

IN THE STATE OF OREGON

FILED WASCO CTY
THE DALLES OR.

IN AND FOR THE COUNTY OF WASCO

AUG 16 1 28 PM '95

IN THE MATTER OF A DECISION ON THE
REMAND ON PERIODIC REVIEW WORK TASK
ORDER NO. 00228 FROM THE DEPARTMENT OF
LAND CONSERVATION AND DEVELOPMENT ON
AN AMENDMENT OF THE WASCO COUNTY 1983
COMPREHENSIVE PLAN BY ADOPTION OF ESEE
DETERMINATION ON FISH AND WILDLIFE
HABITAT, AMENDING THE PLAN MAP TO
REFLECT ESEE ANALYSIS DETERMINATIONS,
AND THE FISH AND WILDLIFE BACKGROUND
DOCUMENT

) KAREN R. LEBRETON
) COUNTY CLERK
) ORDINANCE
) AMENDMENT
) 94-105 B (revised on
) remand)
)
)

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

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Work program to conduct the required Periodic Review of its Comprehensive Plan and Land Use and 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

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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 (Exhibit A), 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 (Exhibit A), the Court determined no protection measures are required for the low elevation big game winter range, nor acknowledgement of the low elevation boundary for inclusion in the plan map, nor acknowledgement 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 for two reasons: 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.

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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 at the hour of 1:30 p.m. 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 DLCDC 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; a copy of said standard is attached hereto and by this reference incorporated herein 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 and wildlife, and within an area designated on the attached and by this reference incorporated herein plan maps

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

THE WASCO COUNTY COURT ORDAINS AS FOLLOWS: The 1983 Comprehensive Plan is amended by the adoption of the revised ESEE Determination on fish and wildlife habitat and by the adoption of the attached and by this reference

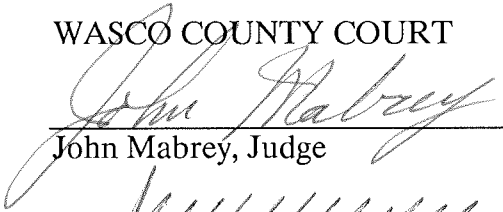
(2 maps)
entitled
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Standards
dated
8/6/95
7/31/95

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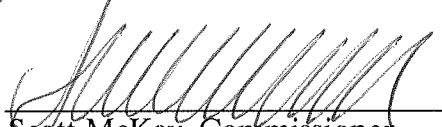
incorporated herein siting standards for the existing high elevation big game habitat area, and by the adoption of the same standards for dwellings approved on public lands and on private lands where there is a voluntary agreement with fish and wildlife, and within an area designated on the plan map. Regularly passed and adopted by a 2-1 vote of all members of the County Court of The County of Wasco, State of Oregon present on this day.

DATED this 16 th day of August, 1995.

WASCO COUNTY COURT




John Mabrey, Judge



Scott McKay, Commissioner

Chuck Filbin, Commissioner

Approved as to Form:


for Bernard L. Smith
Wasco County District Attorney

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Examples of Siting Standards

In the area designated big game winter range and low elevation big game winter range the following siting provisions shall apply as a condition of approval for all new dwellings.

a. 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.

Attachment
RE: 94-105B
August 15, 1995

3C:@WPWIN60@COMP@BGWR.4
June 26, 1995

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