & Wildlife within an area designated on the plan map as the Area of Voluntary Siting Standards.

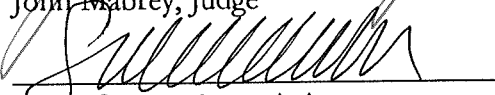
Regularly passed and adopted by a 3-0 vote of all members of the County Court of The County of Wasco, State of Oregon present on this day.

DATED this 22nd day of October, 1997.

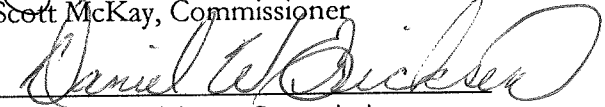
WASCO COUNTY COURT



John Mabrey, Judge

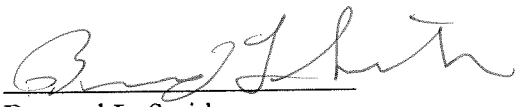


Scott McKay, Commissioner



Daniel W. Ericksen, Commissioner

Approved as to Form:



Bernard L. Smith
Wasco County District Attorney

DT: Word\Comp Plan\BGWR Final

POLICY 7 Fish and Wildlife

- A. Encourage land use and land management practices which contribute to the preservation and enhancement of fish and wildlife resources, with consideration for private agricultural practices.
- B. To conserve and protect existing fish and wildlife areas.
- C. To maintain wildlife diversity and habitat so that it will support optimum numbers of game and nongame wildlife for recreation and aesthetic opportunities.

IMPLEMENTATION

- A. Identify and maintain all wildlife habitat by:
 - 1. Implementation of an Environmental Protection District overlay zone for significant fish and wildlife habitats and for the big game winter range.
 - 2. Designation of the Big Game Winter Range and Area of Voluntary Siting Standards (low elevation winter range) on the map contained in this plans Resource Element.
- B. The winter range identified on the Big Game Habitat Map included in the Resource Element of this plan shall be protected by an overlay zone. The Rural Service Centers identified in the Comprehensive Plan which lie within the overlay zone shall be exempt from the provisions of the overlay zone.
- C. Consistent with the development standards of the land use ordinance, sensitive riparian areas of perennial and intermittent streams identified in the Resource Element, as well as to protect people and property from flood damage, the zoning ordinance shall prohibit development within 100 feet of the mean high water mark of perennial or intermittent stream or lake in a resource zone, and 50 feet of the mean high water mark of a perennial or intermittent stream or lake in residential zones.
- D. Sensitive bird habitat sites (bald eagle, golden eagle, osprey, great grey owl, great blue heron) and mammal habitat sites (Western pond turtle nesting sites) identified in the Resource Element of the plan shall be protected by a Sensitive Bird and Mammal Overlay Zone during periodic review pursuant to the current County approved work program.
- E. When site specific information is available to the County on the location, quality and quantity of threatened and endangered fish and wildlife species listed by State or Federal Wildlife agencies and the Oregon Department of Fish and Wildlife develops protection criteria for the species, the county shall proceed with a Goal 5 ESEE analysis in

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compliance with OAR 660 Div. 16.

F. The county shall review the Transition Land Study Area (TULSA) big game habitat areas and designated as "1-B" Goal 5 resources, during the next periodic review or as additional information on the location, quality and quantity of the habitat areas becomes available. (ORD. 3.180)

G. County-owned land shall be managed to protect and enhance fish and wildlife habitat except where a conflicting public use outweighs the loss of habitat.

H. The county shall notify the Oregon Division of State Lands and the Oregon Department of Fish and Wildlife of any development application for land within a wetland identified on the National Wetlands Inventory maps. (ORD. 3.180).

I. An application for a destination resort, or any portion thereof, in a recognized big game habitat overlay zone shall not be accepted pending completion of the County's Goal 8 destination resort mapping process. (ORD 3.180)

J. The county shall provide ODFW an annual record of development approvals within the areas designated as 'Area of Voluntary Siting Standards' on the plan map to allow ODFW to monitor and evaluate if there is a significant detrimental effect on habitat.

Section 3.810 Division 8 - Sensitive Wildlife Habitat Overlay

In any zone which is in the Wildlife Overlay (EPD 8), the requirement and standards of this chapter shall apply in addition to those specified in this Section for the underlying zone. If a conflict in regulation or standards occurs, the provisions of this section shall govern except that the larger minimum lot size shall always apply.

A. Purpose

The purpose of this overlay district is to conserve important wildlife areas by providing supplementary development standards; to promote an important environmental, social, and economic element of the area; and to permit development compatible with the protection of the wildlife resource.

B. Application of Provisions

Except as provided in Section C below, this overlay district shall be applied to all areas identified in the comprehensive plan as Big Game Winter Range habitat and Area of Voluntary Siting Standards.

C. The following areas are exempt from these provisions:

1. Rural Service Centers
2. Areas Designated as Impacted areas in the Transition Lands Study Area.

D. Permitted Uses

All uses allowed in the overlay zone shall be those farm and forest uses permitted outright by the underlying zone.

E. Uses Permitted Conditionally in the Winter Range

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.

F. Siting Standards

- a. For lands within the Area of Voluntary Siting Standards a meeting between the applicant and Oregon Department of Fish and Wildlife shall be required if Oregon Department of Fish and Wildlife determines that habitat values exist which may be important to discuss with the applicant. The result of the meeting shall be included as information in the county review of a land use application.

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b. In the area designated Big Game Winter Range the following siting standards shall be applied as a condition of approval for all new dwellings. In the area designated Area of Voluntary Siting Standards the following siting standards shall be by voluntary agreement of the applicant.

c. New dwellings shall be located within 300 feet of public roads or easement or private roads or easements existing as of (date of adoption) unless it can be found that:

1. Habitat values (browse, forage ,cover, access to water) are afforded equal or greater protection through a different development pattern; or,

2. The siting within 300 feet of such roads or easements would force the dwelling to be located on irrigated land, in which case, the dwelling shall be located to provide the least impact on wildlife habitat possible considering browse, forage cover, access to water, and minimizing length of new access roads.

G. Fencing Standards

The following fencing standards could apply to new fences constructed as a part of development of a property in conjunction with conditional use permit. These standards shall be a voluntary agreement by the applicant.

New fences in the big game overlay zone are designed to permit wildlife passage. The following standards are guidelines approved by the County after consultation with the Oregon Department of Fish and Wildlife:

a. To make it easier for deer to jump over the fence, the top wire shall not be more than 42 inches high.

c. A 3-wire or 4-wire fence with the bottom wire at least 18 inches above the ground to allow fawn to crawl under the fence. It should consist of smooth wire to avoid injury to animals.

b. A gap of at least 10 inches shall be maintained between the top two wires to make it easier for deer to free themselves if they become entangled.

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Section 3.810

I. The county shall notify the Oregon Division of State Lands and the Oregon Department of Fish and Wildlife of any development application for land within a wetland identified on the National Wetlands Inventory maps.

J. An application for a destination resort, or any portion thereof, in a recognized big game habitat overlay zone shall not be accepted pending completion of the County's Goal 8 destination resort mapping process.

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August 18, 1997

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II. LOW ELEVATION BIG GAME HABITAT

a. Location, Quality and Quantity of the Resource

1. **Location** - The identified low elevation habitat area is approximately 40 miles long and 3 miles wide paralleling the eastern border of the adopted big game winter range habitat that has been in effect since 1972 and adopted in the Comprehensive Plan in 1983.

Oregon Department of Fish and Wildlife (ODFW) has conducted a survey of deer routes since 1952 which documents high usage of this area by migratory black tail deer and elk moving to this lower elevation habitat in normal to severe winters. The low elevation winter range was identified and mapped by ODFW in 1972.¹⁰ It was not adopted in the comprehensive plan. The low elevation winter range boundary is identified as the eastern most edge of the low elevation of the pine-oak habitat mapped by the Oregon Department of Forestry in 1991. Documentation of usage of this area as low elevation habitat is also noted by the increase in agricultural damage complaints received by ODFW on these lands where big game move in severe winters¹¹. Based on ODFW's ongoing inventory and continuing study of big game in this area the location is now more accurately mapped and the use of this area has been more accurately identified.

ODFW recognizes this area as significant winter range and recommends the area be identified in the inventory and mapped on the Big Game Habitat Inventory Map.

Specific areas within the identified low elevation habitat:

The underlying zoning in most of the identified habitat is EFU. Dutch Flat Ridge, Pleasant Ridge, and Friend are identified by ODFW as critical areas for passage of wildlife to lower elevation habitat. Dutch Flat Ridge, Pleasant Ridge and Friend, have an underlying zoning of A-1 (80) and used by big game migrating from summer range in the forest along the east slopes of the Cascades to low elevation winter range. Parcelization patterns in these areas have been inventoried by the county

¹⁰Letter from Wm. Olson, District biologist ODFW, to John Andersen, Planning Dept., dated Feb. 7, 1993, with Attachment titled, "An Area of Concern to Wasco County... and with Map Attachment titled, Wasco Unit Migratory Deer and Elk Winter Range Area Wasco County Portion. Copy in Wasco County Fish and Wildlife Background Document Jan. 1994.

¹¹Ibid. 2.

ESEE revised August 1997 based on objection by DLCD (underlined indicates revisions)
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and tend to be extremely large parcels of 200 acres to 9000 acres.

Sportsman's Paradise is a platted subdivision zoned Farm Forest with a 10 acre minimum lot size (F-F10) It is platted for 141 parcels between 1 -20 acres. It is committed to rural residential use.

Rocky Prairie is located within the National Scenic Area (NSA) and is regulated by NSA ordinance provisions and is exempt from the goal 5 analysis..

Seven Mile Hill/Cherry Heights/Browns Creek: The County is currently undergoing the Transitions Lands Study , a comprehensive resource inventory of these rural residential areas, to determine whether the Seven Mile Hill area will require some special management strategy to maintain its integrity. ODFW has provided additional information that will be incorporated into the program addressed later in section e.

2. Quality - The high numbers of deer and elk documented by ODFW route survey information since 1952 establishes the low elevation pine-oak habitat as significant. The pine-oak habitat is important because it provides winter feeding areas, thermal and hiding cover, and isolation from conflict with human activities. The consensus of the information and ODFW is that the characteristics of pine-oak, south facing slopes, large parcel size and drainage channels are similar in these areas and enabling passage by migratory big game to the lower elevation winter range.

The Planning Department has mapped conditions of Dutch Flat Ridge, Friend and Pleasant Ridge to determine slope characteristics (percent of slope) , aspect and parcel sizes to better understand the characteristic that the deer and elk have shown a preference for.

3. Quantity - Historically the winter range habitat identified by ODFW (1950) extended into the eastern part of Wasco County providing critical low elevation habitat. This winter range habitat area has decreased from the historic habitat by 48%. The Department of Fish and Wildlife states that land use development activities and disturbance associated with human activities has resulted in the loss of habitat. See chart following

Figure 1

	County Jurisdictional	Historical
	Big Game Winter Range	Big Game Winter
(1991)		Range(1952)

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Acreage	271,052	517,452
●Public = 166,400 acres (primarily in National Forest)		
●Private = 104,652		
Winter Range Below		

Elevation 3000'(pine-oak habitat) ^{12 13}	155,520	266,880
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It has been documented by ODFW that one-half of the deer population died in eastern Oregon in the severe winter of 1992, 30% in the White River Unit in Wasco County. ODFW has documented the loss to the reduction of low elevation habitat due to residential development and the associated conflicts

ODFW has constructed 58 miles of fence along the eastern boundary of the White River Management Unit south of Friend Road in order to restrict big game movement onto low elevation habitat which affects adjacent private lands. This is a management strategy by ODFW to reduce damage to agricultural crops. The decision to fence the White River Management Area boundary has effectively limited the use by big game of that portion of the low elevation habitat. ODFW recognizes that the fencing the boundary between ODFW land and private land has removed that portion of the low elevation habitat from being considered significant winter range.

ODFW also recongnized through the Transitions Land Sutdy Area project (Jan. 1997) that certain portions of the County rural residential zones located in the 7 Mile Hill/Cherry Heights/Browns Creek Road, were built on to the extent that they are no longer considered significant habitat. ODFW considered these areas "impacted" and excluded them from being considered significant winter range. The impacted areas were identified and mapped by ODFW and excluded as a significant habitat.

- b. **Significance Determination** - Oregon Department of Fish and Wildlife identifies this area as significant ("1C") resource sites with the exception of the exclusion areas which are shown on the map entitled Big Game Winter Range, Tansition Lands Study area dated Jan. 1997 (attached).

¹²oak Pine Woodland Map, J. Buckman, Oregon Dept of Forestry, and J. Beck, ODFW.

¹³Natural Vegetation of Oregon and Wa., Franklin and Dryness, pub. 1973,1988.

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c. **Conflicting Uses**

The following permitted and conditional uses are identified as potential conflicting uses in the habitat, allowed by the A-1 Exclusive Farm Use zoning:

<u>Zone</u>	<u>Permitted Uses</u>	<u>Conditional Uses</u>
A-1(80)	Single family dwelling in conjunction with farm use. <u>Lot of Record dwellings.</u>	Single family dwelling not in conjunction with farm use. Golf courses. Schools, Churches,

Research and the ODFW have identified dwellings, roads and dogs and uses resulting in the congregation of people (noise, traffic, free roaming dogs) as the major conflicts with wintering deer and reason for the decline of deer in winter range habitat in Wasco County.¹⁴ Uses and activities which cause deterioration of forage quality and quantity or cover are conflicting uses. Fences that do not allow passage of deer are also a conflicting use. Limiting conflicting uses greatly enhances the chances of survival for deer during the winter when they are gathered in the winter range and are competing for food.

1. Residential development on winter ranges without approved siting and fencing standards causes permanent destruction of habitat.
2. New access roads, increase off road vehicles into an area and increase poaching, and traffic which limits the carrying capacity of the habitat.
3. Increased residences result in an increase in free roaming dogs which harass big game.
4. Removal of large amounts of critical forage areas and riparian vegetation reduces forage and cover necessary for survival of big game.

c. **Economic, Social, Environmental and Energy Consequences of Conserving Critical Habitat Areas**

1. Economic Consequences: If the conflicting uses were not allowed, it would cause financial hardship and remove housing opportunity for rural residential uses. By not being permitted to construct a residence or accessory use on a site, the property

¹⁴ Ibid. 3,4,5

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owner may suffer a severe financial loss. If conflicting uses were allowed, inability for longterm management practices conducted by ODFW to control damage would be hampered due to small parcel sizes and many landowners. However, if specific siting or clustering of structures were possible (which may allow for migration but still allow the use,) the expense incurred by ODFW would be minimized.

2. Social Consequences:

The negative social consequences of limiting residential densities in critical habitat means the desire to live in rural areas for many people will remain unsatisfied. Personal financial hardship may be a social consequence of strict adherence to a prescribed regulation. The positive social consequence of protecting the habitat could be the continuation of a rural lifestyle and increase of personal and public opportunities to view and enjoy these animals for future generations

Browsing by deer and elk on gardens and ornamental vegetation is a common nuisance in rural areas. Damage complaint costs associated with rural living and deer are documented by ODFW (Transition Lands Study, ODFW, 1994). This study shows that since 1983, there has been a substantial increase in costs to resolve the damage complaints. The majority of the costs documented are in the 7 mile Hill area. Based on written, and public testimony at the Dec. 7, and 21, 1994 public hearings on this issues, the damage complaints resulting from rural residential development in the 7 Mile Hill area are not comparable to the souther low elevation winter range around the Dufur to The Dalles area. Based on testimony there is not as much development and therefore the impacts to the habitat have not substantially increased since 1983 to justify a program for protection.

Damage by deer and elk on crops is a common conflict in agricultural (EFU) zones. This potential conflict can be minimized by limiting uses in designated habitat areas and providing for large lot sizes which also serve to manage big game habitat. Based on an inventory of existing parcels in the LEWR it was found that 21% of the existing parcels (in the EFU zone) are between 160 -320 acres. These relatively large lot sizes (as a result of the agricultural use of the land) provide protection to the big game habitat . Based on testimony further restrictions applied for habitat protection are not justified. ¹⁵

Based on public testimony provided at the public hearing held on Dec. 7 & 21, 1994, the impacts to the habitat do not currently exist to a degree that conflicts with big game

15 Ibid. 8.

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ESEE revised on Remand August 16, 1995

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in the A-1 zone since the adoption of the comprehensive plan in 1983 to justify a program for protection at this time

3. Environmental Consequences: Continued residential development on low elevation winter range reduces the long term carrying capacity of the habitat resulting in long-term reduction of deer and elk population. Positive consequences of limiting development would be the ability to sustain a migratory black tail deer and elk population for the future generations. Also, other animal species who require a large open space shall benefit from low density requirements and potential development costs to taxpayers are reduced and dollars saved in resolving damage complaints..

The environmental consequences of applying siting standards within the low elevation habitat areas are positive in that they would reduce physical barriers which restrict migration and help maintain low elevation habitat. Although rural residential development would be allowed deer and elk could continue to have access to water areas, especially necessary during dry summer months. In addition, other game and nongame wildlife would have opportunities for use of the habitat.

If development were permitted without regard to the need for low elevation habitat in severe winters, overtime, there would be a loss of critical winter habitat.

4. Energy: Energy benefits from applying siting standards within the low elevation range are difficult to determine. The area of Seven Mile Hill is near to the City of Mosier and The Dalles and could continue to utilize appropriate existing facilities. The rural type living adjacent to facilities would continue, which would reduce transportation and public utility costs. If outlying areas were developed to provide for rural residential development more energy would be expended in terms of transportation, utility costs and services such as road maintenance, fire and police patrol.

5. Conclusions: The recommendation by ODFW proposed an 80 acre density as the minimum lot size -

Based on the ESEE analysis and written and public testimony at public hearing (Dec. 7, &21, 1994) and a public hearing on July 20, 1995, to address issues on remand¹⁶ from

¹⁶ Issues of remand; 1. amend the Wasco County Land Used and Development Ordinance section 3.920 to include clear and

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ESEE revised on Remand August 16, 1995

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DLCD (periodic review order No. 00228, dated April 21, 1995, the county- concurs with ODFW in that: : 1. The big game fence along the east boundary of the White River Management Area removes that portion of the winter range as significant habitat and therefore requires no protection; The county also determined: 2. That the resource zone designation is EFU (Exclusive Farm Use A-1(80), and provides a large lot size compatible with wildlife; and 3. That conflicts described by ODFW can be met with siting standards that are applied under a voluntary program. In order to implement this program the County recognizes an area which is designated on the plan map as the "Area of Voluntary Siting Standards". In this area the application of siting standards will apply to private lands where there is a voluntary agreement with the ODFW and will apply as a requirement on public lands. The county adopted the area for the voluntary program on the Plan maps entitled 'Wasco County Winter Range Area' - Version 2- dated 8-6-95 and, "Area of Voluntary Siting Standards' (showing ownership) dated 7-31-95 (attached).

e. A Program to Conserve Low Elevation Big Game Habitat

The County determines that the conflicting uses should be balanced by a "3-C" designation based on the above.

In the area defined on the plan map and entitled "Area of Voluntary Siting Standards", the application of clear and objective siting standards will apply to private lands where there is a voluntary agreement with the ODFW, and will apply as a requirement on public lands. In order to implement this program the county will 1. adopt ordinance provisions that require require a meeting between the applicant or the applicant's representative, and the ODFW if ODFW determines habitat values exist which may be important to discuss with the applicant. The result of the meeting shall be included as information in the county review of a land use application. The meeting will not be required in excluded areas of the Seven Mile Hill and Cherry Heights Areas identified and mapped by the Oregon Dept. of Fish and Wildlife; and 2. adopt a plan policy which requires the county in cooperation with ODFW, to annually provide ODFW with a record of development

objective siting standards for dwellings approved in the high elevation (existing) big game winter range 2. amend the background document of the comprehensive plan to designate the low elevation big game habitat as a "significant" "1-C" resource, and adopt clear and objective siting standards from dwellings approved in the low elevation big game habitat area consistent with OAR 660-16-010(3).

ESEE revised August 1997 based on objection by DLCD (underlined indicates revisions)

ESEE revised on Remand August 16, 1995

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approvals within the 'Area of Voluntary Siting Standards' to allow the ODFW to monitor and evaluate the program for a voluntary agreement in order to determine if there is a significant detrimental effect on the habitat. The county recognizes that this program is applied under a voluntary program for private lands, and is non-regulatory. The county further recognizes that the program is an educational program and that the planning department and ODFW will need to provide information and education material directly to landowners. The underlying zoning in most of lands designated low elevation habitat is resource zoned (A-1 (80) (EFU) except for the TLSA area which is zoned for rural residential development (R-R (5), F-F (10)). The resource zone designation provides for large lot sizes and limits uses that are not compatible with farm or forest use. The county determines that because of the relatively low density of development in the agriculture zones and the limitations on uses based on the agricultural resource zoning designation, and the application of clear and objective siting standards in the existing high elevation habitat area, and the application of clear and objective siting standards on public lands and on private lands where there is a voluntary agreement with the ODFW, provides considerable protection to the habitat.

ESEE revised August 1997 based on objection by DLCD (underlined indicates revisions)

ESEE revised on Remand August 16, 1995

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