

February 4, 2011

Board of Commissioners
Josephine County, OR
Commissioner Chair Cassanelli and Commissioners Ellis and Hare

RE: Neighborhood Concerns Regarding the Whitaker Request for a Zone Change from Woodlot Resource to Rural Residential-5 Acre Minimum Lots to Accommodate the Building of Six Homes

Thank you for this opportunity to comment. Our comments are organized around the non-compliance of the proposal with the relevant standards and criteria at Josephine County Comprehensive Plan (JCCP) Goal 11, Policy 3.B.[3] & 3.C., and Josephine County Rural Development Code (RLDC) 46.050.B.3 and RLDC 46.050.C . Our comments are partially based upon the analysis and recommendations of our land use consultant, Mike Walker, President of NEPA Design Group. He was also the BLM’s interdisciplinary environmental impact statement (EIS) team member and expert, that wrote the rural interface area (RIA) issue for the BLM Medford District Office’s (MDO’s) present resource management plan (RMP).

The application record that the subject property is not land necessary to permit forest operations to continue, or occur, on adjacent or nearby resource zoned lands misconstrue the applicable law, are inadequate, and are not supported by substantial evidence. The record is conclusory and/or incomplete, as it fails to identify what information applies from the six rules when evaluating the criterion at RLDC 46.050.C. There is not substantial evidence in the record to support a conclusion that the subject property is “not necessary to permit forest operations to continue or occur on adjacent or nearby resource zoned lands” (JCCP Goal 11, Policy 3.C. and RLDC 46.050.C. Rather, the evidence in the record establishes that the lands of the subject property are necessary to permit forest operations to continue or occur on adjacent or nearby resource zoned lands. Our comments have the following outline.

1. The Application Record That the Subject Property Is Not Land Necessary to Permit Forest Operations to Continue, or Occur, on Adjacent or Nearby Resource Zoned Lands Misconstrue the Applicable Law, Are Inadequate, and Are Not Supported by Substantial Evidence
2. Relevant Standards And Criteria
3. Analysis of Facts
 - a) Staff Report
 - b) Application Narrative
 - c) JCCP Designations & Zoning In Area
 - d) BLM Adaptive Management Areas & Rural Interface Areas
 - e) Applicability Of JCCP Goal 11, Policy 3(B)(3) and RLDC 46.050.B.3.
4. Conclusion

1. The Application Record That the Subject Property Is Not Land Necessary to Permit Forest Operations to Continue, or Occur, on Adjacent or Nearby Resource Zoned Lands Misconstrue the Applicable Law, Are Inadequate, and Are Not Supported by Substantial Evidence

These comments are about the proposal’s non-compliance with standards and criteria at JCCP Goal 11, Policy 3.B.[3] & 3.C. (Attachment One), and RLDC 46.050.B.3 and RLDC 46.050.C (Attachment Two).

2. Relevant Standards And Criteria

The JCCP Goal 11, Policy 3.B.[3] and RLDC 46.050.B.3. apply in addition to JCCP Goal 11, Policy 3.B.[1 or 2] or RLDC 46.050.B.1 or 2 (Attachments One & Two). RLDC 46.050.B.3 is a criterion to evaluate whether the subject property is non-resource land/non-forest land because: *“The land is not necessary to permit farm practices or forest operations to continue or occur on adjacent or nearby resource zoned lands, subject to the rules and procedures as set forth in subsection C below.”* Same as JCCP Goal 11, Policy 3.B.[3].

There are six rules that shall apply when evaluating the criterion at RLDC 46.050.C: *“Land is necessary to permit farm practices or forest operations on **adjacent or nearby lands** when the land within the lot or parcel provides a special land use benefit, the continuance of which is necessary for the adjacent or nearby practice or operation to continue or occur. The following rules shall apply when evaluating this criterion.”* (emphasis added) Attachments One & Two

- Rule RLDC 46.050.C.1.
- Rule RLDC 46.050.C.2.
- Rule RLDC 46.050.C.3.
- Rule RLDC 46.050.C.4.
- Rule RLDC 46.050.C.5.
- Rule RLDC 46.050.C.6.

Burden of Proof Most importantly the burden of proof is on the applicant to show the request is in compliance with all the applicable standards and criteria. The burden of proof is not on the neighbors to show non-compliance.

RLDC 30.040 - General Procedures

*“B. The **burden of proof** is on the applicant and/or the appellant to complete the forms and to substantiate the information presented on the application and/or appeal forms.”*

RLDC - Burden and Nature of Proof

*“A. **The burden of proof shall be on the applicant.** The more a proposed use or structure changes existing land use patterns, or causes impacts on surrounding lands or the community, the greater the **burden of proof** shall be on the applicant to show the request*

complies with all applicable criteria. The applicant shall address all of the applicable standards and criteria as identified by hearing body.”

46.040 - Plan Amendment Review Criteria

*C. “Sites may be altered to achieve adequate carrying capacity, but as alterations become more extensive, technical or difficult to perform or maintain, the greater the **burden of proof** shall be on the applicant to demonstrate compliance with the following criteria:”*

Josephine County Comprehensive Plan Amendment And/or Zone Change Application Form

Disclosure 3: *I understand I have the **burden of proving the criteria** for a Comprehensive Plan and Zone Change are met for my application, and that I may not rely upon the staff report to establish my request.* (page 2)

*The applicant’s responsibility in this process is to **prove that the proposal is consistent with the State of Oregon Statewide Planning Goals and the Josephine County Comprehensive Plan**. The key element of proof is a written response and supporting evidence showing that the application complies with the criteria and procedures of Article 46 of the Josephine County Rural Land Development Code (RLDC). Plan amendment application requirements are found in Section 46.030 of the RLDC, and the criteria for approval is found in Sections 46.040 and 46.050 of the RLDC. Planning staff recommends that the applicant respond to each criterion using the same number scheme in order to **ensure that no required response is omitted**, and to facilitate analysis. A copy of the requirements and criteria is attached to this application.* (page 3)

3. Analysis of Facts

- a) **The Josephine County Staff Report** (Black, James, Planner, Josephine County Planning Officer. December 15, 2010. *Staff Report, Josephine County Planning Office to Josephine County Board of Commissioners*. Agenda Item: Waltman/Whitaker CPZC. Page 9. Grants Pass, OR) states, in relevant part:

“C. Impact on Farm or Forest Practices on Adjacent or Nearby Lands: The applicant addresses this criterion at page 35 of the application narrative. Applicant notes the property does not provide access to any adjacent resource lands. Furthermore, development of the site will not have adverse impacts on soil, water, watershed or vegetation. Utilizing the PUD design, a significant portion of the site will remain in a natural state except for the required fuel breaks. There is no active or potential farm uses inn the vicinity of the subject land. Application indicates the lot is not necessary for and does not benefit existing farm or forest operations.”

The staff report is a summary of the application’s lengthy, but conclusory and incomplete findings and does not appear to provide any real compliance review beyond accepting the proposal’s findings as written. The record is conclusory and incomplete where it fails to use the correct standards and where it fails to identify what information applies from the six rules when evaluating the criterion at RLDC 46.050.C (see following Section 3.b); Section 3.d); Map 1).

b) **The Application Narrative** (pages 35 - 38) states, in relevant part:

RLDC 46.050.B.3. The applicants' proposal identifies the correct standard, but fails to apply it (page 35). The RLDC 46.050.B.3. standard is: "*The land is not necessary to permit farm practices or forest operations to continue or occur on adjacent or nearby resource zoned lands, subject to the rules and procedures as set forth in subsection C below.*" (emphasis added)

The proposal is not in compliance with the standard as it only uses the standard of "adjacent" resource zoned lands; the application fails the burden of proof standard. See Map 1 for adjacent or nearby resource zoned lands managed by BLM as commercial forest lands and other resource uses (see following Section 3.d)).

Rule RLDC 46.050.C.1. The applicants' proposal identifies the correct standard, but again fails to apply it (page 35). The RLDC 46.050.C. standard is: "*Land is necessary to permit farm practices or forest operations on adjacent or nearby lands when the land within the lot or parcel provides a special land use benefit, the continuance of which is necessary for the adjacent or nearby practice or operation to continue or occur.*" (emphasis added)

The proposal is again not in compliance with the standard as it only uses the standard of "adjoining" resource lands; the application fails the burden of proof standard. The standard is not "adjoining resource lands"; the standard is adjacent or nearby lands. See Map 1 for adjacent or nearby lands managed by BLM for commercial forest lands and other resources (see following Section 3.d)). The proposal is also not in compliance as it does not address the special land use benefits the subject property provides of impact buffering, and the minimization of land use conflicts to the adjacent land managed by BLM as commercial forest lands and other resources, and the nearby lands managed by BLM as commercial forest lands and other resources (see following Section 3.d); Map 1).

Rule RLDC 46.050.C.2. The applicants' proposal identifies the correct standard, but again fails to apply it (pages 35 - 36); the application fails the burden of proof standard. The RLDC 46.050.C.2. standard is: "[2] *A land use benefit shall be considered necessary for normal farm practices and forest operations **when loss of the benefit will interfere with accepted farm practices or forest operations** by significantly impeding or significantly increasing the cost of the practices or operations.*" (emphasis added)

The proposal is also not in compliance as it does not address the special land use benefits it provides of **when loss of the benefit will interfere with accepted forest operations** to the adjacent land managed by BLM as commercial forest lands and the nearby lands managed by BLM as commercial forest lands (see following Section 3.d); Map 1).

Rule RLDC 46.050.C.3. The applicants' proposal identifies the correct standard, but again fails to apply it (pages 36 - 37); the application fails the burden of proof standard. The RLDC 46.050.C.3. standard is: "[3] The application shall include a review of the relationship between the lot or parcel under consideration and surrounding farm practices and forest operations. The

review shall list and describe existing or **potential** farm practices and forest operations on adjacent or nearby lands, as well as the general geography and potential land uses on the subject property, and then provide an analysis of how the uses permitted by the proposed non-resource designations may or may not significantly impede or significantly increase the cost of accepted farm practices or forest operations.” (emphasis added)

The proposal is not in compliance with the standard as it is conclusory and does not provide any review of the potential land uses on the subject property and the existing and potential forest operations on adjacent or nearby lands, nor any analysis of how the uses permitted by the proposed non-resource designations may or may not significantly impede or significantly increase the cost of accepted forest operations to the adjacent land managed by BLM as commercial forest lands and other resource lands, and the nearby lands managed by BLM as commercial forest lands and other resource lands (see following Section 3.d); Map 1).

Parks, playgrounds and community centers, public or private schools, churches, residential care homes, residential care facilities, kennels, and recreational resorts are examples of the missing “potential land uses on the subject property” permitted under the RLDC for the proposed rural residential zone, and therefore they can not be ruled out as reasonable land uses.

Rule RLDC 46.050.C.4. BLM had not provided any testimony (see Section 3.d); Map 1).

Rule RLDC 46.050.C.5. It is agreed that until now little testimony had been provided that the subject property was necessary for forest and other resource operations on adjacent or nearby lands. This testimony changes that situation (see following Section 3.d); Map 1). The application has the burden of proof to demonstrate compliance with RLDC 46.050.C.5.

Rule RLDC 46.050.C.6. The proposal that the adjacent or nearby BLM resource lands would have no significant interaction with the subject property is in error (see following Section 3.d); Map 1). The application has the burden of proof to demonstrate compliance with RLDC 46.050.C.6.

c) **JCCP Designations & Zoning In Area**

Lands adjacent and south of the subject property are allocated and zoned resource lands: either as Woodlot Resource or Exclusive Farm. Lands adjacent and west of the subject property are zoned Woodlot Resource. The adjacent land parcel south of the subject property includes 40 acres of Bureau of Land Management (*BLM 40*) resource lands allocated as Woodlot Resource (Tax Lot 700, Section 29, T.37S., R.5W., WM; Attachment Three; Attachment Four; Map 1). These resource allocations are expected to have the normal forest operations conducted on them. Land north and east of the subject property are zoned Rural Residential 5 with the normal rural home residential activities occurring on them.

The proposal is not in compliance with the standard as it only uses the standard of “adjacent” resource zoned lands; the application fails the burden of proof standard. See Map 1 for adjacent

or nearby resource zoned lands managed by BLM as commercial forest lands and other resource uses (see following Section 3.d)).

d) BLM Adaptive Management Areas & Rural Interface Areas

Adaptive Management Areas The BLM MDO's policy, for land it administers in Josephine County, Oregon, is that commercial forest land is all forest land that is capable of yielding at least 20 cubic feet of wood per acre per year of commercial tree species (Reference 1, Reference 2, & Reference 3). It does not matter that Josephine County's IRR standard is 85 cubic feet of wood per acre per year of commercial tree species. What matters is that the adjacent or nearby resource zoned lands to the subject property that BLM administers as resource lands are managed using the 20 cubic feet of wood per acre per year standard (Map 1).

- Reference 1 USDI, BLM, Medford District Office. August 1992. *Draft Medford District Resource Management Plan and Environmental Impact Statement*. Volume II, Appendix 3-T-1: Timber Production Capability Classification. provides, in relevant part, page Appendix 3-46.
- Reference 2 USDI, BLM, Medford District Office. October 1994. Final - *Medford District Proposed Resource Management Plan and Environmental Impact Statement*. Volume I. provides, in relevant part, pages Chapter 2-20 - Chapter 2-22.
- Reference 3 USDI, BLM, Medford District Office. June 1995. *Record of Decision and Resource Management Plan*. provides, in relevant part, pages 36 - 39,103, & 108.

All of the *BLM 40* to the south of, and adjacent to, the subject property is planned and zoned for resource uses (Woodlot Resource) by the county along with the associated operations or practices necessary to support those resource uses (Map 1). The biggest forest manager in Josephine County, the BLM, has large amounts of land it administers in the Murphy area as adaptive management areas (Map 1). The *BLM 40* south and adjacent to the subject parcel is managed by BLM as an adaptive management area (AMA). Although this parcel is allocated by BLM to AMA it inventories as commercial forest land, and except for a small amount of land withdrawn for riparian protection, it can be managed as commercial forest land under the AMA land use allocation.

The BLM MDO RMP records that lands allocated to AMAs, and the *BLM 40* are available for timber harvest and management for future harvest (USDI, BLM, Medford District Office. June 1995. *Record of Decision and Resource Management Plan*. provides, in relevant part, pages 36 - 38). The allocation objectives for AMAs follow.

Objective. "Develop and test new management approaches to integrate and achieve ecological and economic health and other social objectives." (RMP, page 36)

Objective. "Contribute substantially to achievement of SEIS ROD objectives including provision of well-distributed late-successional habitat outside reserves, retention of key structural elements of late-successional forests on lands subjected to

regeneration harvest, restoration and protection of riparian zones, **and provision of a stable timber supply.**” (RMP, page 36) (emphasis added)

Objective. “Specific emphasis for the Applegate AMA includes “development and testing of **forest management practices including partial cutting, prescribed burning, and low impact approaches to forest harvest** (e.g., aerial systems) that provide a broad range of forest values, including late-successional forest and high quality riparian habitat.” (RMP, page 36) (emphasis added)

The BLM MDO’s stated objectives for the Applegate AMA from its 2009 Program Summary And Monitoring Report follows: [BLM Medford District Office: Medford District Annual Program Summary And Monitoring Report For Fiscal Year 2009, http://www.blm.gov/or/districts/medford/plans/files/MDO_FY09_APS_web.pdf]

“The Medford District’s Applegate Adaptive Management Area is managed to restore and maintain late-successional forest habitat while developing and testing management approaches to achieve the desired economic and other social objectives.” [page 77]

“Most timber harvest volume comes from matrix lands, which includes General Forest Management Areas (GFMA), Adaptive Management Areas (AMA), and Connectivity/Diversity Blocks.” [page 8]

The December 15, 2010 Josephine County Planning Office staff report records the *BLM 40* as: “*Use & Zoning of Area: . . . South: Woodlot Resource (WR); vacant/BLM land.*”

Page 2. (emphasis added) The staff report recording that the BLM land is vacant is misleading. We presume that the planning staff uses the word “vacant” to mean a lack of developed structures (i.e., development). Therefore, in this case the term “vacant” as used by the planning staff is applicable to 99.9 % of all the lands BLM is actively managing as commercial forest lands. The land is certainly “not vacant” in terms of its natural resources, its ecological functions, and the jobs resulting from BLM management. The *BLM 40* is being managed as an AMA with ecological, economic and social objectives, including management for wildlife habitat and timber production (Attachment Three, January 7, 2011 BLM Operation Inventory (OI) Unit Summary Reports for *BLM 40*; Attachment Four, January 7, 2011 BLM Operation Inventory (OI) Unit Summary Reports for *BLM 40*’s Timber Capability Production Classification).

Rural Interface Areas The 1995 ROD/RMP [BLM Medford District Office Record of Decision/Resource Management Plan] objective for the rural interface areas (RIAs) is to consider the interests of adjacent and nearby rural residential land owners during analysis, planning, and monitoring activities occurring within managed public RIAs. These interests include personal health and safety, improvements to property, and quality of life. [BLM Medford District Office: *Medford District Annual Program Summary And Monitoring Report For Fiscal Year 2009*, page 29]

The following information about RIAs in southwestern Oregon, including Josephine County, is from a BLM planning document: USDI, BLM, Medford District Office (MDO). October 1994. Final - *Medford District Proposed Resource Management Plan and Environmental Impact Statement*. Volume I [Final BLM MDO EIS]

Rural Interface Areas - Areas where BLM-administered lands are adjacent to or intermingled with privately owned lands zoned for 1 to 20-acre lots or that already have residential development [page - Glossary - 13, Final BLM MDO EIS].

Rural Interface Areas - BLM Issue and Concern. Which BLM-administered lands should be allocated to receive special management practices due to concerns of residents who live in close proximity? Rural interface areas (RIAs) are areas where BLM-administered lands are adjacent to or mingled with the privately owned lands where county zoning has created or allows for creation of lots as small as 1 - 20 acres. **In most RIAs, concerns of the residents are related to forest and range management practices, visual quality, and potential effects on domestic water sources and water supplies** [page 1-8, Final BLM MDO EIS]. (emphasis added)

The areas where rural residential and/or farm/forest zoning occur near BLM-administered land have been labeled RIAs. Private RIAs are defined as private land zoned for rural-residential or farm/forest ½ mile from adjoining BLM-administered land. Public RIAs are defined as BLM-administered land ½ mile from the land zoned for rural, rural-residential, or farm/forest [page 3-116 Final BLM MDO EIS].

More than 500,000 acres in the planning area [BLM Medford District] have been inventoried as RIA lands, 220,084 acres are private RIA lands (43 percent) and 292,096 are public RIA lands (57 percent) [page 3-116 Final BLM MDO EIS].

There are 151,298 acres of private land zoned for lots as small as 6 to 20 acres within one-half mile of BLM-administered land [in the BLM Medford District]. This represents a potential maximum of 7,500 residences adjacent to BLM-administered land [page 3-116 Final BLM MDO EIS].

The total land open for potential residences in the private RIA is 220,084 acres (approximately 35,000 residences) [page 3-116 Final BLM MDO EIS].

Rural interface areas (RIAs) were a new innovative idea for the BLM's 1990s planning cycle for Western Oregon. They were the result of the consistent and persistent concerns of the general public and the residential public living on lands adjacent to BLM managed resource lands. It had become difficult for BLM to accomplish its resource management job with the numerous public complaints and lawsuits, and BLM decided to address the public concern issue directly. [December 27, 2010 Interview of Mike Walker by Leta Neiderheiser and Evelyn Heinrichs: Mike Walker was the 1986 - 1994 BLM Rural Interface Area/Outdoor Recreation Planner Interdisciplinary Team Member for the *Medford District Proposed Resource Management Plan*

and Environmental Impact Statement; Walker wrote the rural interface chapter of the BLM MDO Final EIS (USDI, BLM, Medford District Office. October 1994. Final - *Medford District Proposed Resource Management Plan and Environmental Impact Statement*. Volume I. Chapter 5 Consultation and Coordination, pages 5-16 through 5-20, List of Preparers].

Addressing the public controversy of the management of BLM resource lands adjacent to rural residential living activities became necessary for BLM. It resulted in the RIA concept becoming mandatory for BLM's 1990s planning cycle Western Oregon-wide, including the BLM Medford District Office, because, in part, local governments mitigating measure/conditions of approval (e.g, RLDC 46.050.C.5. & 6. etc.) provided by the local government's planning systems were not effective in mitigating the conflicts between the management activities on BLM-administered resource lands and the home living activities on adjacent residential lands. (December 27, 2010 Walker Interview)

The BLM in Western Oregon, including the BLM Medford District Office, needed its own management tools to try to effectively manage its public RIA resources lands adjacent to the county's private RIAs as local government's attempts to solve the conflicts between the activities on resource lands and adjacent residential lands were not effective. This included Josephine County's planning efforts associated with ineffective conditions of approval and conflict preference covenants (RLDC 46.050.C.5. & 6.).

RLDC 46.050.C.5. *A lot or parcel shall not be considered necessary to permit farm practices or forest operations on adjacent or nearby lands if the necessary benefit can be preserved through the imposition of special restrictions or conditions on the use of the subject property which reasonably assure continuation of the benefit.* (Attachment Two)

RLDC 46.050.C.6. As a condition upon the approval of all plan and map changes from resource to non-resource designations, the property owner shall be required to execute and record in the county deed records a Conflict Preference Covenant, which recognizes the rights of adjacent and nearby resource land owners to conduct normal farm practices and forest operations. The covenant shall provide that all land use conflicts between non-resource uses on the subject property and adjacent or nearby resource operations will be resolved in favor of accepted farm and forest practices and operations. (Attachment Two)

History has since shown that BLM was no more successful than Josephine County in effectively mitigating the conflicts between resource use practices on BLM-administered lands adjacent to rural residential living activities (December 27, 2010 Walker Interview).

If the subject property becomes Rural Residential 5 under the proposal its benefit as an impact buffer (RLDC 46.050.C.1.) to the BLM parcel to the south and adjacent of it will become lost and the north one-half of the BLM parcel will become a public RIA. The reallocation of the subject property from Woodlot Resource to Rural Residential 5 will be a loss of the impact buffer benefit to BLM and will interfere with accepted forest operations on BLM lands by significantly impeding or significantly increasing the cost of the practices or operations on the public RIA (RLDC 46.050.C.2). This impact is not an isolated impact to 40 acres of public RIA, but part of a cumulative impact significantly increasing the cost of the forest management practices or operations to potentially 292,096 acres of public RIA lands, especially those

surrounding the subject property and the surrounding forest operations (RLDC 46.050.C.3.; Map 1).

It is a fact that BLM spent hundreds of thousands of dollars recognizing the RIA issue, identifying the BLM private and public RIA lands with the highest potential to become conflict RIA lands, and developing RIA prescriptions to attempt to address adjacent residential landowners' concerns. All BLM westside Oregon districts have this RIA management issue and RIA prescriptions in their existing resource management plans because local mitigating measures/conditions of approval were not effective (RLDC 46.050.C.5. & 6).

In conclusion, the subject property of the proposal is not in compliance with JCCP Goal 11, Policy 3.B.[3] & 3.C., and RLDC 46.050.B.3 and RLDC 46.050.C., and is land necessary to permit efficient and cost effective forest operations on adjacent BLM land as the subject property provides a special land use benefit as an impact buffer in minimizing land use conflicts, the continuance of which is necessary to permit effective forest operations on the adjacent *BLM 40*. In addition, this impact to the adjacent *BLM 40* is not an isolated impact to 40 acres of public RIA, but part of a cumulative impact significantly increasing the cost of the forest management practices or operations to potentially 292,096 acres of public RIA lands, especially those surrounding the subject property and the surrounding forest operations (RLDC 46.050.C.3.; Map 1).

- RLDC 46.050.B.3. The proposal is not in compliance with the standard as it only uses the standard of "adjacent" resource zoned lands versus the "adjacent or nearby" resource zoned lands standards.
- RLDC 46.050.C. The proposal is not in compliance with the standard as it only uses the standard of "adjoining resource lands" versus the standard of "adjacent or nearby lands".
- RLDC 46.050.C.1. Beneficial uses of subject property remaining Woodlot Resource is 1. impact buffering, and 2. and minimization of conflicts between residential lands (private RIA lands) and BLM AMA lands (public RIA lands); no impact buffering from proposal.
- RLDC 46.050.C.2. Beneficial use of subject property remaining Woodlot Resource is impact buffering of BLM AMA lands; no impact buffering will increase the cost of forest practices or operations
- RLDC 46.050.C.3. The record is incomplete and does not provide an adequate review of the relationship between the subject property and surrounding forest operations (i.e., Map 1), nor does it list and describe existing or potential forest operations on adjacent or nearby lands, nor provide an analysis of how the uses permitted by the proposed non-resource designations may or may not significantly impede or significantly increase the cost of accepted farm practices or forest operations.
- RLDC 46.050.C.5. Beneficial use of subject property remaining Woodlot Resource is impact buffering of BLM AMA lands; no impact buffering will increase the cost

of forest practices or operations as “local conditions of approval” are not effective.

RLDC 46.050.C.6. Beneficial use of subject property remaining Woodlot Resource is impact buffering of BLM AMA lands; no impact buffering will increase the cost of forest practices or operations as “conflict preference covenants” are not effective.

e) **Analysis Of JCCP Goal 11, Policy 3.C. and RLDC 46.050.C**

RLDC 46.050.C What beneficial uses on subject property support the position that *“Land is necessary to permit farm practices or forest operations on adjacent or nearby lands when the land within the lot or parcel provides a special land use benefit, the continuance of which is necessary for the adjacent or nearby practice or operation to continue or occur.”?* (Attachments One & Two)

RLDC 46.050.B.3. The proposal is not in compliance with the standard as it only uses the standard of “adjacent” resource zoned lands versus the “adjacent or nearby” resource zoned lands standards. (see Section 3.d) above)

RLDC 46.050.C. The proposal is not in compliance with the standard as it only uses the standard of “adjoining resource lands” versus the standard of “adjacent or nearby lands”. (see Section 3.d) above)

RLDC 46.050.C.1. If the subject property does not remain as a buffer zone the noise from logging, thinning, etc. on the BLM land will penetrate into the new rural residential zone on the subject property causing concern and complications to the BLM managed land and making it impossible for them to manage their land in a cost effective manner.

RLDC 46.050.C.1. Beneficial uses of subject property remaining Woodlot Resource is 1. impact buffering, and 2. and minimization of conflicts between residential lands and BLM AMA lands; no impact buffering from proposal (see Section 3.d) above).

RLDC 46.050.C.1. Beneficial use of wind breaks will be lost if subject land is removed from wood lot status because a number of trees will be removed from the subject property, increasing the wind tunnel effect of the power line access road that traverses the front of the property. This increased wind tunnel effect increases the potential for wind falls on the BLM land as well as neighboring properties. The increase in downed timber increases the overall fire danger.

RLDC 46.050.C.2. RIA management on the north half of the 40 acre BLM parcel will increase the cost of forest practices or operations (see Section 3.d above) because they will not be able to fully use this section of the property for fear of disturbing the new six homes on subject property. It will limit the hours that BLM can manage their land and the noise level of equipment thus increasing their cost.

RLDC 46.050.C.3. The proposal is not in compliance with the standard as it is conclusory and does not provide any review of the *potential land uses on the subject property* and the existing and potential forest operations *on adjacent or nearby lands, nor any analysis* of how the uses permitted by the proposed non-resource designations may or may not significantly impede or significantly increase the cost of accepted forest operations to the adjacent land managed by BLM as commercial forest lands and other resource lands, and the nearby lands managed by BLM as commercial forest lands and other resource lands (see Section 3.d); Map 1). The application/proposal is incomplete as it does not provide the information required, and therefore, the record will not be sufficient to allow review.

RLDC 46.050.C.4. BLM had not provided any testimony.

RLDC 46.050.C.5. Beneficial use of subject property remaining Woodlot Resource is impact buffering of BLM adaptive management areas; no impact buffering will increase the cost of forest practices or operations as “local conditions of approval” are not effective (see Section 3.d); Map 1).

RLDC 46.050.C.6. Beneficial use of subject property remaining Woodlot Resource is impact buffering of BLM adaptive management areas lands; no impact buffering will increase the cost of forest practices or operations as “conflict preference covenants” are not effective (see Section 3.d); Map 1).

4. Conclusion Statement

The application proposal that the subject property is not land necessary to permit forest operations to continue, or occur, on adjacent or nearby resource zoned lands misconstrue the applicable law, are inadequate, and are not supported by substantial evidence; the application fails the burden of proof standard. The record is conclusory and/or incomplete, as it fails to identify what information applies from the six rules when evaluating the criterion at RLDC 46.050.C. There is not substantial evidence in the record to support a conclusion that the subject property is “not necessary to permit forest operations to continue or occur on adjacent or nearby resource zoned lands” (JCCP Goal 11, Policy 3.C and RLDC 46.050.C.). Rather, the evidence in the record establishes that the lands of the subject property are necessary to permit forest operations to continue or occur on adjacent or nearby resource zoned lands and to permit forest operations on adjacent or nearby lands.

The application’s conclusion that the subject property is not forest land misinterpreted and is contrary to applicable law and is not supported by substantial evidence in the record. Therefore, the application should be denied. ORS 197.835(6); 197.835(7)(a); 197.835(8); 197.835(9)(a)(C); 197.835(11).

The county in its decision and findings is required to address legitimate issues raised about approval criteria in a quasi-judicial land use proceeding by petitioners. *Knight v. City of Eugene*, 41, Or LUBA 279 (2002); *Boly v. City of Portland*, 40 Or LUBA 537 (2001); *Dayton Prairie*

Water Assoc. v. Yamhill County, 38 Or LUBA 14 (2000); *Wood v. Crook County*, 36 Or LUBA 143 (1999). The record is not sufficient to allow review if the county's findings rely on this record they will be inadequate in addressing legitimate issues raised in a quasi-judicial land use proceeding concerning relevant approval criteria, and LUBA must remand for the county to consider the issues raised. ORS 197.835(11).

Thank you for allowing us to share our concerns with you concerning this matter.

/s/ Joe Neiderheiser

Joe Neiderheiser
279 Ridgefield Rd.
Grants Pass, OR 97527

/s/ Leta Neiderheiser

Leta Neiderheiser
279 Ridgefield Rd.
Grants Pass, OR 97527

/s/ Bob Heinrichs

Bob Heinrichs
360 Ridgefield Road
Grants Pass, OR 97527

/s/ Evelyn Heinrichs

Evelyn Heinrichs
360 Ridgefield Road
Grants Pass, OR 97527

Attachments:

Attachment One. Josephine County Comprehensive Plan Goal 11, Policy 3.B & 3.C.

Attachment Two. Josephine County Rural Development Code (RLDC) 46.050.B.3. & C

Attachment Three. January 7, 2011 BLM Operation Inventory (OI) Unit Summary Reports for *BLM 40* (Tax Lot 700, Section 29, T.37S., R.5W., WM)

BLM OI Unit Number 114956

BLM OI Unit Number 114957

BLM OI Unit Number 114958

BLM Aerial Photograph No. 1 of *BLM 40's* OI Units

Attachment Four. January 7, 2011 BLM Operation Inventory (OI) Unit Summary Reports for *BLM 40's* Timber Capability Production Classification (Tax Lot 700, Section 29, T.37S., R.5W., WM)

BLM OI Unit Number 114956

BLM OI Unit Number 114957

BLM OI Unit Number 114958

BLM Aerial Photograph No. 2 of *BLM 40's* OI Units & TPCC

Map 1. BLM "Adjacent Or Nearby Resource Zoned Lands" And/Or BLM "Adjacent Or Nearby Lands" To 32.84 acre Whitaker Parcel

Attachment One. Josephine County Comprehensive Plan Goal 11, Policy 3.B & 3.C.

GOAL 11: THE COMPREHENSIVE PLAN SHALL BE MAINTAINED, AMENDED, AND UPDATED AS NECESSARY (<http://www.co.josephine.or.us/files/gp2005.pdf>)

3. NON-RESOURCE LAND CRITERIA. Authorized lots or parcels (but not portions thereof) which have been zoned Woodlot Resource or Farm Resource may be designated as non-resource when the application demonstrates compliance with the following criteria and rules:

B. The land within the lot or parcel is non-forest land because

[1] It is not included within the following definition of forest land:

A lot or parcel is considered forest land when the predominant (more than 50%) soil or soils on the parcel have an internal rate of return of 3.50 or higher (if a single forest-rated soil is present), or composite internal rate of return of 3.50 or higher (if multiple forest-rated soils are present).

For the purpose of this criterion, any evaluation of the internal rates of return for forest soils shall be made pursuant to the document entitled, *Using The Internal Rate Of Return To Rate Forest Soils For Applications In Land Use Planning (1985)*, by Lawrence F. Brown, as amended; or

[2] If a determination cannot be made using the internal rate of return system as described in subsection B[1] above, the land is shown to be unsuitable for commercial forest uses based upon a combination of proofs, to include (but not limited to) the site index or cubic foot calculations, the testimony of expert witnesses, information contained in scientific studies or reports from public and private sources, historic market data for the relevant timber economy, and any other substantive testimony or evidence regarding the commercial productivity of the subject land, which taken together demonstrate the land is not protected by Statewide Goal 4; and

[3] The land is not necessary to permit farm practices or forest operations to continue or occur on adjacent or nearby resource zoned lands, subject to the rules and procedures as set forth in subsection C below.³ (emphasis added)

C. Land is necessary to permit farm practices or forest operations on adjacent or nearby lands when the land within the lot or parcel provides a special land use benefit, the continuance of which is necessary for the adjacent or nearby practice or operation to continue or occur. The following rules shall apply when evaluating this criterion: (emphasis added)

[1] Land use benefits shall include access, water supplies, wind breaks, **impact buffering, the minimization of land use conflicts**, the preservation and protection of soil, air, water, watershed, and vegetation amenities; and the retention of normally accepted wildfire fighting strategies for adjacent or nearby commercial forest uses. (emphasis added)

[2] A land use benefit shall be considered necessary for normal farm practices and forest operations **when loss of the benefit will interfere with accepted farm practices or forest operations** by significantly impeding or significantly increasing the cost of the practices or operations. (emphasis added)

[3] The application shall include a review of the relationship between the lot or parcel under consideration and surrounding farm practices and forest operations. The review shall list and describe existing or potential farm practices and forest operations on adjacent or nearby lands, as well as the general geography and potential land uses on the subject property, and then provide **an analysis of how the uses permitted by the proposed non-resource designations may or may not significantly impede or**

significantly increase the cost of accepted farm practices or forest operations. The review may be based upon data or information from some or all of the following sources: private organizations (commercial timber producers, forestry consultants, woodlot associations, etc.) public agencies that collect and interpret farm practice or forest operation data, such as county offices (Departments of Planning, Assessor and Forestry) state agencies (Departments of Forestry, Agriculture, Revenue and the Oregon State Extension Service), federal agencies (Department of Agriculture/Forest Service, the Bureau of Land Management, the Natural Resources Conservation Service and the Farm Service Agency), and other similar public entities. (emphasis added)

[4] In the event a farm or forest operator within the review area contends in the record that the map changes could significantly impede or increase the cost of specific practices or operations, and this contention is based upon records, data and other information in the operator's possession, but unavailable to participants in the hearing from public sources, the review body is authorized to require the operator to submit the supporting records, data and other information into the record for examination by the review body and other participants.

[5] A lot or parcel shall not be considered necessary to permit farm practices or forest operations on adjacent or nearby lands if the **necessary benefit can be preserved through the imposition of special restrictions or conditions on the use of the subject property which reasonably assure continuation of the benefit.** (emphasis added)

[6] As a condition upon the approval of all plan and map changes from resource to non-resource designations, the property owner shall be required to execute and record in the county deed records a ***Conflict Preference Covenant***, which recognizes the rights of adjacent and nearby resource land owners to conduct normal farm practices and forest operations. The covenant shall provide that all land use conflicts between non-resource uses on the subject property and adjacent or nearby resource operations will be resolved in favor of accepted farm and forest practices and operations. (emphasis added)

[Footnote] 3 Only lands zoned in the Woodlot Resource zone may qualify as non-forest lands (see paragraph 3 above). Lands zoned in the Forest Commercial zone are not eligible for this option. The basis for this distinction lies in the county's ability to ascertain the commercial viability of forest lands based upon the Internal Rate of Return (IRR) system, as it has been applied within the acknowledged plan. The IRR system, in conjunction with the county's further ability to ascertain other locational factors, demonstrates that Woodlot Resource zoned lands have qualified commercial forest value and are generally situated in proximity to other non-commercial forest or non-resource lands. The county is able to make this finding based upon the GIS mapping and analysis contained in the report, *Locational Factors Affecting Woodlot Resource Lands*, by Michael Snider (March 22, 1999). This publication is made a part of the comprehensive plan by this reference.

Attachment Two. Josephine County Rural Development Code (RLDC) 46.050.B.3. & C
http://www.co.josephine.or.us/Files/complete_code_2005.pdf

RLCD 46 - AMENDING & UPDATING THE COMPREHENSIVE PLAN

RLDC 46.050 - NON-RESOURCE LAND CRITERIA.

Authorized lots or parcels (but not portions thereof) which have been zoned Woodlot Resource or Farm Resource may be designated as non-resource when the application demonstrates compliance with the following criteria and rules:

B. The land within the lot or parcel is non-forest land because:

3. The land is not necessary to permit farm practices or forest operations to continue or occur on adjacent or nearby resource zoned lands, subject to the rules and procedures as set forth in subsection C below (Same as JCCP Goal 11, Policy 3(B)(3).

C. Land is necessary to permit farm practices or forest operations on adjacent or nearby lands when the land within the lot or parcel provides a special land use benefit, the continuance of which is necessary for the adjacent or nearby practice or operation to continue or occur. The following rules shall apply when evaluating this criterion:

[1] Land use benefits shall include access, water supplies, wind breaks, impact buffering, the minimization of land use conflicts, the preservation and protection of soil, air, water, watershed, and vegetation amenities; and the retention of normally accepted wildfire fighting strategies for adjacent or nearby commercial forest uses.

[2] A land use benefit shall be considered necessary for normal farm practices and forest operations when loss of the benefit will interfere with accepted farm practices or forest operations by significantly impeding or significantly increasing the cost of the practices or operations.

[3] The application shall include a review of the relationship between the lot or parcel under consideration and surrounding farm practices and forest operations. The review shall list and describe existing or potential farm practices and forest operations on adjacent or nearby lands, as well as the general geography and potential land uses on the subject property, and then provide an analysis of how the uses permitted by the proposed non-resource designations may or may not significantly impede or significantly increase the cost of accepted farm practices or forest operations. The review may be based upon data or information from some or all of the following sources: private organizations (commercial timber producers, forestry consultants, woodlot associations, etc.) public agencies that collect and interpret farm practice or forest operation data, such as county offices (Departments of Planning, Assessor and Forestry) state agencies (Departments of Forestry, Agriculture, Revenue and the Oregon State Extension Service), federal agencies (Department of Agriculture/Forest Service, the Bureau of Land Management, the Natural Resources Conservation Service and the Farm Service Agency), and other similar public entities.

[4] In the event a farm or forest operator within the review area contends in the record that the map changes could significantly impede or increase the cost of specific practices or operations, and this contention is based upon records, data and other information in the operator's possession, but unavailable to participants in the hearing from public sources, the review body is authorized to require the operator to submit the supporting records, data and other information into the record for examination by the review body and other participants.

[5] A lot or parcel shall not be considered necessary to permit farm practices or forest operations on adjacent or nearby lands if the necessary benefit can be preserved through the imposition of special restrictions or conditions on the use of the subject property which reasonably assure continuation of the benefit.

[6] As a condition upon the approval of all plan and map changes from resource to non-resource designations, the property owner shall be required to execute and record in the county deed records a *Conflict Preference Covenant*, which recognizes the rights of adjacent and nearby resource land owners to conduct normal farm practices and forest operations. The covenant shall provide that all land use conflicts between non-resource uses on the subject property and adjacent or nearby resource operations will be resolved in favor of accepted farm and forest practices and operations.

Attachment Three. January 7, 2011 BLM Operation Inventory (OI) Unit Summary Reports for BLM 40 (Tax Lot 700, Section 29, T.37S., R.5W., WM)

BLM OI Unit Number 114956

BLM OI Unit Number 114957

BLM OI Unit Number 114958

BLM Aerial Photograph No. 1 of BLM 40's OI Units

Operations Inventory (OI) (also Forest Operations Inventory - FOI) - And intensive, site-specific forest inventory of forest and stand location, size, silvicultural needs, and recommended treatment based on individual stand conditions and productivity (USDI, BLM, Medford District Office. June 1995. *Record of Decision and Resource Management Plan*. provides, in relevant part, pages 110).

Operations Inventory Unit (OIU) - An aggregation of trees occupying an area that is sufficiently uniform in composition, age, arrangement and condition to be distinguishable from vegetation on adjoining areas (USDI, BLM, Medford District Office. June 1995. *Record of Decision and Resource Management Plan*. provides, in relevant part, pages 110).

OI Unit Summary Report for OI Unit Number 114956

OI Unit Number:	114956	TRSU:	37S-05W-29-004	Unit Name:	
Land Use Allocation:	Adaptive Management Areas	10 Yr Age Class:	140	5th Fld. Watershed:	Lower Applegate River
Entire Stand Description:	FCO D4D3SP4SP3=1876//D1SP8-				
Seed Zone:	511	Low Elevation:	1200	High Elevation:	1800
100 Yr. Site Table:	Douglas-fir - McArdle	100 Yr. Site Index:		100 Year Site Class:	5
50 Yr. Site Table:	Douglas-fir - Hann	50 Yr. Site Index:		50 Year Site Class:	

Acres	Microforms	GIS
Gross:		20.17
Road:		0
Treatment:	20	20.17
Non Forest:		0
Forested:		20.17

Aspect	
Direction	Percent

Slope	
Slope Class	Percent

Last Stand Attributes Remarks:

Harvest Treatments

Non-Harvest Treatments

Planting Treatments

Surveys

Insects, Disease and Injury

OI Unit Remarks:

OI Unit Summary Report for OI Unit Number 114957

OI Unit Number:	114957	TRSU:	37S-05W-29-005	Unit Name:	
Land Use Allocation:	Adaptive Management Areas	10 Yr. Age Class:	110	5th Fld. Watershed:	Lower Applegate River
Entire Stand Description: FCO D4P4D3P3-1906/D8P8					
Seed Zone:	511	Low Elevation:	1400	High Elevation:	1800
100 Yr. Site Table:	Douglas-fir - McArdle	100 Yr. Site Index:		100 Year Site Class:	5
50 Yr. Site Table:		50 Yr. Site Index:		50 Year Site Class:	

Acres	Microstorms	GIS	Aspect		Slope	
			Direction	Percent	Slope Class	Percent
Gross:		16.67				
Road:		0				
Treatment:	15	16.67				
Non Forest:		0				
Forested:		16.67				

Last Stand Attributes Remarks:

Harvest Treatments

Non-Harvest Treatments

Status	Treat Date	Treatment Description	PCT Spacing	Acres
Proposed	1/1/1900	SW- TPCC Suitable Woodland		15
Non-Harvest Remarks:				

Planting Treatments

Surveys

Insects, Disease and Injury

OI Unit Remarks:

OI Unit Summary Report for OI Unit Number 114958

OI Unit Number:	114958	TRSU:	37S-05W-29-006	Unit Name:	
Land Use Allocation:	Adaptive Management Areas	10 Yr Age Class:	110	5th Fld. Watershed:	Lower Applegate River
Entire Stand Description:	FCO D4P3D3P4-1906//D8P8				
Seed Zone:	511	Low Elevation:	1400	High Elevation:	1800
100 Yr. Site Table:	Douglas-fir - McArdle	100 Yr. Site Index:		100 Year Site Class:	5
50 Yr. Site Table:		50 Yr. Site Index:		50 Year Site Class:	

Acres	Microstorms	GIS
Gross:		3.63
Road:		0
Treatment:	4	3.63
Non Forest:		0
Forested:		3.63

Aspect	
Direction	Percent

Slope	
Slope Class	Percent

Last Stand Attributes Remarks:

Harvest Treatments

Non-Harvest Treatments

Status	Treat Date	Treatment Description	PCT Spacing	Acres
Proposed	1/1/1900	SW- TPCC Suitable Woodland		4
Non-Harvest Remarks:				

Planting Treatments

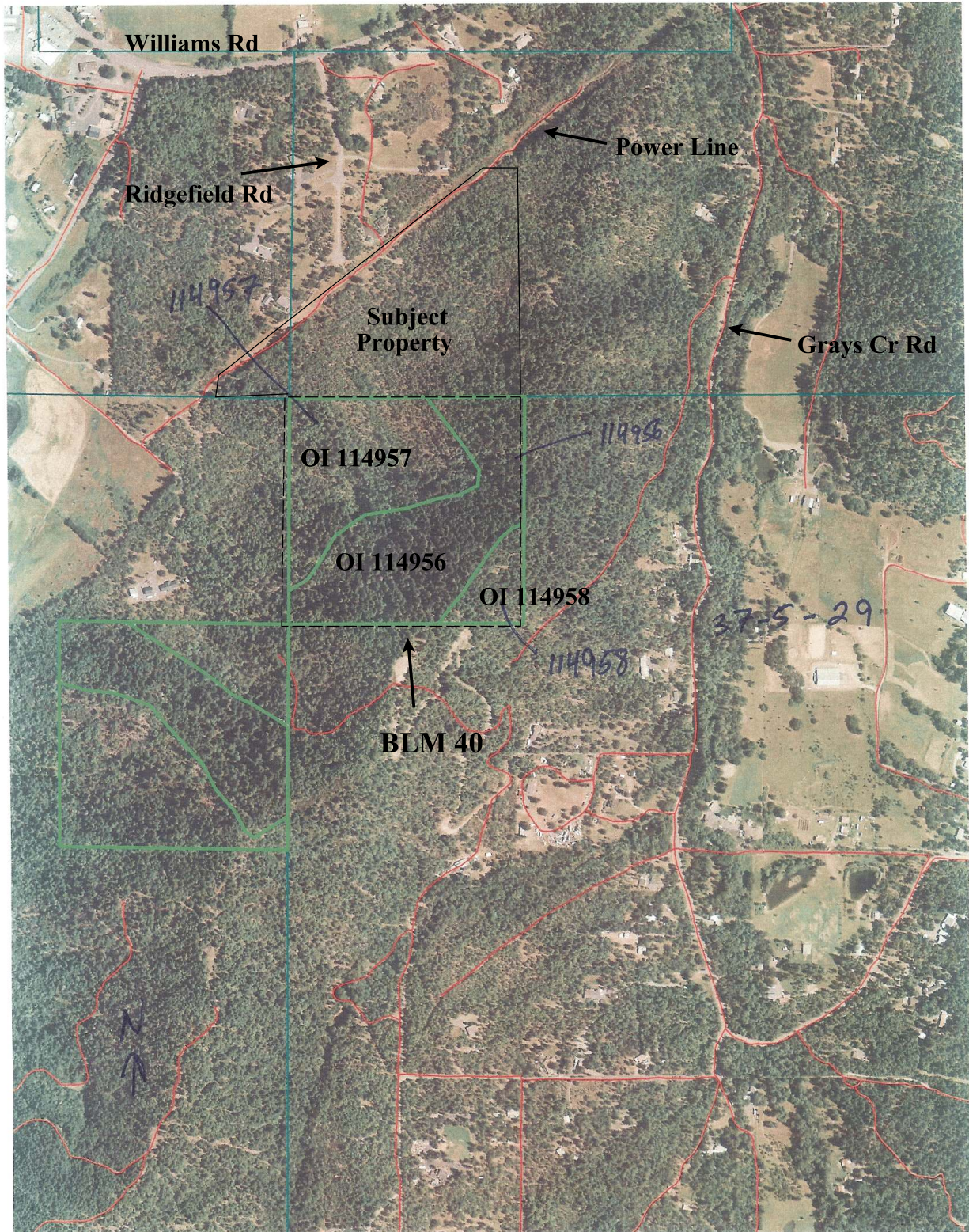
Surveys

Insects, Disease and Injury

OI Unit Remarks:

Friday, January 07, 2011

Page 1 of 2



BLM Aerial Photograph No. 1 Of Operation Inventory Units: January 7, 2011

Attachment Four. January 7, 2011 BLM Operation Inventory (OI) Unit Summary Reports for BLM 40's Timber Capability Production Classification (Tax Lot 700, Section 29, T.37S., R.5W., WM)

BLM OI Unit Number 114956

BLM OI Unit Number 114957

BLM OI Unit Number 114958

BLM Aerial Photograph No. 2 of BLM 40's OI Units & TPCC

Timber Capability Production Classification (TPCC) - The process of partitioning forestland into major classes indicating relative suitability to produce timber on a sustained yield basis (USDI, BLM, Medford District Office. June 1995. *Record of Decision and Resource Management Plan*. provides, in relevant part, pages 116).

1. BLM OI Unit Number 114956: TPCC - RTR
2. BLM OI Unit Number 114957: TPCC - RTW
3. BLM OI Unit Number 114958: TPCC - RTW

O.I. UNIT SUMMARY SHEET
GRANTS PASS RESOURCE AREA

KEY NO.: 114956 TRSU: 37S-05W-29-004 SPLIT UNIT: RA: GP SYU: 51 COUNTY: 33
SEED ZONE: 511 BLM BREED UNIT: 23 COOP. BREED UNIT: 45

COMPARTMENT: AZIMUTH RANGE: 315-045 PHYSIOGRAPHY: 8 LOW ELEVATION: 1200 HIGH ELEVATION: 1800
SITE TAKEN: N SITE TABLE: D-FIR, MCARDLE SITE CLASS: 5

TOTAL UNIT ACRES: 20 O&C: 20 PD: CBWR: AQ'D.: CHECKMARK:
ACREAGE DETERMINATION METHOD: 2 (PLANIMETER)

KEY VALUE(S): 8 TIMBER-NO CONFL 90TPCC UNIT(S): 221877 37S-05W-29-001 RMR

OCCURRENCE CAUSE: OCCURRENCE DATE: CURRENT T.S. NAME: REGEN UNIT NAME:

HARVEST TYPE YARDING DATE ACRES HARVESTED CONTRACT FY & NO. CONTRACT MONTH UNIT NUMBER **TOTAL NO. ENTRIES = 0

PLANTING CODE PLANTED ACRES PLANTING DATE CLASSIFICATION **TOTAL NO. PLANTS = 0

SURVEY TYPE SURVEY ACRES SURVEY DATE REGEN CLASS WELL-SPACED TPA % STOCKING **TOTAL NO. SURVEYS = 0

REGEN. REMARKS:

TREATMENT ACCOMPLISHED ACRES TREATED TREATMENT DATE **TOTAL TA'S = 0 PCT'D AC. PCT DATE FERT. AC. FERT. DATE

COVER COND.: ZZ

DOM. O/S SPP. & SIZE: D4 OTHER O/S SPP.: SP4 O/S STK. CLASS: 2 O/S BIRTHDATE: 1876

D 3

SP3

DOM. U/S SPP. & SIZE: D1 OTHER U/S SPP.: SP?F U/S STK. CLASS: 1 U/S BIRTHDATE:

ESC: 40 (NO PAST MANAGE) CFI: 18 TEN-YR. AGE CLASS: 110 VOLUME: 18.0 O/S FTC: 5

OLD GROWTH: HCA: 0 UE\UF: 0

RECOMMENDED TREATMENT RT ACRES DATE TO TREAT DATE PRESCRIBED REC. TREATMENT AUTHOR **TOTAL NO. RT'S = 1

0102 LOPRIOR CC 20 10-01-90 07-30-86 DISKIN

LAST UPDATES (BY SCREEN): GEO: GEO.2: 90TPCC: HARVEST: TIMBER: 12-30-88 VOLUME:

TA: PLANTED: REGEN: PCT: FERT: RT:

O.I. UNIT SUMMARY SHEET
GRANTS PASS RESOURCE AREA

KEY NO.: 114957 TRSU: 37S-05W-29-005 SPLIT UNIT: RA: GP SYU: 51 COUNTY: 33
SEED ZONE: 511 BLM BREED UNIT: 23 COOP. BREED UNIT: 45

COMPARTMENT: AZIMUTH RANGE: 090-315 PHYSIOGRAPHY: 8 LOW ELEVATION: 1400 HIGH ELEVATION: 1800
SITE TAKEN: N SITE TABLE: D-FIR, MCARDLE SITE CLASS: 5

TOTAL UNIT ACRES: 10 O&C: 10 PD: CBWR: AQ'D.: CHECKMARK:
ACREAGE DETERMINATION METHOD: 2 (PLANIMETER)

KEY VALUE(S): 6 CRIT. WATERSHED 90TPCC UNIT(S): 221879 37S-05W-29-003 RTW

OCCURRENCE CAUSE: OCCURRENCE DATE: CURRENT T.S. NAME: REGEN UNIT NAME:

HARVEST TYPE YARDING DATE ACRES HARVESTED CONTRACT FY & NO. CONTRACT MONTH UNIT NUMBER **TOTAL NO. ENTRIES = 0

PLANTING CODE PLANTED ACRES PLANTING DATE CLASSIFICATION **TOTAL NO. PLANTS = 0

SURVEY TYPE SURVEY ACRES SURVEY DATE REGEN CLASS WELL-SPACED TPA % STOCKING **TOTAL NO. SURVEYS = 0

REGEN. REMARKS:

TREATMENT ACCOMPLISHED ACRES TREATED TREATMENT DATE **TOTAL TA'S = 0 PCT'D AC. PCT DATE FERT. AC. FERT. DATE

COVER COND.: ZZ
DOM. O/S SPP. & SIZE: D4 OTHER O/S SPP.: P4 O/S STK. CLASS: 1 O/S BIRTHDATE: 1906

D3
P3
DOM. U/S SPP. & SIZE: D OTHER U/S SPP.: P?F U/S STK. CLASS: U/S BIRTHDATE:

ESC: 81 (CONIFER-SWLCFL) CFI: 50 TEN-YR. AGE CLASS: 80 VOLUME: 4.0 O/S FTC:

OLD GROWTH: HCA: 0 UE\UF: 0

RECOMMENDED TREATMENT RT ACRES DATE TO TREAT DATE PRESCRIBED REC. TREATMENT AUTHOR **TOTAL NO. RT'S = 1

OI40 SUIT WOODL 10 07-30-86 DISKIN

LAST UPDATES (BY SCREEN): GEO: GEO.2: 90TPCC: HARVEST: TIMBER: VOLUME:

TA: PLANTED: REGEN: PCT: FERT: RT:

O.I. UNIT SUMMARY SHEET
GRANTS PASS RESOURCE AREA

O.I. =
Operations
Inventory

KEY NO.: 114958 TRSU: 37S-05W-29-006 SPLIT UNIT: RA: GP SYU: 51 COUNTY: 33
SEED ZONE: 511 BLM BREED UNIT: 23 COOP. BREED UNIT: 45

COMPARTMENT: AZIMUTH RANGE: 090-315 PHYSIOGRAPHY: 8 LOW ELEVATION: 1400 HIGH ELEVATION: 1800
SITE TAKEN: N SITE TABLE: D-FIR, MCARDLE SITE CLASS: 5

TOTAL UNIT ACRES: 7 O&C: 7 PD: CBWR: AQ'D.: CHECKMARK:
ACREAGE DETERMINATION METHOD: 2 (PLANIMETER)

KEY VALUE(S): 6 CRIT. WATERSHED 90TPCC UNIT(S): 221879 37S-05W-29-003 RTW

OCCURRENCE CAUSE: OCCURRENCE DATE: CURRENT T.S. NAME: REGEN UNIT NAME:

HARVEST TYPE YARDING DATE ACRES HARVESTED CONTRACT FY & NO. CONTRACT MONTH UNIT NUMBER **TOTAL NO. ENTRIES = 0

PLANTING CODE PLANTED ACRES PLANTING DATE CLASSIFICATION **TOTAL NO. PLANTS = 0

SURVEY TYPE SURVEY ACRES SURVEY DATE REGEN CLASS WELL-SPACED TPA % STOCKING **TOTAL NO. SURVEYS = 0

REGEN. REMARKS:

TREATMENT ACCOMPLISHED ACRES TREATED TREATMENT DATE **TOTAL TA'S = 0 PCT'D AC. PCT DATE FERT. AC. FERT. DATE

COVER COND.: ZZ
DOM. O/S SPP. & SIZE: D4 OTHER O/S SPP.: P4 O/S STK. CLASS: 1 O/S BIRTHDATE: 1906
D3
P3
DOM. U/S SPP. & SIZE: D OTHER U/S SPP.: P?F U/S STK. CLASS: U/S BIRTHDATE:

ESC: 81 (CONIFER-SWLCFL) CFI: 50 TEN-YR. AGE CLASS: 80 VOLUME: 4.0 O/S FTC: 6
OLD GROWTH: HCA: 0 UE\UF: 0

RECOMMENDED TREATMENT RT ACRES DATE TO TREAT DATE PRESCRIBED REC. TREATMENT AUTHOR **TOTAL NO. RT'S = 1
0140 SUIT WOODL 7 07-30-86 DISKIN

LAST UPDATES (BY SCREEN): GEO: GEO.2: 90TPCC: HARVEST: TIMBER: VOLUME:
TA: PLANTED: REGEN: PCT: FERT: RT:

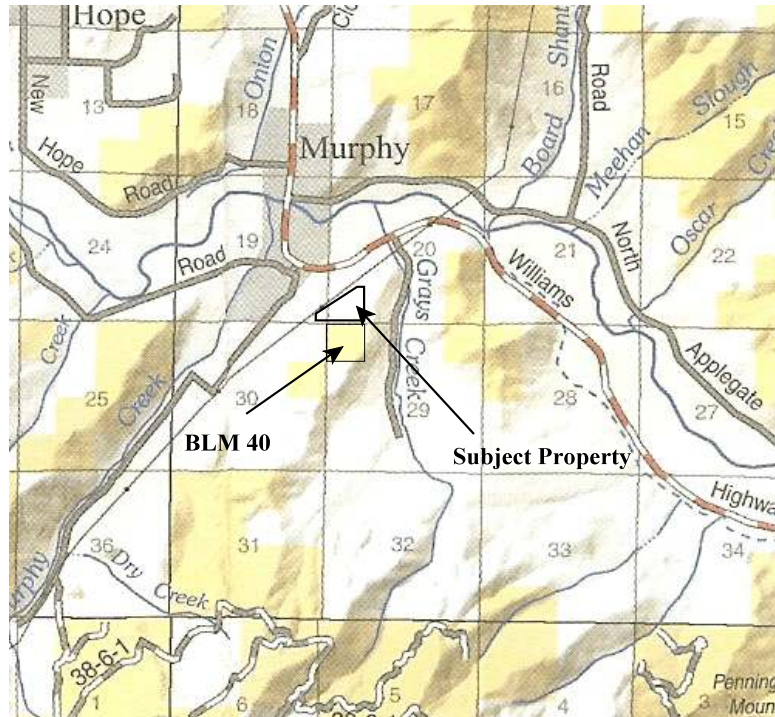


BLM Aerial Photograph No. 2 of BLM 40 Acres, OI Units, & TPCC: January 7, 2011

Map 1. BLM “Adjacent Or Nearby Resource Zoned Lands” And/Or BLM “Adjacent Or Nearby Lands” To 32.84 acre Whitaker Parcel

Map 1 is the 32.84 acre “subject property” of the Whitaker Comprehensive Plan/Zone Change land use application. If approved this application will amend the Josephine County Comprehensive Plan designation from Forest to Residential and change the zoning map from Woodlot Resource to Rural Residential (RR-5) for Tax Lot 2001, T.37S., R.5W., Section 20 (32.84 acre subject property).

All of the 40-acre BLM parcel to the south of, and adjacent to, the subject property is planned and zoned for resource uses (Woodlot Resource) by the county along with the associated operations or practices necessary to support that resource use. The biggest forest manager in Josephine County, the BLM, has large amounts of land it administers in the Murphy area as adaptive management areas (AMAs). The BLM administers the land south and adjacent to the subject parcel as an AMA. Although this parcel is allocated by BLM to AMA, it inventories as commercial forest land and can be managed as such under that land use allocation [BLM Medford District Office: Medford District Annual Program Summary And Monitoring Report For Fiscal Year 2009].



Map 1. Yellow Parcels Are Adjacent and Near-by BLM-administered Resource Lands

The areas where rural residential and/or farm/forest zoning occur near BLM-administered land have been labeled [rural interface areas] RIAs (i.e., yellow areas on Map 1). Private RIAs are defined as private land zoned for rural-residential or farm/forest ½ mile from adjoining BLM-administered land (i.e., ½ mile of yellow areas on Map 1). Public RIAs are defined as BLM-administered land ½ mile from the land zoned for rural, rural-residential, or farm/forest. [USDI, BLM, Medford District Office (MDO). October 1994. Final - *Medford District Proposed Resource Management Plan and Environmental Impact Statement*. Volume I (page 3-116, Final BLM MDO EIS)]

If the subject property becomes Rural Residential 5 its benefit as a buffer for the BLM parcel to the south of it will become lost and the north one-half of the BLM parcel will become a RIA. The reallocation of the subject property from Woodlot Resource to Rural Residential 5 will be a loss of the impact buffering benefit and minimization of conflict effect benefit to BLM, and will interfere with accepted forest operations on BLM lands by significantly impeding or significantly increasing the cost of the practices or operations on the public RIA.

Map 1 is a portion of the 2004 *Western Portion BLM Medford District* map by the USDI Bureau of Land Management & USDA Forest Service. BLM/OR/WA/CI-03/039-1122.33. 1/2" = 1 mile.

Email copies:

- James Black, Planner
Josephine County Planning Office
700 Dimmick Street, Suite C
Grants Pass, Oregon 97526
541-474-5421, ext. 5418
Email: jblack@co.josephine.or.us
- Katherine Daniels, Farm and Forest Lands Specialist
Oregon Department of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540
Office: (503) 373-0050 ext. 329
Email: katherine.daniels@state.or.us
- ODF Representative
Oregon Department of Forestry
2600 State St.
Salem, Oregon 97310
Email: information@odf.state.or.us
- Jim MacLeod, Executive Director
Rogue Advocates
P. O. Box 392
Williams, Oregon 97544
541-846-1083
Email: rogueadvocates@gmail.com
Web Page: <http://www.rogueadvocates.org/>
- Sarah Wilson Vaile, Attorney/Project Coordinator
Rogue Advocates
P.O. Box 443
Williams Oregon 97544
Cell 914-329-6387
Email: sarah@rogueadvocates.org
Web Page: <http://www.rogueadvocates.org/>