Mailing Date:
Friday, January 26, 2024

DECISION AND FINDINGS OF THE DESCHUTES COUNTY HEARINGS OFFICER

FILE NUMBER: 247-23-000302-DR

HEARING DATE: December 6, 2023

HEARING LOCATION: Videoconference and
Barnes & Sawyer Rooms
Deschutes Services Center
1300 NW Wall Street
Bend, OR 97708

SUBJECT PROPERTIES: **Parcel 1 -** A portion of Oregon Department of Transportation Right-of-Way for Highway 97 in Township 18S, Range 12E, Sections 19, 30, and 31, and in Township 18S, Range 11E, Section 36

Parcel 2 - 59800 Highway 97, Bend, OR 97702
Map and Taxlot 181100001900

OWNERS: **Parcel 1** - Oregon Department of Transportation
Parcel 2 - Oregon High Desert Museum

APPLICANT: Oregon Department of Transportation

REQUEST: The Applicant requests a Declaratory Ruling to determine multiple issues, including the zoning designation of Parcel 1, whether the proposed path qualifies as a Class III road and street project, and whether such projects are allowed by right in the RR-10 and OS&C zones. The Applicant also makes multiple alternative requests to the foregoing, including whether the proposed path is an outright permitted use in the F-2 zone, or a use permitted conditionally in that zone without the need for an exception to Statewide Planning Goal 4 pursuant to OAR 660-012-0065.

HEARINGS OFFICER: Tommy A. Brooks

STAFF CONTACT: Caroline House, Senior Planner
Caroline.House@deschutes.org / (541) 388-6667

I. APPLICABLE STANDARDS AND CRITERIA

Participants to this proceeding identified the following as potentially applicable to the requested Declaratory Ruling:

Deschutes County Code ("DCC" or "Code") Title 17, Subdivisions
- Chapter 17.04, General Provisions
- Chapter 17.08, Definitions and Interpretations of Language
- Chapter 17.12, Administration and Enforcement
- Chapter 17.40, Improvements
- Chapter 17.48, Design and Construction Specifications
- Chapter 17.56, Variances

DCC Title 18, Deschutes County Zoning Ordinance
- Chapter 18.04, Title, Purpose, and Definitions
- Chapter 18.12, Establishment of Zones
- Chapter 18.40, Forest Use Zone (F2)
- Chapter 18.60, Rural Residential Zone (RR10)

DCC Title 22, Deschutes County Development Procedures Ordinance
- Chapter 22.40, Declaratory Ruling

Oregon Revised Statutes (ORS)
- Chapter 215, County Land Use Planning; Resource Lands

Oregon Administrative Rules (OAR)
- Chapter 660, Land Conservation and Development Department
  - Division 12, Transportation Planning

II. BACKGROUND AND PROCEDURAL FINDINGS

A. Nature of Applicant's Request

The Applicant plans to construct a path on the Subject Properties. The path would parallel Highway 97 and provide bicycle and pedestrian access between the City of Bend and areas south of the city, portions of which are on federally-owned lands. When completed the path will tie into the existing Sun Lava Trail, which connects to the Sunriver community and to other recreational areas and attractions in the same vicinity. This Decision will refer to the proposed path as the "Project."

The entirety of the Project runs through multiple zones and into areas in which the County does not regulate land use. The Applicant seeks a Declaratory Ruling with respect to the portion of the Project that is within the County's jurisdiction. The specific request the Applicant makes are set forth in later findings.

/ / /

B. Notices and Hearing

On May 5, 2023, the County mailed a Notice of Application ("Application Notice"), after which the County began receiving comments on the Application. On October 27, 2023, the County issued a Notice of Public Hearing ("Hearing Notice"). Pursuant to the Hearing Notice, I presided over an evidentiary hearing as the Hearings Officer on December 6, 2023, which began at 6:01 p.m. The Hearing was held via videoconference, with Staff from the Deschutes County Planning Division ("Staff"), the Applicant's representatives, and other participants present in the hearing room. The Hearings Officer and other participants participated remotely.

At the beginning of the Hearing, I provided an overview of the quasi-judicial process and instructed participants to direct comments to the approval criteria and standards, and to raise any issues a participant wanted to preserve for appeal. I stated I had no *ex parte* contacts to disclose or bias to declare. I asked for but received no objections to the County's jurisdiction over the matter or to my participation as the Hearings Officer presiding over the Hearing.

The Hearing concluded at 7:29 p.m., before which time I also announced that the written record would remain open as follows: (1) any participant could submit additional materials until December 13, 2023 ("Open Record Period"); (2) any participant could submit materials rebutting information provided during the Open Record Period until December 20, 2023 ("Rebuttal Period"); and (3) the Applicant could submit a final legal argument no later than December 27, 2023. At that time, Staff also provided instructions for how to submit materials within the required timelines.

C. 150-day Clock

The Applicant submitted the Application on April 24, 2023. Staff reviewed the Application and, on May 24, 2023, notified Applicant that the Application was not complete ("Notice of Incomplete Application"). Following an additional submittal from the Applicant, Staff deemed the Application complete on October 19, 2023.

Using October 19, 2023, as the date of completeness, the original deadline for a final County decision under ORS 215.427 – "the 150-day clock" – was March 17, 2024. As of the date of the Hearing, the Applicant requested a 21-day extension of the 150-day clock, which would have extended the deadline for a final County decision until April 7, 2024. As noted above, however, the record was held open for an additional 21 days following the Hearing. The extended record period was agreed to by the Applicant.

Pursuant to DCC 22.24.140(E), a continuance or record extension is subject to the 150-day clock, unless the Applicant requests or otherwise agrees to the extension. Here, the Applicant agreed to the extension. Under the Code, therefore, the additional 21 days the record was left open do not count toward the 150-day clock. Adding that time period to the modified deadline, the new deadline for the County to make a final decision is April 28, 2024.

/ / /

/ / /

III. SUBSTANTIVE FINDINGS AND CONCLUSIONS

A. Declaratory Ruling Standards

The subject Application is presented as a request for a Declaratory Ruling, pursuant to DCC Chapter 22.40. The Applicable provisions of that Code section are set forth below.

Section 22.44.010, Availability of Declaratory Ruling

A. Subject to the other provisions of DCC 22.40.010, there shall be available for the County's comprehensive plans, zoning ordinances, the subdivision and partition ordinance and DCC Title 22 a process for:

1. Interpreting a provision of a comprehensive plan or ordinance (and other documents incorporated by reference) in which there is doubt or a dispute as to its meaning or application;

The Applicant presents multiple issues in which it asserts there is doubt or a dispute over the meaning or application of the County's Comprehensive Plan ("Plan") or Code. Based on my review of the record, the best articulation of those issues and how they relate to the Plan and Code is as follows:

1. Is Parcel 1[1] zoned RR-10 or F-2? The County's Zoning Map, which identifies the zoning for all property in the County, is a component of the Plan and Code. As evidenced by the competing arguments in the record, there is both a doubt and a dispute over the correct zoning of Parcel 1.

2. Is the portion of the project the Applicant seeks to construct a Type III road or street project allowed outright in the RR-10 and OS&C zones? DCC 18.04.030 defines various classes of "road and street projects". As evidenced by the competing arguments in the record, there is a dispute over whether the Applicant's Project is a road or street project under that Code provision at all and, if so, what class of road or street project it is or whether such projects are allowed in the RR-10 and OS&C zones.

3. In the alternative, does the County's F-2 zone allow a bicycle and pedestrian path, like the Project proposed by the Applicant, as a use permitted outright in that zone? While the Applicant asserts that the Project is a use permitted outright in the F-2 zone, opposing testimony asserts the Project is not allowed at all in that zone. A dispute therefore exists over the meaning and application of the F-2 zone provisions.

4. Does the County's F-2 zone allow a bicycle and pedestrian path, like the Project proposed by the Applicant, as a conditional use without the need for an exception to Statewide Planning Goal 4?

[1] As noted on the cover page, the Subject Properties consist of two areas, one of which is within ODOT's right-of-way, and one of which is on private property. Although the participants do not use these designations, for ease of reference this Decision will refer to the ODOT property as "Parcel 1" and to the private property as "Parcel 2".

Similar to the third request, and as an alternative to its other requests, the Applicant asserts that the Project is a use permitted conditionally in the F-2 zone, while opposing testimony asserts the Project is not allowed at all in that zone. The Applicant's alternative requests therefore presents a dispute over the meaning and application of the F-2 zone provisions.

Participants Windlinx Ranch Trust and Randy Windlinx (collectively, "Windlinx") assert that a Declaratory Ruling is not permitted in this matter because the Applicant "is not seeking an interpretation" of the Plan or the Code, and that a Declaratory Ruling "can only be used to interpret ambiguous language." The express language of this Code provision, however, applies where there is "doubt or a dispute over the meaning or application" of the Plan or Code, and it does not require that there be ambiguous language to interpret. The Zoning Map is a good example of a part of the Plan or Code that contains no "language" to interpret, but that nevertheless has meaning and is applied to a factual scenario. Other aspects of the requested Declaratory Ruling are grounded in Code language, such as the meaning of "road and street project", which the parties interpret differently and, therefore, is arguably ambiguous.

Based on the foregoing, I find that the Applicant's request is consistent with DCC 22.44.010(A)(1) and presents the kinds of requests that are contemplated by this Code provision.

> *B. A declaratory ruling shall be available only in instances involving a fact-specific controversy and to resolve and determine the particular rights and obligations of particular parties to the controversy. Declaratory proceedings shall not be used to grant an advisory opinion. Declaratory proceedings shall not be used as a substitute for seeking an amendment of general applicability to a legislative enactment.*

As described above, the Applicant's request for a Declaratory Ruling essentially seeks to determine the land use review requirements, if any, required to construct and maintain the Project on the Subject Properties. As presented to the Hearings Officer, these requests do not seek actual approval of the Project and, instead, seek to establish the Applicant's rights and obligations if it proceeds with the Project. Depending on the outcome of each request, additional review of the Project may be required, and this proceeding only responds to the requests presented in the Application. Each of the requests involves a fact-specific inquiry, based primarily on the location of the Subject Properties and the configuration and purpose of the Project.

No participant has asserted that the Declaratory Ruling would be advisory in nature, but Windlinx does argue that the Applicant's request is precluded by this Code provision because it is "used to review and reverse the prior County Board decision." The prior decision Windlinx refers to is the County's 1999 denial of the Applicant's request to site a weigh station in the same or similar portion of the right-of-way comprising Parcel 1 (the "Weigh Station Decision").[2] That decision applied the F-2 zone to that portion of the Subject Property, which Windlinx asserts is dispositive of the zoning issue. The binding nature of the Weigh Station Decision is addressed in more detail below in findings addressing the zoning of Parcel 1. Regardless of the outcome of that issue, however, I find that Windlinx's argument is not applicable to this specific Code provision, which prevents Declaratory Rulings from serving as "a substitute for seeking

[2] *In re Application of the Oregon Department of Transportation for a Conditional Use Permit and Variance*, County File Nos. CU-98-109 and V-98-15, Findings and Decision (June 28, 1999).

an amendment of general applicability to a legislative enactment." The Weigh Station Decision Windlinx asserts the Applicant is trying to "amend" was not a legislative enactment and, instead, denied the issuance of a conditional use permit. Nor would that decision or any later "amendment" of that decision be of general applicability, as they would apply only to the Applicant.

Based on the foregoing, I find that this Code provision does not limit the Applicant's ability to make the requests presented in the Application for a Declaratory Ruling.

> *C. Declaratory rulings shall not be used as a substitute for an appeal of a decision in a land use action or for a modification of an approval. In the case of a ruling on a land use action a declaratory ruling shall not be available until six months after a decision in the land use action is final.*

Windlinx asserts that this Code provision prohibits the Applicant from requesting a Declaratory Ruling because, according to Windlinx, the request serves as an appeal of the Weigh Station Decision by seeking to overturn that decision. The binding nature of the Weigh Station Decision is addressed in more detail below in findings addressing the zoning of Parcel 1.

The only thing that Applicant's request in this proceeding has in common with the Weigh Station Decision is that they both involve Parcel 1. The two proceedings do not involve the same use (a weigh station for trucks versus a path for bicycles and pedestrians). The two proceedings also do not appear to involve the same properties other than Parcel 1, as Parcel 2 was not part of the proposal in the Weigh Station Decision. To the extent that the two proceedings may invoke a common issue (the zoning of Parcel 1), that issue is relevant only to a portion of the Applicant's request in this proceeding, as the Applicant makes alternative requests, some of which assume Parcel 1 is zoned RR-10, and some of which assume Parcel 1 is zoned F-2.

The argument Windlinx presents relies on a faulty assumption. Windlinx asserts that "[i]f the Hearings Officer declares the subject property RR-10, that decision reverses the 1999 Board decision." (Emphasis added). The Board's prior decision was to deny a conditional use permit. As discussed in more detail below, the Board's denial was not based on the zoning of the property and, instead, was based on the Applicant's failure to satisfy certain approval standards. If this Decision determines Parcel 1 is zoned RR-10, that will have no effect on the County's prior decision. The Applicant would not be able to, for example, argue that it now has a conditional use permit for a weigh station. I find it is more accurate to address Windlinx's argument as one of "issue preclusion". That argument is addressed in more detail below.

Based on the foregoing, I find that this Code provision does not limit the Applicant's ability to requests presented in the Application for a Declaratory Ruling.

/ / /

/ / /

D. The Planning Director may refuse to accept and the Hearings Officer may deny an application for a declaratory ruling if:

1. The Planning Director or Hearings Officer determines that the question presented can be decided in conjunction with approving or denying a pending land use application or if in the Planning Director or Hearing Officer's judgment the requested determination should be made as part of a decision on an application for a quasi-judicial plan amendment or zone change or a land use permit not yet filed;

This Code provision provides the Hearings Officer with some discretion to deny an application for a Declaratory Ruling if, in the Hearings Officer's judgment, the request is better addressed as part of a pending or future land use permit application. As noted above, the requests presented to the Hearings Officer do not seek actual approval of the Project and, instead, seek to establish the Applicant's rights and obligations if it proceeds with the Project. I therefore exercise the discretion provided to me by the Code to consider the Application and not deny it on the basis that some other permitting process is more appropriate.

Section 22.40.020, Persons Who May Apply

A. DCC 22.08.010(B) notwithstanding, the following persons may initiate a declaratory ruling under DCC 22.40:

1. The owner of a property requesting a declaratory ruling relating to the use of the owner's property.
2. In cases where the request is to interpret a previously issued quasi-judicial plan amendment, zone change or land use permit, the holder of the permit; or
3. In all cases arising under DCC 22.40.010, the Planning Director.

As explained in the Staff Report, the record indicates that the Applicant is the owner of Parcel 1, and that the owner of Parcel 2 has consented to the Application. No participant asserts otherwise, and I find that this Code provision is satisfied.

B. A request for a declaratory ruling shall be initiated by filing an application with the planning division and, except for applications initiated by the Planning Director, shall be accompanied by such fees as have been set by the Planning Division. Each application for a declaratory ruling shall include the precise question on which a ruling is sought. The applicant shall set forth whatever facts are relevant and necessary for making the determination and such other information as may be required by the Planning Division.

The only component of this Code section potentially in dispute is the requirement for an applicant to include the precise question on which a ruling is sought. The Staff Report indicates that the Application is sometimes less than clear with respect to the precise question being presented, as do comments provided by Windlinx. Notwithstanding the fact that the Applicant describes its requests in different ways, I find that the Applicant does present precise questions on which a ruling is sought. Those four questions are set forth in the preceding section. The testimony of the Applicant and other participants addresses those

questions, and I do not find any basis to reject or deny the Application based on the level of precision the Applicant used in presenting the questions for which it seeks a ruling.[3]

B. Parcel 1 Zoning Designation

Applicant's first request relates to the zoning designation that applies to Parcel 1, all of which is within the right-of-way of Highway 97. The Applicant specifically requests a ruling that Parcel 1 is designated as part of the RR-10 zone. In support of that request, the Applicant provides evidence of the RR-10 zone as depicted in the County's Zoning Map, as well as the manner in which that zone is depicted in the County's geographic information system ("GIS"), which contains an electronic version of the Zoning Map. Windlinx disputes the Applicant's characterization of the Zoning Map. The participants also disagree whether the County's prior Weigh Station Decision resolves this issue.

1. Zoning Map Designations

The County maintains two types of maps that depict the location of all zones in the County. The first map is an "analog" version of the Zoning Map, prepared on mylar sheets and adopted by County ordinance. As explained in the Staff Report, those mylar sheets include hand-taped lines to identify adopted or amended zoning boundaries, and cartographers originally used varying tape widths that lacked the accuracy of modern GIS software applications. The County also maintains an electronic map layer within its GIS database. Pursuant to DCC 18.12.030, the GIS version of the Zoning Map is the "official replica" of the Zoning Map.

DCC 18.12.040 states that if there is a dispute regarding the zoning classification of a property, "the original ordinance with map exhibit contained in the official county records will control." Thus, because the analog version of the Zoning Map (i.e. the maps prepared on mylar sheets) are exhibits to the County's ordinances adopting the Zoning Map, the analog version of the map will control if there is a difference between that version and the "official replica" of the Zoning Map maintained in an electronic format.

Windlinx relies on that distinction and focuses its arguments on a version of the Zoning Map that includes the mylar sheets, asserting that those maps are different than the electronic version of the map, that they depict Parcel 1 as being in the F-2 zone, and, therefore, are determinative of the F-2 zone applying to all of Parcel 1. Windlinx roots that argument in the County's version of the Zoning Map adopted in 1979.

In 1992, through Ordinance No. 92-060, the County updated the 1979 Zoning Map with the express purpose of making it more accurate. Further, as explained by the technical analysis in the record submitted by Staff, which included information from a County Application Systems Analyst ("Systems Analyst"), the 1992 version of the Zoning Map was itself based on a digitized version of the 1979 Zoning Map. That is, the County hired an outside expert to prepare an electronic version of the Zoning Map, and the County then prepared new mylar sheets based on the electronic version of the map to include with the ordinance

[3] The Code contains other procedural and policy elements relating to a request for a Declaratory Ruling in DCC 22.40.030 through DCC 22.40.050. No participant has raised any issues with respect to those Code provisions. I hereby adopt the findings in the Staff Report relating to those Code provisions as my findings and incorporate them here into this Decision.

for adoption. The 1992 version of the Zoning Map did not change the zoning of Parcel 1. As part of the adopting ordinance, the County's Board of Commissioners ("Board") expressly confirmed that the 1992 Zoning Map, which was based on an electronic version of the original map, would ensure consistency with the original map.

Based on the foregoing, although the analog version of the Zoning Map takes precedence over the County's "digital replica" of the map, in this case there is not a distinction between the two. The electronic version of the Zoning Map was built on the original version of the Zoning Map, which was then updated to reflect the electronic version, and the Board confirmed that the two are the same. This conclusion is further supported by the Systems Analyst, who compared the original mylar-based Zoning Map to the "digital replica", measuring fixed points such as the location of the Highway 97 centerline and the closest section line, to then analyze the location of the zone boundaries. Based on that comparison, the Systems Analyst concluded that the zone boundaries on the original mylar sheets is the same as the boundaries on the digital version of the Zoning Map.

Windlinx does not offer its own technical information to refute the technical analysis provided by the County's Systems Analyst, instead arguing that the information provided by that analyst has "no probative value" because: (1) the analyst is not "qualified for interpreting the official zoning map"; (2) has no authority to make zoning determinations; and (3) does not describe how they were able to scale measurements off the 1979 mylars.[4] Despite Windlinx's criticism, I find that the information provided by the Systems Analyst is relevant to determining the correct zoning. First, the record demonstrates that the Systems Analyst holds a senior-level position with technical expertise relating to the County's electronic data systems, the purpose of which is to provide professional systems analysis to other County departments. Second, the information provided by the Systems Analyst does not require them to have authority to make zoning determinations and, instead, is information on which such a determination can be based by someone with that authority. Third, contrary to Windlinx's statement, the information provided by Staff details the methodology the Systems Analyst used to scale the measurements from the 1979 mylars.

Based on the foregoing, which also demonstrates an intent by the County's Board that the analog and electronic versions of the Zoning Map are to be read as being the same, I find that the preponderance of the evidence indicates Parcel 1 is zoned RR-10 on the Zoning Map. In the alternative, and assuming there is a discrepancy between the two versions of the Zoning Map, I find that the original mylars also depict Parcel 1 as being in the RR-10 zone. The basis for that alternative conclusion is set forth below.

As an initial matter, it should be noted that the record does not reveal a major discrepancy between the two versions of the Zoning Map. The electronic version, the applicable portion of which appears in the Staff Report and other places in the record, depicts the RR-10 zone as encompassing the actual roadway that forms Highway 97, as well as the area to the east of the roadway, which the Applicant asserts, and no participant disputes, is still part of the Highway 97 right-of-way. The adjacent F-2 and Open Space and

[4] Windlinx also asserts the Systems Analyst did not take into account a later decision by the Board that addressed the zoning of Parcel 1. That assertion is addressed in findings below, is a legal argument, and is not relevant to the technical information the Systems Analyst provided. I therefore do not address that argument here.

Conservation ("OS&C") zones on private property to the east appear on the map as being separated from the Highway 97 roadway or centerline, and they coincide with the property lines that separate the Applicant's ownership from those private ownerships. Multiple versions of the original Zoning Map depict a similar configuration. For example, the black and white version of the 1979 Zoning Map included in the Applicant's hearing presentation shows a white strip between the Highway 97 centerline and the adjacent parcels to the east, indicating the presence of the RR-10 zone on the east side of the Highway 97 centerline. The high-resolution version of the mylar maps, provided by Windlinx and the Applicant in post-hearing submittals, shows that same strip.

Although the two versions of the Zoning Map largely depict the same zoning configuration with the RR-10 zone showing on the east side of Highway 97, they do appear to depart in one small area. Specifically, at the north end of the subject area, where the northwest corner of the F-2-zoned Windlinx property intersects with the Highway 97 right-of way, the taped line on the mylar sheets crosses over to the west side of the line depicting the highway centerline, whereas the electronic version of the Zoning Map continues to show the F-2 zone completely to the east of the highway centerline.

The differing positions in this proceeding assert that the Highway 97 right-of-way that comprises Parcel 1 is either fully in the RR-10 zone (the Applicant's position), or fully in the F-2 zone (Windlinx's position). I find that this issue is resolved by looking at the text and context of the Code.

The Applicant and other participants in this proceeding acknowledge that the original Zoning Map lacks precision and that, due to various factors (width of the tape used, scale of the map), the mylars can be difficult to interpret. The Code contemplates this difficulty, however, and provides guidance on how to determine the location of a particular zone. Specifically, DCC 18.12.040 states that "[u]nless otherwise specified, zone boundaries are section lines, subdivision lines, lot lines, center lines of street or railroad rights of way, water courses, ridges or rimrocks, other readily recognizable or identifiable natural features, or the extension of such lines" (emphasis added). No participant has submitted any information to the record describing the zone boundaries using a metes or bounds description, or submitted evidence indicating that the zone boundaries in this area are "otherwise specified" to follow a feature that is not listed in the Code. I further note the presence of other features the Code contemplates as zone boundaries, such as section lines and railroad rights of way, but which the zoning boundary does not appear to follow, and which the participants do not rely on to support their arguments. Thus, the question to resolve is whether the line between the RR-10 zone and the F-2 zone in this area on the Zoning Map is intended to follow lot lines (the Applicant's position) or is intended to follow the center line of Highway 97 (Windlinx's position).

The 1979 Zoning Map depicts the centerline of Highway 97 as a dark, curved line. The tape on the mylar sheets does not appear to have a direct relationship to that line. Instead, except for the northern portion where the tape crosses the right-of-way line, the tape appears to follow property boundaries as described by the participants. In other areas on the exhibits in the record, the tape appears to follow section lines. Understanding that the width and location of the tape is not always consistent, but looking to the entirety of the zoning boundary as it is depicted on this portion of the Zoning Map, I find it more likely than not that the zoning boundary, as indicated by the tape, was intended to follow lot lines rather than the centerline of the highway. If the County intended to follow the centerline of the highway, one might expect to see the tape adhered closer to the black right-of-way line, or even cover that line since it is the centerline

of that street. I also note that no other zone boundary in this area of the Zoning Map appears to key off of the Highway 97 centerline. Of all the features the Code contemplates as a boundary line, the lot lines to the east of the highway right-of-way, rather than the centerline of the highway or any other feature, offer the most likely explanation for the boundary's location.

Windlinx asserts that if the boundary line does not follow the centerline of Highway 97 that the result would be multiple unusable strips of land between Highway 97 and private property to the east of the highway. As the Applicant notes, however, those areas are not unusable if they are zoned RR-10. The evidence in the record indicates that the entire area between the Highway 97 centerline and the private property to the east is part of the Highway 97 right-of-way. As such, that area can be used for right-of-way purposes as long as it is consistent with the applicable provision of the Code. Indeed, the participants appear to agree that there are more uses possible for such areas if they are zoned RR-10 than if they are zoned F-2. It is therefore just as likely that the County intended to have only one zone apply to the Highway 97 right-of-way as it is that it intended to have two different zones, and therefore allow different sets of uses, apply to the same right of way. Regardless of the intent, the bulk of the right-of-way comprising Parcel 1 contains the RR-10 designation, and the line between that zone and the F-2 zone adheres to property boundaries more closely than it does to the Highway 97 centerline.

Based on the foregoing, I find that the Zoning Map, both the analog version and the electronic version, depicts Parcel 1 as being zoned RR-10.

2. Impacts of the Weigh Station Decision

As noted in previous findings, the County's 1999 Weigh Station Decision denied an application for a conditional use permit for a weigh station on a portion of the Highway 97 right-of-way comprising Parcel 1. The Weigh Station Decision expressly concludes that Parcel 1 is zoned F-2. Windlinx argues that the County's prior decision is final and binding on the present Application. The Applicant disagrees and asserts that the Hearings Officer can review the zoning issue without being bound by the language of the Weigh Station Decision.

As presented by the participants, this issue invokes the idea of "issue preclusion." The Land Use Board of Appeals ("LUBA") has consistently described issues preclusion as follows:

> When an issue has been decided in a prior proceeding, the prior decision on that issue may preclude relitigation of the issue if five requirements are met: (1) the issue in the two proceedings is identical; (2) the issue was actually litigated and was essential to a final decision on the merits in the prior proceeding; (3) the party sought to be precluded had a full and fair opportunity to be heard on that issue; (4) the party sought to be precluded was a party or was in privity with a party to the prior proceeding; and (5) the prior proceeding was the type of proceeding to which preclusive effect will be given.[5]

[5] *See, most recently, Columbia Pacific Building Trades Council v. City of Portland*, -- Or LUBA --

LUBA refers to the foregoing as the "*Nelson* factors." LUBA also distinguishes issue preclusion from the "law of the case", which bars relitigation of the same issue in different phases of a proceeding, for example after remand by LUBA.[6] Although LUBA regularly entertains arguments relating to issue preclusion, it has also held that:

> The nature of successive land use applications and land use decisions is such that it will be a rare circumstance, if ever, that a prior land use proceeding precludes the ability of the applicant to file a new land use application, based on different evidence or a different legal theory, and obtain a new land use decision on the new application.[7]

Applying the *Nelson* factors to this case, I find that the County's prior Weigh Station Decision does not preclude the Applicant from seeking a declaration that Parcel 1 is zoned RR-10.

For related reasons, the issue in the two proceedings is not identical, and the issue over the zoning of Parcel 1 was not actually litigated in the prior decision. Taking a broader view of the two cases, the "issue" in the Weigh Station Decision was whether the Applicant had demonstrated compliance with the County's conditional use criteria, whereas the issue in this proceeding includes a precise question about the applicable zoning and whether Applicant's bicycle and pedestrian path is a "Class III" project permitted outright in either the RR-10 or F-2 zone. Taking a narrower view of the cases, the Board did address the zoning of the Highway 97 right-of-way in the prior decision, but that issue was not actually litigated. Rather, the evidence in this record includes a letter from the Applicant's representative who reviewed the Zoning Map in 1994 and concluded that "this area appears to be zoned F-2." Shortly thereafter, Staff responded that it was Staff's "understanding" that the F-2 zoning was correct, but that response does not indicate if that understanding was based on a zoning analysis or based on the Applicant's representation. Further, it is not clear that the zoning issue was essential to the outcome in the earlier case. Indeed, the Weigh Station Decision also expressly determined that a portion of the subject property in that case (an acceleration lane existing the facility) was zoned RR-10.[8] The essential components of that earlier decision were therefore the criteria the Board addressed that it determined were not met rather than any specific findings about the zoning.

The Board's Weigh Station Decision does describe Highway 97 as dividing "the RR-10 zoning to the west and the F-2 zoning to the east in the vicinity of the proposed weigh station facility." That description also refers to DCC 18.12.040 and its reference to street centerlines. Despite that language, there is no evidence in the Weigh Station Decision that there was a dispute over the zoning of the right-of-way, much less any indication that the Board addressed the portion of DCC 18.12.040 that states a zone boundary can also

---

(LUBA No. 2020-009) (Oct. 30, 2020), *quoting Lawrence v. Clackamas County*, 40 Or LUBA 507, 519 (2001) and *citing Nelson v. Emerald People's Utility Dist.*, 318 Or 99, 104 (1993)).

[6] *See Widgi Creek Homeowners Association v. Deschutes County*, -- Or LUBA -- (LUBA No. 2014-109) (June 2, 2015).

[7] *See Central Oregon LandWatch v. Deschutes County*, -- Or LUBA -- (LUBA No. 2018-095) (Dec. 14, 2018) (emphasis added).

[8] *See* Weigh Station Decision at p.9.

follow lot lines. Indeed, the decision expressly notes that it was the Applicant that provided the location and map information the Board relied on. Further, that decision followed a decision by a hearings officer and a staff report, neither of which indicates the zoning of the property was an issue in dispute. Windlinx's own characterization of the earlier proceeding undercuts its position, and Windlinx submitted comments in this proceeding that "[t]he County Board's 1998 [sic] decision simply confirmed what ODOT represented."

For a separate and independent reason, I also find that applying issue preclusion in this proceeding would be inconsistent with the fifth *Nelson* factor. In a different case involving the County, LUBA considered a prior decision in which the Board denied a land use application relating to the creation of two reservoirs, but later approved applications allowing the reservoirs.[9] Addressing an argument that issue preclusion prohibited the County from approving the reservoirs, LUBA upheld the County's decision, agreeing in part that applicants are allowed under the Code to re-apply for a use previously denied as a means of encouraging an applicant to address problems identified in the denial decision rather than appealing the decision.

That same logic holds here. If the Applicant would have been authorized to reapply for a conditional use permit for the denied weigh station, it follows that the Applicant should also be authorized to seek approval for a different use. Under Windlinx's argument, in contrast, which asserts the Applicant should have appealed the Weigh Station Decision even though the Applicant accepted the denial, the appeal would have been solely of the Board's finding relating to the zoning, which would not have changed the outcome of that decision.[10] That approach would have also required the Applicant to appeal an issue that was not in dispute in the proceeding. Such an approach is counter to the goal of applying issues preclusion, resulting in additional, more complex proceedings rather than fewer, simpler proceedings.

In this proceeding, the Applicant is making a different request, based on different facts, and different arguments. The Application should therefore be judged on its own merits rather than on a prior decision in which the same issue was not even in dispute. Based on the foregoing, I find that issue preclusion does not bind the outcome of this proceeding.

C. Type III Road and Street Project

For its second request in the Application, the Applicant seeks a determination that its Project is a "road and street project" and, more specifically, a "Class III" road and street project.

1. Road and Street Project

DCC 18.04.030 defines a "road and street project" as "the construction and maintenance of the roadway, bicycle lane, sidewalk or other facility related to a road or street." In the Application, the Applicant states that the "proposed bicycle path is considered a facility related to a road or street", and the Applicant states that the Project is also a "Bicycle Route."

---

[9] *Bishop v. Deschutes County*, -- Or LUBA -- (LUBA Nos. 2018-111 and 2018-112) (May 1, 2019).
[10] The Board denied the permit for the weigh station based on multiple substantive approval criteria and not because of the zoning of the property.

The Code language is less than clear with respect to the implication of the Applicant referring to the Project as a Bicycle Route. The Code has two definitions for "Bicycle Route". A stand-alone definition in DCC 18.04.030 defines it as a "a segment of a bikeway[11] system designated with appropriate directional and information markers by the jurisdiction having authority." A separate definition for that same phrase also appears beneath the definition of "road or street" in that same Code section, defining Bicycle Route more broadly as a "right of way for bicycle traffic."

In the absence of an interpretation of this language by the County's Board, I must determine the meaning of this language from the text and context of the Code in which it appears. As it relates to a road or street, the text of the Code states simply that a Bicycle Route is a right-of-way for bicycle traffic. The record clearly indicates that the Project includes a right-of-way (the area along Highway 97 controlled by the Applicant), and that the right-of-way will have a path for bicycles. Looking to the other, stand-alone definition of "Bicycle Route", the Project meets that definition as well, as it is a path that will be a segment of a bikeway, specially designated as open to bicycle traffic. I therefore agree with the Applicant that the Project is appropriately referred to as a "Bicycle Route" as contemplated by the Code.

Turning to the context in which this phrase is used, a Bicycle Route that is a right of way for bicycle traffic is one type of "road or street." This conclusion is based in part on the implication arising from the definition of "Bicycle Route" appearing as a subpart of the definition of "road or street". That is, the Code appears to define certain facilities, including a Bicycle Route, that is an example of a road or street. This conclusion is further evidenced by the other definitions appearing under the definition of "road or street", such as "arterial" and "collector", all of which are examples of streets.

In light of those definitions, there are two bases on which to conclude that the Project is some type of "road and street project" as defined by the Code. First, because a Bicycle Route itself is listed as an example of a "road or street", then the construction of the Bicycle Route is the construction of a "facility related to a road or street." Second, even if the Bicycle Route itself is not a "road or street", the record reveals that the Project relates to Highway 97, which is a street.[12] Specifically, the Applicant intends the Project as a modification and improvement of Highway 97, in part by removing bicycle traffic from the current Highway 97 facility and having bicycle traffic use the new path instead.

Windlinx presents several arguments to support its conclusion that the Project cannot be classified as any type of "road or street project."[13] Windlinx primarily asserts that the Project is a "multi-use path" and that the definition of "road and street project" does not include a reference to multi-use paths. According to

---

[11] CDC 18.04.030 defines "bikeway" as a "road, path or way which in some manner is specially designated as being open to bicycle travel, regardless of whether such facility is designated for the exclusive use of bicycles or is shared with other transportation modes.

[12] CDC 18.40.030 defines "street" as "the entire width between the right of way lines of every public way for vehicular and pedestrian traffic" and includes a "highway" or other similar designation, which describes Highway 97.

[13] Windlinx also presents arguments asserting that the Project is not a "Class III" road and street project. Separate findings in a later section of this Decision address those arguments.

Windlinx, the absence of such a reference means the County intended to exclude multi-use paths from that definition.

Windlinx is correct that the Project appears to fall within the definition of a multi-use path. DCC 18.04.030 defines "multi-use path" as "a path physically separated from motor vehicle traffic by an open space or barrier and either within a highway right-of-way or within an independent right-of-way. The multi-use path is used by bicyclists, pedestrians, joggers, skaters and other non-motorized travelers." Using the description of the Project provided by the Applicant, the Project is a multi-use path under this definition: (1) it will be a path; (2) it will be physically separated from motor vehicle traffic; (3) it will be within a highway right-of-way; and (4) it will be used by bicycles and other non-motorized travelers.

Whether or not the Project can be characterized as a multi-use path, however, is not the end of the inquiry. Windlinx's specific argument is that the definition of "road or street project" must be interpreted to exclude multi-use paths from that definition, which logically means that the definition also does not include multi-use paths. Specifically, Windlinx makes the following statements in support of its interpretation:

- "[T]he definition of a road and street project in DCC 18.04.030 includes only a bike lane which is part of the actual road or street"
- "The only bike facility included in the definition [of road or street project] is a bicycle lane."
- "Intuitively, a road or street project can only involve something that is defined as a road or street"
- The definition of road or street "does include a bicycle route and that use is exclusive to bicycle use"

Windlinx's interpretation of the definitions of "road and street project" is narrower than and inconsistent with, the text and context of the Code. First, while the definition of "road and street project" expressly includes a "bike lane", a bike lane is only one type of bike facility, and that is not the only language in this Code provision that can apply to other bike facilities. As noted above, a "road and street project" expressly includes any "other facility related to a road or street." Thus, a bike facility that is not a "bike lane" can still qualify as a "road or street project" as long as it relates to a road or street. For the same reason, Windlinx's statement that a "road or street project" can only involve something that is itself a road or street is inconsistent with the Code language. That is, Windlinx's interpretation would have the effect of removing the phrase "related to" from the definition and replacing it with new language, such that the Code would read, as revised by Windlinx, "…or other facility ~~related to~~ that is a road or street."

Windlinx's characterization of the definition of "road or street" is also counter to the plain text of the Code. Windlinx acknowledges that the definition of "road or street" includes a Bicycle Route as an example, but incorrectly states that a Bicycle Route must be exclusive to bicycle use, which the Project is not. Neither definition of "Bicycle Route" in the Code requires such a facility to be exclusive for bicycles. To the contrary, the stand-alone definition of that phrase describes it as part of a "bikeway" system, and the definition of a "bikeway" expressly states that such a facility does not need to be used exclusively by bicycles.

Finally, the mere absence of "multi-use path" in the definition of "road and street project", in this case, does not serve to exclude multi-use paths from that definition. The Code separately defines many other road or street facilities (e.g., alley, arterial, bicycle route, collector, cul-de-sac, and local street), none of which are expressly included in the definition of "road and street project". Under Windlinx's interpretation, the separate definitions of those facilities, coupled with their absence in the definition of "road and street project", would serve to prevent those facilities from being included in a "road or street project". The only facilities that would qualify as a "road and street project" would be a "roadway", "bicycle lane", or a "sidewalk". In the absence of an interpretation by the County's Board that the Code is intended that way, I find Windlinx's interpretation to be unreasonable. Even if that interpretation is reasonable, a more reasonable interpretation is that the phrase "other facility related to a road or street" includes all facilities related to a road or street whether or not they are defined elsewhere in the Code.
In summary, the Project involves the construction of a facility that is related to a road or street. As such the Project is a "road or street project" under the Code regardless of whether it is characterized as a bicycle route, a bikeway, or a multi-use path.

2. Class III Road and Street Project

The definition of "road and street project" in DCC 18.04.030 states that all road and street projects shall be classified as a "Class I, Class II, or Class III project." The Applicant's request for a Declaratory Ruling seeks to establish only that the Project is a Class III project.[14]

The definition of a Class III project is straightforward. DCC 18.04.030 states that a "'Class III Project' is a modernization, traffic safety improvement, maintenance, repair or preservation of a road or street." According to the Applicant, the Project modernizes and improves the traffic safety on Highway 97. The Applicant specifically asserts that constructing a separated facility for bicycles and pedestrians within the same right-of-way of an existing facility is a "defining element" of modernization. The Applicant also asserts that separating modes of traffic improves safety for all users.

Windlinx counters that the Project is not a Class III project, based primarily on its argument that the Project is not a "road and street project" at all. As explained in more detail above, this Decision rejects that argument and finds that the Project is a "road and street project" as defined in the Code.

With respect to the classification of a "road and street project", Windlinx asserts that the Project "is not a modernization, traffic safety improvement, maintenance, or preservation of a road or street." As Windlinx notes, the Code appears to require that a Class III project that is for modernization or traffic safety be the modernization of an existing road or street, or a traffic safety improvement to an existing road or street. Windlinx asserts the Project fails to meet that definition because "[a] proposed new multi-use path is not a modernization of an existing road or street" and that "[c]onstructing a new facility may provide a safe facility for bikes and other uses, but that does not make that facility part of an existing road." Windlinx also states that "[t]he fact that [Applicant] claims its path provides a safer facility does not make it an

[14] In later submittals, the Applicant presents arguments, in the alternative, that the Project could be considered a Class II project. Because the Application and subsequent materials do not state a clear request for a declaratory ruling on that issue, and because this Decision concludes the Project is a Class III project, this Decision will not address that alternative argument.

improvement to the existing highway," and asserts that the Applicant has not demonstrated there is a bicycle or pedestrian safety issue on Highway 97 that needs to be addressed. At the heart of Windlinx's comments in this regard is a theme that the Project was conceived as a recreational facility, largely separated from Highway 97 where it is not part of the Subject Properties.

I have considered and weighed all of the comments provided by the participants. I find that the Applicant has demonstrated the Project modernizes and improves the safety of Highway 97 even though it may also serve other purposes in areas other than the Subject Properties.

First, I note that one of Windlinx's arguments – that the Project is not part of an existing road – ignores the full language of the Code, which refers to a road or street. As noted above, the Code defines "street" broadly to include "the entire width between the right of way lines of every public way for vehicular and pedestrian traffic." Thus, the entire Highway 97 right-of-way is part of that "street", and any modernization or safety improvements in that area are therefore part of that street.

Second, the Applicant is an expert at developing transportation facilities. Thus, its comment that creating separated paths in the same right-of-way is a defining element of modernization carries more weight than the opposing Windlinx comment that simply disagrees with the Applicant.

Third, the Applicant shows that the County's Transportation System Plan ("TSP") identifies Highway 97 as a bikeway and that the TSP contemplates the use of Highway 97 as a bikeway will be improved over time for bicycle safety." Further all participants appear to agree that new arterials are intended to have such facilities. Thus, the Project is modernizing this portion of Highway 97 by making it more in line with the County's stated future vision and with how new facilities would be designed.

Fourth, the Applicant shows that the money it will use for the Project comes from funds designated for transportation purposes. The Applicant cannot use such funds for recreational facilities. Thus, while the Project may serve recreational purposes, that does not detract from the fact that the Project is a transportation facility.

With respect to safety improvements, Windlinx does not explain why the Applicant must establish that there is a "safety problem". The express language of the Code states that a Class III project is one that makes a traffic safety improvement to an existing road or street. The evidence provided by the Applicant indicates that crash risk factors and crash history indicate that there are safety risks associated with walking and bicycling on Highway 97 and that the Project will reduce those risks. I do not find any credible argument or information in the record that refutes the notion that the Project will reduce these risks and thereby make safety improvements, even if others may subjectively conclude that current conditions are not unsafe.

Based on the foregoing, I find that the Project, as proposed by the Applicant, is a Class III project.

D. Uses Permitted Outright in the RR-10 and OS&C Zones

As part of its second request for a Declaratory Ruling, the Applicant seeks to establish that a Type III road or street project is allowed outright in the RR-10 and OS&C zones.

DCC 18.60.020 provides a list of uses that are permitted outright in the RR-10 Zone. Among those uses, DCC 18.60.020(F) lists "Class III road or street project". Similarly, DCC 18.48.020 provides a list of uses that are permitted outright in the OS&C Zone. Among those uses, DCC 18.48.020(E) lists "Class III road or street project". Based on the earlier findings in this Decision that the Project is a Class III road or street project, the Project is a use permitted outright in the RR-10 and OS&C Zones.

Windlinx argues that the Project is not allowed in either of these zones. Windlinx bases this argument primarily on its assertion that the Project is not a road and street project at all, and that it does not otherwise fit any of other uses permitted outright in these zones. The findings above reject that portion of Windlinx's argument and conclude the Project is a Class III road or street project.[15]

Windlinx makes the additional argument, similar to its arguments addressed above, that the County's definition of "multi-use path", and the absence of that use in DCC 18.60.020 and DCC 18.48.020, means that the County intended that use to be excluded from the list of uses permitted outright. Under Windlinx's argument, the definition of "Class III project" and "multi use path" are mutually exclusive and that the multi-use path is a "distinct and separate" use from all other uses that are Class III projects.

The best evidence Windlinx provides in support of this argument is the manner in which the County uses similar language in the La Pine Neighborhood Planning Area ("La Pine NPA"). Specifically, DCC 18.61.050(D)(1) lists as uses permitted outright both a multi-use path and a Class III road and street project. As Windlinx notes, this separate listing of those uses implies that they are distinct from one another. According to Windlinx, if the County does not treat those as separate uses, the reference to multi-use paths in that Code provision is superfluous (because Class III road project would already include a multi-use path). Further, according to Windlinx, that structure, coupled with the County's choice to omit multi-use paths in other zones, evidences an intent to prohibit the multi-use path in any zone where it is not listed. Put differently, Windlinx suggests that when the County wants to allow multi-use paths in a zone, it knows how to do that.

I agree that the Code language is ambiguous and requires interpretation. The Project falls within the definition of multi-use path and within the definition of Class III project. The ambiguity arises in determining if those definitions are mutually exclusive and, if so, which one controls the present situation. In the absence of an interpretation by the County's Board, I must resolve this ambiguity based on the text and context of the Code.

The fact that the Code defines "multi-use path" is not dispositive, because it carries multiple, contrary implications. As Windlinx notes, the use of "multi-use path" can evidence the County's intent to identify

---

[15] I note that the Code contains a minor discrepancy in wording: DCC 18.04.030 provides a definition for "road and street project" and then has a sub-definition for "Class III project", whereas the Code language in the RR-10 and OS&C zone regulations refers to a "Class III road or street project" rather than to either of the defined terms. No participant to this proceeding asserts that the difference in language has any significance, and it is clear from the text and context of the Code language that the phrase "Class III road or street project" in the zoning regulations refers to "Class III project" in the definitions.

that use and to list that use only where that use will be allowed. By implication, the absence of that phrase in other Code language could therefore be meaningful. But as noted in earlier findings, the Code contains other provisions that may apply to a multi-use path even if that phrase is excluded. The best example is the definition of "road and street project", which refers to any facility related to a road or street, which may include a multi-use path. Indeed, because the County has a definition of multi-use path, the County would have been able to exclude that type of facility from road and street project if it intended to. In other words, because multi-use path is defined, the County, if it wanted to exclude that use from "road and street project" could have had that definition read "…other facility, except a multi-use path, related to a road or street."

A more reasonable reading of the Code is that "multi-use path" and "Class III project" have some overlap, with the former being a potential subset of the latter, and that they are not mutually exclusive. First, other Code provisions follow this same structure. For example, the Code contains a definition for "utility facility" and for "land disposal site." Further, a land disposal site is a type of utility facility. Some zone regulations, for example DCC 18.66.020(C), allow a "utility facility" as a conditional use. DCC 18.48.030, in contrast lists as a conditional use in the OS&C zone a "utility facility except land disposal sites."

Second, the Code has other examples of overlapping definitions that create subsets of categories. Under the County's Exclusive Farm Use ("EFU") zone, DCC 18.16.025(F) allows some wineries, provided they meet certain statutory criteria. DCC 18.16.030(E) also allows wineries as a conditional use in the EFU zone under the separately-listed use of "commercial activities that are in conjunction with farm use" even if they do not meet those same statutory criteria.[16] In other words, the Code establishes a broad category for all types of commercial uses, and then establishes regulations for specific uses in that broad category. Moreover, the specific regulations do not appear to impact the broader category. For example, the Multiple Use Agriculture ("MUA") zone allows only commercial activities that are in conjunction with farm use but does not separately list "winery" as the EFU zone does. The absence of "winery" in the MUA regulations does not prohibit approving a winery in that zone. Rather, it simply means that the winery must meet the MUA zone requirements for commercial activities that are in conjunction with farm use.

Third, even Windlinx acknowledges that the Code can use different terms synonymously. In its initial comments, Windlinx identified portions of the Code that it asserts use "bikeway" and "bike lane" synonymously even though those terms are separately defined.

Ultimately, however, it is the definition of these terms and the fact that a 'multi-use path" is not synonymous with "Class III project" that informs how the former term is used. A multi-use path may be a type of road and street project, depending on the specific facts relating to the multi-use path. That is, if the multi-use path is a "facility that relates to a road or street," then it qualifies a "road and street project." If the multi-use path does not relate to a road or street, however, or does not meet the other factors that determine what a "road and street project" is, then it would not qualify as such a facility. Similarly, it is possible that a multi-use path, depending on the facts, does not qualify as a Class III project because it does not involve modernization, traffic safety improvements, maintenance, repair or preservation of an existing road or street.

---

[16] LUBA has confirmed that a winery can be permitted under either of these uses. *See, e.g., Friends of Yamhill County v. Yamhill County*, 66 Or LUBA 212 (2012).

Those precise definitions in the Code language offer a reasonable explanation for why the County lists both "multi-use path" and "Class III project" in the La Pine NPA. That is, all Class III projects are allowed under that La Pine NPA provision, as are multi-use paths that do not qualify as road and street projects generally or as Class III projects specifically. In the RR-10 and OS&C zones, by contrast, all Class III projects are allowed under those Code provisions, but multi-use paths that do not qualify specifically as a Class III project (or qualify as a Class I or Class II project as part of a partition or subdivision) would not be allowed, because they are not separately listed.

Based on the foregoing, I find that the absence of "multi-use path" in the RR-10 and OS&C provisions does not limit the Project in those zones even though it is a multi-use path, as long as the Project is also a Class III project. The Project is therefore a use permitted outright in those Zones.

E. Uses Permitted Outright or Conditionally in the F-2 Zone

As an alternative to the foregoing requests, the Applicant makes separate requests seeking a Declaratory Ruling that the Project is a use permitted outright or conditionally in the F-2 Zone. Because those requests were made in the alternative, and because this Decision concludes that the Subject Properties are not in the F-2 zone, I find that it is not necessary to address the alternative arguments, and to do so could create more confusion than clarity.

F. Applicability of DCC 17

The record contains multiple references to DCC Title 17, including discussion of whether any provision in DCC Title 17 directly applies to this proceeding. These references and the related discussion were offered by the Applicant, Staff, and Windlinx.

The Applicant asserts that the provisions of DCC Title 17 are not directly applicable, but the Applicant also cites to provisions in DCC Title 17 as context for demonstrating the meaning of certain bicycle-related terms. Windlinx, like the Applicant, argues that DCC Title 17 is not directly applicable, and it asserts that the requests for Declaratory Ruling are answered by the Code language in DCC Title 18 without the need to resort to the language in DCC Title 17.

The Staff Report requests that the Hearings Officer determine if the requirements of DCC Title 17 apply to this proceeding. The Staff Report and the Notice of Incomplete Application specifically refer to DCC 17.04.020, DCC 17.08.030, DCC 17.48.140, and DCC 17.48.490 as potentially applicable.

The Application does not present a specific request for a Declaratory Ruling relating to DCC Title 17. Instead, the Applicant's initial mention of DCC Title 17 appears to be in response to the Notice of Incomplete Application. In that submittal, the Applicant states its belief that DCC Title 17 does not directly apply. The Applicant went on to state "[a[lternatively, and to respond to Staff's notice of incompleteness," its Project complies with DCC Title 17 requirements.

The Oregon Court of Appeals recently opined on the scope of a Declaratory Ruling under the County's Code:

> A declaratory action is not an expansive proceeding that covers any and all issues related to a land use permit. Instead, it is narrowly confined to answering the "precise question" presented by the applicant. DCC 22.40.020(B); *see also* DCC 22.40.010(B) (stating that a declaratory ruling is "available only in instances involving a fact-specific controversy and to resolve and determine the particular rights and obligations of particular parties to the controversy" (emphasis added)). Further limiting the scope of the proceeding are the restrictions on who can seek a declaratory ruling and for what purposes. *See* DCC 22.40.020(A) (limiting the applicants to the owner of property on questions of use of the property, to the holder of a permit on questions of interpretation of a quasi-judicial plan amendment, zoning change or land use permit, or the Planning Director). We also note that under DCC 22.40.040, the effect of a declaratory ruling is conclusive, binds the parties, and prevents the parties from reapplying for a ruling on the same question. The binding and preclusive nature of a declaratory ruling supports our conclusion that the county intended declaratory actions to have a limited scope.[17] (Emphases added).

The precise questions presented in this proceeding are set forth above in earlier findings. Applicant's first question relates to the zoning of Parcel 1, which has no relationship to DCC Title 17. Applicant's second question asks whether the Project is a Class III project, but specifically presents that question in light of the definitions that appear in DCC Title 18. Thus, while DCC Title 17 has nearly identical definitions and may have some bearing on a project that fits those definitions, the issue in this proceeding relates only to DCC Title 18. The Applicant's third and fourth questions relate specifically to uses that are allowed in the F-2 zone, which this Decision does not address, but which also invoke only DCC Title 18 provisions (and state administrative rules) as presented.

To the extent that DCC Title 17 is relevant to this proceeding, it provides some context which may inform the meaning of the Code language in DCC Title 18. While such context may be useful, the findings in this Decision relating to the Applicant's precise questions are based on the text and context of DCC Title 18 and, except where I have described the comments of the participants, I do not find a need to resort to a different title as further context to address the Applicant's requests.

In consideration of the Court's description of the limited scope of this type of proceeding, and in light of the Applicant's requests as presented in the Application, I respectfully decline to extend the scope of this proceeding to address the extent to which DCC Title 17 applies.

/ / /

/ / /

/ / /

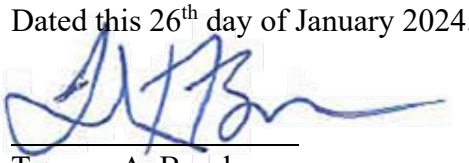
[17] *Central Oregon LandWatch v Deschutes County*, 326 Or App 439, 449-50 (2023).

IV. CONCLUSION

Based on the above findings, this Decision concludes the following:

1 – The Parcel 1 portion of the Subject Properties is zoned RR-10.
2 – The Project as described by the Applicant is a "road and street project" and, more specifically, a Class III project.
3 – As a Class III project, the Project described by the Applicant is a use permitted outright in the RR-10 zone, and in the OS&C zone.

Dated this 26th day of January 2024.



Tommy A. Brooks
Deschutes County Hearings Officer

owner	agent	inCareof	address	cityStZip	type	cdd id	email
ODOT Region 4 Planning	David Amiton		63055 N. Highway 97, Bldg M	Bend, OR 97703	Hoff Decision	23-302-DR	David.Amiton@odot.oregon.gov
Stacy C. Posegate	Oregon DOJ Counsel				Hoff Decision	23-302-DR	stacy.c.posegate@doj.state.or.us
Ken Shonkwiler			63055 N. Hwy 97, Bldg M	Bend OR 97703	Hoff Decision	23-302-DR	Kenneth.d.shonkwiler@odot.oregon.gov

Mailing Date:
Friday, January 26, 2024

COMMUNITY DEVELOPMENT

NOTICE OF HEARINGS OFFICER'S DECISION

The Deschutes County Hearings Officer has completed the reviewed the land use application described below:

FILE NUMBER: 247-23-000302-DR

LOCATION: **Parcel 1** - A portion of Oregon Department of Transportation Right-of-Way for Highway 97 in Township 18S, Range 12E, Sections 19, 30, and 31, and in Township 18S, Range 11E, Section 36

Parcel 2 - 59800 Highway 97, Bend, OR 97702 Map and Taxlot 181100001900

OWNER: **Parcel 1** - Oregon Department of Transportation
Parcel 2 - Oregon High Desert Museum

APPLICANT: Oregon Department of Transportation

PROPOSAL: The applicant requests interpretations of the County's Zoning Code, Zoning Maps, and Comprehensive Plan to determine if a future multi-use path, to be located within the ODOT right-of-way and lands owned by the High Desert Museum, is a use permitted outright.

STAFF PLANNER: Caroline House, Senior Planner
Caroline.House@deschutes.org / 541-388-6667

RECORD: Record items can be viewed and downloaded from:
https://www.deschutes.org/cd/page/247-23-000302-dr-odot-lava-butte-trail

STANDARDS AND APPLICABLE CRITERIA:

Participants to this proceeding identified the following as potentially applicable to the requested Declaratory Ruling:

Deschutes County Code ("DCC" or "Code") Title 17, Subdivisions
Chapter 17.04, General Provisions
Chapter 17.08, Definitions and Interpretations of Language

Chapter 17.12, Administration and Enforcement
Chapter 17.40, Improvements
Chapter 17.48, Design and Construction Specifications
Chapter 17.56, Variances
DCC Title 18, Deschutes County Zoning Ordinance
Chapter 18.04, Title, Purpose, and Definitions
Chapter 18.12, Establishment of Zones
Chapter 18.40, Forest Use Zone (F2)
Chapter 18.60, Rural Residential Zone (RR10)
DCC Title 22, Deschutes County Development Procedures Ordinance
Chapter 22.40, Declaratory Ruling

Oregon Revised Statutes (ORS)
Chapter 215, County Land Use Planning; Resource Lands

Oregon Administrative Rules (OAR)
Chapter 660, Land Conservation and Development Department
Division 12, Transportation Planning

DECISION: Based on the Decision and Findings of the Deschutes County Hearings Officer, the Hearings Officer concludes the following:

1. The Parcel 1 portion of the Subject Properties is zoned RR-10.

2. The Project as described by the Applicant is a "road and street project" and, more specifically, a Class III project.

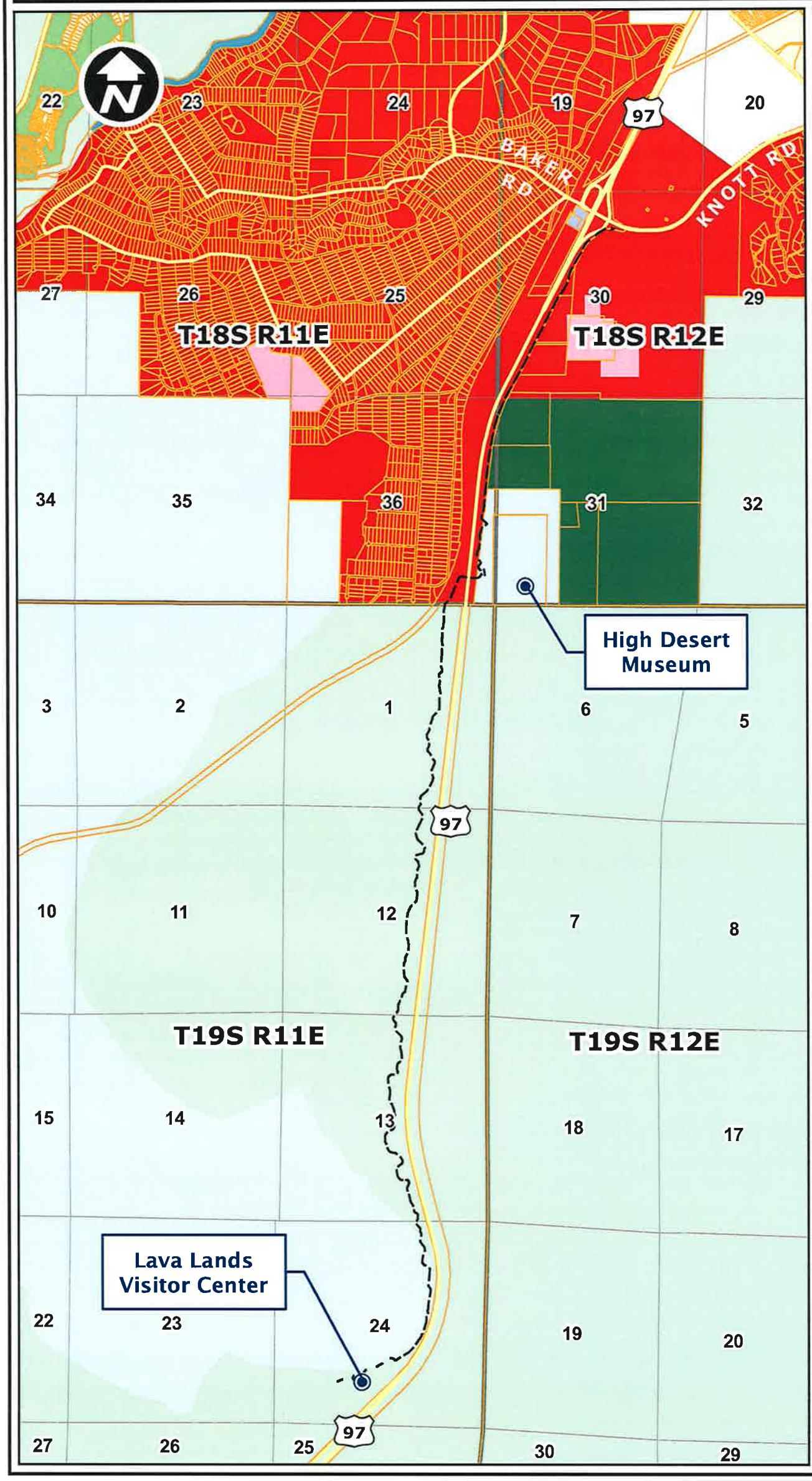
3. As a Class III project, the Project described by the Applicant is a use permitted outright in the RR-10 zone, and in the OS&C zone.

This decision becomes final twelve (12) days after the date mailed, unless appealed by a party of interest. To appeal, it is necessary to submit a Notice of Appeal, the base appeal deposit plus 20% of the original application fee(s), and a statement raising any issue relied upon for appeal with sufficient specificity to afford the Board of County Commissioners an adequate opportunity to respond to and resolve each issue.

Copies of the decision, application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost. Copies can be purchased for 25 cents per page.

NOTICE TO MORTGAGEE, LIEN HOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.

US-97 LAVA BUTTE TRAIL



FEATURES

- Lava Butte Trail
- Tax Lot Boundary
- Township & Range Grid
- Section Grid
- Roads & Highways

ZONING

- Forest Use 1
- Forest Use 2
- Flood Plain
- Open Space & Conservation
- Rural Commercial
- Rural Residential
- Bend Residential
- Surface Mining
- Widgi Crk Seventh Mtn Residential
- Widgi Creek Residential

0 Miles 1

PRODUCED BY ODOT GIS UNIT
GIS No. 23-62 | FEBRUARY 2023
ODOTMaps@odot.oregon.gov

This product is for informational purposes and may not be suitable for legal, engineering, or surveying purposes. Users of this product should review and consult the primary data sources to determine the usability of the information. Conclusions drawn from this information are the responsibility of the user.

N:\GIS23_62_Miscellaneous_Small_Maps-Data_requests\Region_4_US97_Lava_Butte_Trail\mxd\Lava_Butte_Trail_US97.mxd

owner	agent	inCareof	address	cityStZip	type	cdd id	email
ARNOLD IRRIGATION DISTRICT			19604 BUCK CANYON RD.	Bend, OR 97702	Hoff NOD	23-302-DR	
BNSF RAILWAY - ASSISTANT DIR., PUBLIC PROJECTS			740 CARNEGIE DRIVE	San Bernadino, CA 92408	Hoff NOD	23-302-DR	
DEPT. OF FORESTRY			P.O. BOX 670	Prineville, OR 97754	Hoff NOD	23-302-DR	
DEPT. OF LAND CONSERV. & DEVEL.			1011 SW EMKAY DR., SUITE 108	Bend, OR 97702	Hoff NOD	23-302-DR	
DEPT. OF LAND CONSERV. & DEVEL.			635 CAPITOL ST. NE, #150	Salem, OR 97301-2540	Hoff NOD	23-302-DR	
DESCHUTES CO. BUILDING SAFETY	Randy Scheid		ELECTRONIC		Hoff NOD	23-302-DR	Randy.Scheid@deschutes.org
DESCHUTES CO. FIRE ADAPTED COMMUNITIES COORDINATOR	Corinne Heiner		ELECTRONIC		Hoff NOD	23-302-DR	Corinne.Heiner@deschutes.org
DESCHUTES CO. FORESTER	Kevin Moriarty		ELECTRONIC		Hoff NOD	23-302-DR	Kevin.Moriarty@deschutes.org
DESCHUTES CO. PROPERTY MGMT.	Ryan Dunning / Emily Pyle		ELECTRONIC		Hoff NOD	23-302-DR	Ryan.Dunning@deschutes.org / emily.pyle@deschutes.org
DESCHUTES CO. ROAD DEPT.	Cody Smith		ELECTRONIC		Hoff NOD	23-302-DR	Cody.Smith@deschutes.org
DESCHUTES CO. SR. TRANS. PLANNER	Tarik Rawlings		ELECTRONIC		Hoff NOD	23-302-DR	Tarik.Rawlings@deschutes.org
DESCHUTES NAT. FOREST	Cynthia Anderson		ELECTRONIC		Hoff NOD	23-302-DR	Cynthia.Anderson@usda.gov
DEPT. OF STATE LANDS (DSL-OWNED PROPERTY)	Shawn Zumwalt		ELECTRONIC		Hoff NOD	23-302-DR	Shawn.ZUMWALT@dsl.oregon.gov
OREGON DEPT OF FISH & WILDLIFE	Jessica Clark/ Andrew Walch		ELECTRONIC		Hoff NOD	23-302-DR	Jessica.S.CLARK@odfw.oregon.gov; Andrew.J.Walch@odfw.oregon.gov
ODOT REGION 4 PLANNING			ELECTRONIC		Hoff NOD	23-302-DR	ODOTR4PLANMGR@odot.state.or.us
ODOT Region 4 Planning	David Amiton		63055 N. Highway 97, Bldg M	Bend, OR 97703	Hoff NOD	23-302-DR	David.Amiton@odot.oregon.gov
ABRAHAMS, MICHAEL & JODY			59647 NAVAJO CIR	BEND, OR 97702	Hoff NOD	23-302-DR	
ACOSTA, NYDIA A			60294 CINDER BUTTE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
ADAIR, DANIEL R			60296 CINDER BUTTE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
ALEXANDRE TRUST ET AL	ALEXANDRE, YVONNE TTEE		19505 CHEROKEE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
ANDERSON, DONALD B & FE L			60399 CINDER BUTTE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
ARNDT, TOBIAS R & ARNDT, ANGELA R			59990 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
ARNOLD,STEPHEN J & TRESA J			59888 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR	
ARZOLA, ANAITIS IBANEZ ET AL			60319 CINDER BUTTE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
AVION WATER COMPANY INC			60813 PARRELL RD	BEND, OR 97702	Hoff NOD	23-302-DR	
BALDWIN, SEAN E			60091 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
BANCROFT, LORANA TTEE ET AL	WILL OF ALLAN G TON		7760 E STATE ROUTE 69 #C5-356	PRESCOTT VALLEY, AZ 86314	Hoff NOD	23-302-DR	
BARBARA MOORE TRUST	MOORE, BARBARA J TTEE		59966 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR	
BAXTER, EMILIA & CORNELIUS, JETT			60299 ADDIE TRIPLETT LOOP	BEND, OR 97702	Hoff NOD	23-302-DR	
BEARD, JONATHAN SCOTT			19881 ROCKING HORSE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
BEND CHRISTIAN FELLOWSHIP			19831 ROCKING HORSE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
BENNETT, MORGAN			59781 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
BERNHARDT, ALLISON RAE & RYAN S			20067 SHADY PINE PL	BEND, OR 97702	Hoff NOD	23-302-DR	
BERRY, RICHARD G & KARON A			59798 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR	
BETHANY R HILLIER TRUST	HILLIER, BETHANY R TTEE		59960 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR	
BEVERLY A GREEN REVOCABLE LIVING TRUST	GREEN, BEVERLY A TTEE ET AL	C/O KYLE GREEN	530 LIVE OAK DR	BERTRAM , TX 78605	Hoff NOD	23-302-DR	
BFL INVESTMENTS LLC			761 SELDON DR	WINCHESTER, VA 22601	Hoff NOD	23-302-DR	
BILLINGTON,ROBERT C & VALERIE			60255 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR	
BILYEU, THERESA ET AL			PO BOX 8103	BEND, OR 97708	Hoff NOD	23-302-DR	
BISHOP, BRYAN C			59881 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
BIXLER LIVING TRUST	BIXLER, TIMOTHY J & VIRGINIA J TTEES		5338 W 138TH PL	HAWTHORNE, CA 90250	Hoff NOD	23-302-DR	
BLACKWELDER,ANTHONY L			60323 CINDER BUTTE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
BLAKE, AMBER M			60105 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
BLAKLEY, RICHARD W JR ET AL			19219 BUCK CANYON RD	BEND, OR 97702	Hoff NOD	23-302-DR	
BLAYLOCK, SCOTT M & CAROL A			60668 ROCKING HORSE CT	BEND, OR 97702	Hoff NOD	23-302-DR	
BOBBY & ROSELEE OSTRANDER LIV TRUST	OSTRANDER, BOBBY D & ROSELEE J TTEES		59852 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR	
BOGGESS, DORALEE R			60887 MCMULLIN DR	BEND, OR 97702	Hoff NOD	23-302-DR	
BOHREN,ANTHONY C			60189 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
BONNIE J BOEHM REVOCABLE TRUST	BOEHM, BONNIE J TTEE		60281 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
BOROWINSKI, FRANK M & GEORGIA C			60818 GRANITE DR	BEND, OR 97702	Hoff NOD	23-302-DR	
BOYD, STEVEN T & VALADEZ-BOYD, ANITA			19887 ROCKING HORSE	BEND, OR 97702	Hoff NOD	23-302-DR	
BOYER, MATTHEW			59774 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR	
BRANSON,GAIL			59905 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
BRAVO, GEORGE H III			59789 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
BRENT JORDAN BOHLKEN LIVING TRUST	BOHLKEN, BRENT JORDAN TTEE		1649 VISTA DE MONTEMAR	EL CAJON, CA 92021	Hoff NOD	23-302-DR	
BRITTAIN, KEVIN DANIEL ET AL			19877 ROCKING HORSE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
BROADHEAD,GARY L & DENISE L			59830 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
BROCKWAY, PATRICK R & KAREN F			19645 BAKER RD	BEND, OR 97702	Hoff NOD	23-302-DR	
BROTHERS LIVING TRUST	BROTHERS, BRUCE J & CAROL L TTEES	C/O BRUCE J BROTHERS (A)	242 STILLWATER CT	MARCO ISLAND, FL 34145	Hoff NOD	23-302-DR	
BROWNING, DALE A JR & CHARMAINE M			59948 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
BUCKLEY, JASON & DARCY L			59617 NAVAJO CIR	BEND, OR 97702	Hoff NOD	23-302-DR	
BULLOCK, KAREN E			60256 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR	
BURNSON, ISAAC D & BRIANA A			59743 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
CAMERON M KERR REV LIV TRUST	KERR, CAMERON M TRUSTEE		59700 SCALE HOUSE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
CAMPBELL, BOBBY & LISA			60255 ADDIE TRIPLETT LOOP	BEND, OR 97702	Hoff NOD	23-302-DR	
CAPASSO, DANIEL			60276 CINDER BUTTE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
CARTER, RONALD PAUL			59676 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
CARTWRIGHT, BRIAN J & MARGO LYNN			59664 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR	
CECIL,PETER			19840 ROCKING HORSE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
CHAMBERS LIVING TRUST	CHAMBERS, JAMES & JANET TTEES		19860 ROCKING HORSE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
CHAVEZ, WAYNE			60233 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
CHRISTENSEN,JEFF & KOSS, LAUREN BROOKE			59683 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
CJ DENS LACAMAS I LLC			PO BOX 2239	KALAMA, WA 98625	Hoff NOD	23-302-DR	
CLARK,DANIEL KEVIN			PO BOX 6131	BEND, OR 97708	Hoff NOD	23-302-DR	
CLARK,VICKI A			60030 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
CLEMENS, BRUCE D & JEAN M			59736 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR	
CLOUD, RICHARD & ANDREWS, KATHLEEN			PO BOX 7737	BEND, OR 97708	Hoff NOD	23-302-DR	
COLEMAN, LOIS R			60843 EMIGRANT CIR	BEND, OR 97702	Hoff NOD	23-302-DR	
COLLINS 2008 REVOCABLE TRUST	COLLINS, NORMAN C & CLAUDIA B TTEES		432 EASTWOOD DR	PETALUMA, CA 94954	Hoff NOD	23-302-DR	
COSMOS COMPUTING INC			60365 CINDER BUTTE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
CRESS, DANA & KIMBERLE			60213 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR	

CRONIN, AUSTIN & ANDREA		59757 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
CRUM, DONALD D & SUSAN A		19872 ROCKING HORSE RD	BEND, OR 97702	Hoff NOD	23-302-DR
CURTIS, CHRISTOPHER W		60203 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
CYMBALA,JOHN W		1110 CATALINA DR #102	LAKE HAVASU CITY, AZ 86403	Hoff NOD	23-302-DR
DAMMEN, DEREK L & GRANT, BRIANNA		59959 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
DANIELS, DAVID HARLEY		65611 HIGHWAY 20	BEND, OR 97703	Hoff NOD	23-302-DR
DARDENNE, JORDAN M		20058 GRAND TETON DR	BEND, OR 97702	Hoff NOD	23-302-DR
DAVID CHARLES NUTTING REV TRUST	NUTTING, DAVID CHARLES TRUSTEE	60124 NAVAJO RD	BEND, OR 97702-8991	Hoff NOD	23-302-DR
DAVIES, RICHARD J ET AL		6721 AZALEA WAY SE	SNOQUALMIE, WA 98065	Hoff NOD	23-302-DR
DAWSON, ELLEN ELIZABETH & DANIEL SCOTT		59773 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
DEFOE FAMILY TRUST	DEFOE, DONALD R & THERESA G TTEES	63310 OB RILEY RD	BEND, OR 97703	Hoff NOD	23-302-DR
DESCHUTES COUNTY	C/O PROPERTY MANAGEMENT	PO BOX 6005	BEND, OR 97708-6005	Hoff NOD	23-302-DR
DORIS E DILDAY REVOCABLE TRUST	DILDAY, DORIS E TTEE	60271 ADDIE TRIPLETT LOOP	BEND, OR 97702	Hoff NOD	23-302-DR
DRW I LLC		8611 NE OCHOCO HWY	PRINEVILLE, OR 97754	Hoff NOD	23-302-DR
DUNMIRE, MARK B & ERIN C ET AL		378 WALNUT DR S	MONMOUTH, OR 97361	Hoff NOD	23-302-DR
DYLLA,RICHARD P & CANDYCE R		59767 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
ECKSTEIN, BENJAMIN ET AL		59705 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
EDDIE W OWENS TRUST	OWENS, EDDIE W TTEE	60298 CINDER BUTTE RD	BEND, OR 97702	Hoff NOD	23-302-DR
EDMONSTON, MARCIA A		60251 ADDIE TRIPLETT LOOP	BEND, OR 97702	Hoff NOD	23-302-DR
EDWARDS, KRISTIN D		59728 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
EGGENSPERGER,NEIL P		60238 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
EGGERT, JEREMY D & JESSICA L		1528 SE RIVERA DR	BEND, OR 97702	Hoff NOD	23-302-DR
ERVIN, MAX W		19976 WAGON TREE CT	BEND, OR 97702	Hoff NOD	23-302-DR
EVERHART, SYDNEY E		60287 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
EVERSAUL, SCOTT		60207 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
FERULLO, TODD W & NICHOLLE A		59849 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
FIRKUS,CONRAD G & TAMMY L		60150 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
FOLLETT, MARK L		60265 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
FORSEY, JENNIFER		60286 ADDIE TRIPLETT LOOP	BEND, OR 97702	Hoff NOD	23-302-DR
FOSTER HAYES LIVING TRUST	HAYES, DALE KEVIN TTEE ET AL	60305 CINDER BUTTE RD	BEND, OR 97702	Hoff NOD	23-302-DR
FRANCES W MILLS REV LIV TRUST	MILLS, FRANCES W & MICHAEL CO TTEES	5660 SW HELMHOLTZ	REDMOND, OR 97756	Hoff NOD	23-302-DR
FREEMAN, LEE J & KIMBERLY A		59810 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
FRY,DEBORAH MINOR		19668 BAKER RD	BEND, OR 97702	Hoff NOD	23-302-DR
GARCIA, MARCELO ENRIQUE CUEVAS ET AL		59981 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
GARZA, BRIAN		59965 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
GILLESPIE JEFFRIES LIVING TRUST	JEFFRIES, SHERIDAN GM TTEE	59625 NAVAJO RD	BEND, OR 90272	Hoff NOD	23-302-DR
GO FORTH MINISTRIES		60377 CINDER BUTTE RD	BEND, OR 97702	Hoff NOD	23-302-DR
GONZALES, HARVEY JR & LYDAY, KYLA F		59720 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
GONZALEZ,MARIA D		19967 DOUBLE TREE CT	BEND, OR 97702	Hoff NOD	23-302-DR
GORMLEY, DANIEL A & JENNIFER M		60113 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
GREGORY & SANDRA BEHRENS TRUST	BEHRENS, GREGORY J TTEE ETAL	59806 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
GREGORY, TIMOTHY D		59641 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
GRUBE, CHERYL A	WAINSCOAT, RENESH (CB)	136339 W FRIENDLY LN	CRESCENT, OR 97733	Hoff NOD	23-302-DR
GULNAC, STACY N		60271 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
HALL,MICHAEL A		19735 MANZANITA LN	BEND, OR 97702	Hoff NOD	23-302-DR
HAMILTON, CHRISTOPHER K & HEATHER M		60237 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
HAMILTON, JORDAN K & LISA A		60050 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
HAMMER, TINA M		59674 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
HARPOLE, JOSHUA & BARBARA J		19830 ROCKING HORSE RD	BEND, OR 97702	Hoff NOD	23-302-DR
HAUN, CARTER RYAN & WAVERS, SARAH		19748 MANZANITA LN	BEND, OR 97702	Hoff NOD	23-302-DR
HEAVIRLAND, LORENE ET AL		59884 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
HEDEMAN, JO ANNE		2329 E BEATRICE DR	MERIDIAN, ID 83642	Hoff NOD	23-302-DR
HENDRIXSON, CHARLES SCOTT		60650 ROCKING HORSE CT	BEND, OR 97702	Hoff NOD	23-302-DR
HENSLEY, BILLY		19699 MANZANITA LN	BEND, OR 97702	Hoff NOD	23-302-DR
HENSON, CALVIN D		60215 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
HERMAN,DONNA	C/O DONNA LEON	786 NE TIERRA RD	BEND, OR 97701	Hoff NOD	23-302-DR
HERNANDEZ,JOSE A		60023 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
HERRERA,THOMAS		19698 MANZANITA LN	BEND, OR 97702	Hoff NOD	23-302-DR
HICKEY, DEBRA (BOBBIE) V ET AL		108 BIRCH ST	LAKEVIEW, OR 97630	Hoff NOD	23-302-DR
HIGGINS, ERIN L		59971 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
HILLERICH, MICHAEL R & LISA D		60072 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
HOLMES, JOSHUA L		59812 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
HOUNSHELL, GERALD JR & AVA D		60129 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
IACOVETTA REVOCABLE TRUST	IACOVETTA, GLENN T & VONDA L TTEES	60320 ADDIE TRIPLETT LOOP	BEND, OR 97702	Hoff NOD	23-302-DR
JACOBS, NANCY D		20050 GRAND TETON DR	BEND, OR 97702	Hoff NOD	23-302-DR
JANET KAYE ASAY REVOCABLE TRUST	ASAY, JANET KAYE TTEE	60854 EMIGRANT DR	BEND, OR 97702	Hoff NOD	23-302-DR
JARRETTE, GABRIELA N & AMOS D		60146 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
JEANTROUT,RICHARD F JR		59947 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
JENSVOLD, JACOB SHELDON		19747 MANZANITA LN	BEND, OR 97702	Hoff NOD	23-302-DR
JERRY & YVONNE PAXTON REVOCABLE TRUST	PAXTON, JERRY R TTEE	61141 S HWY 97 ## 602	BEND, OR 97702-2523	Hoff NOD	23-302-DR
JIMENEZ, JAIRO		59800 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
JOHN A KOBLE TRUST	KOBLE, JOHN A TTEE	60311 ADDIE TRIPLETT LOOP	BEND, OR 97702	Hoff NOD	23-302-DR
JOHNSON, GEORGE L		19766 BUCK CANYON RD	BEND, OR 97702	Hoff NOD	23-302-DR
JOHNSON, KENA & KARL, SCOTT		59870 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
JONES, GARY M & SANDRA A		2650 W 6TH ST	WASHOUGAL, WA 98671	Hoff NOD	23-302-DR
JONES, GREGORY J & JULIA V		2660 NE HWY 20 #610-413	BEND, OR 97701	Hoff NOD	23-302-DR
JONES, KATHLEEN & RALPH, DANIEL		55375 BIG RIVER DR	BEND, OR 97707	Hoff NOD	23-302-DR
K B-3 LLC		59935 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
KALOKE, RICHARD P & BRANDEE M		19742 MANZANITA LN	BEND, OR 97702	Hoff NOD	23-302-DR
KATHLEEN F DONOHUE REVOCABLE TRUST	DONOHUE, KATHLEEN F TTEE	60319 ADDIE TRIPLETT LP	BEND, OR 97702	Hoff NOD	23-302-DR
KEEPERS ,ROBERT S & LINDA B		59998 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
KENTNER, MICHAEL D		59691 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR

KERR, HODGE & DEBORA NORENE		21345 SW EDY RD	SHERWOOD, OR 97140	Hoff NOD	23-302-DR
KEYSER,JOHN M & PAMELA A		60393 CINDER BUTTE RD	BEND, OR 97702	Hoff NOD	23-302-DR
KINCANNON, PAUL & MEGHAN		60339 CINDER BUTTE RD	BEND, OR 97702	Hoff NOD	23-302-DR
KINNARD JOINT LIVING TRUST	KINNARD, JEFFERY L & ROSEMARY E TTEES	60333 CINDER BUTTE RD	BEND, OR 97702	Hoff NOD	23-302-DR
KOLANDER, KIM JANEEN		60267 ADDIE TRIPLETT LOOP	BEND, OR 97702	Hoff NOD	23-302-DR
KOOK, KEEGAN		19737 BAKER RD	BEND, OR 97701-7961	Hoff NOD	23-302-DR
KRUEGER,EILEEN A		60196 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
LAIRSON, ROSEANN		59797 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
LANG, MARTIN J & PAULETTE M		60475 ZUNI RD	BEND, OR 97702	Hoff NOD	23-302-DR
LANGENHUYSEN, ELLIOT K		60197 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
LARA,MICHAEL M II		59766 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
LARSEN FAMILY TRUST	LARSEN, DARRYL A & MELINDA J TTEES	PO BOX 8268	BEND, OR 97708	Hoff NOD	23-302-DR
LARSEN, TROY DARROLL		59828 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
LASSILA, DAVID H & RENE M		19789 ROCKING HORSE RD	BEND, OR 97702	Hoff NOD	23-302-DR
LEBART, JUSTIN M ET AL		60108 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
LEDFORD, THOMAS L & DONNA J		59968 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
LEIGHTY, MICHELLE C & REEVES, ASHLIN		60426 POCAHONTAS LN	BEND, OR 97702	Hoff NOD	23-302-DR
LINDSLEY, ROBERT S		19700 MANZANITA LN	BEND, OR 97702	Hoff NOD	23-302-DR
LINSTAD, RYAN PATRICK		60330 CINDER BUTTE RD	BEND, OR 97702	Hoff NOD	23-302-DR
LIU, DAVID		3383 NW FAIRWAY HEIGHTS DR	BEND, OR 97703	Hoff NOD	23-302-DR
LOCKE, WALTER CRAIG ET AL		19685 BAKER RD	BEND, OR 97702	Hoff NOD	23-302-DR
LOCKLING, MICHAEL ET AL		19720 BAKER RD	BEND, OR 97702	Hoff NOD	23-302-DR
LOEKS FAMILY LIVING TRUST		16368 EMERALD GREEN LN	JEFFERSON, OR 97352	Hoff NOD	23-302-DR
LOVERSO, PETER R & ACOSTA, MONIKA M		19508 CHEROKEE RD	BEND, OR 97702	Hoff NOD	23-302-DR
LUCERO, CHRISTINE A & HILL, JOHN		19722 MANZANITA LN	BEND, OR 97702	Hoff NOD	23-302-DR
MACHACEK, GARY & PATRICIA		1359 32ND AVE S	SEATTLE, WA 98114-3926	Hoff NOD	23-302-DR
MAQUET, JOSHUA		PO BOX 2142	BEND, OR 97709-4131	Hoff NOD	23-302-DR
MARIE CELESTINO TRUST	CELESTINO, MARIE MARINA TRUSTEE	9608 OAKDALE AVE	CHATSWORTH, CA 91311	Hoff NOD	23-302-DR
MARTIN, NOEL MAKENA & TRAVIS PATRICK		59610 NAVAJO CIR	BEND, OR 97702	Hoff NOD	23-302-DR
MASINGALE, DARIEN & CHRISTINE		60061 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
MASTERS, DANIEL T & HILBURN, MELANIE A		59735 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
MAYO,CURTIS E & MICHELLE D		59865 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
MCKEIRNAN, ROBIN R & MAURICE A		60248 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
MCNAUGHTON-VANOVER LIVING TRUST	MCNAUGHTON, DAVID K TTEE ET AL	65230 94TH ST	BEND, OR 97703	Hoff NOD	23-302-DR
MCWILLIAMS, TRACY A		60373 CINDER BUTTE RD	BEND, OR 97702	Hoff NOD	23-302-DR
MEALEY, JOAN E		PO BOX 6653	BEND, OR 97708-6653	Hoff NOD	23-302-DR
MEEKS, JAMES NACY & TERA ROXAN		59665 CHEYENNE RD	BEND, OR 97701	Hoff NOD	23-302-DR
MENDEZ, LUIS ALBERTO VILLANUEVA		60020 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
MICHAEL KOZAK REVOCABLE LIVING TRUST	KOZAK, MICHAEL TRUSTEE	PO BOX 271	BEND, OR 97709	Hoff NOD	23-302-DR
MILLER, PATRICIA A		59811 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
MITTAN, KYLE GLENN & CHELSEA ANNE		59712 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
MONE, ERIC A & SAMANTHA E		59637 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
MONROE, BRANDON & KYMBERLY		59707 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
MONTGOMERY, GARRETT ET AL		59823 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
MORALES, REYES NAVA		59951 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
MORGAN WILLIAM SMITH FAM REV LIV TRUST	SMITH, MORGAN W TTEE	19805 BUCK CANYON RD	BEND, OR 97702	Hoff NOD	23-302-DR
MORGAN, VINCENT J & AMANDA		59609 NAVAJO CIR	BEND, OR 97702	Hoff NOD	23-302-DR
MORISETTE, LANCE & KRISTINA R		19483 COMANCHE LN	BEND, OR 97702	Hoff NOD	23-302-DR
MORITZ, JOSEPH E & PAMELA A		59930 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
MORNING STAR CHRISTIAN SCHOOL		19741 BAKER RD	BEND, OR 97702	Hoff NOD	23-302-DR
MORRISON, COLIN & STEPHANIE		60308 ADDIE TRIPLETT LOOP	BEND, OR 97702	Hoff NOD	23-302-DR
MOUNTAIN PINES PUD OWNERS' ASSOCIATION	C/O MILE HIGH MANAGEMENT	PO BOX 1048	BEND, OR 97709	Hoff NOD	23-302-DR
MURRAY, ALEXANDRE & HANNAH Z		60083 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
MUSSER FAMILY TRUST	MUSSER, GEORGE CALVERT TTEE ET AL	16404 S MOORE RD	OREGON CITY, OR 97045	Hoff NOD	23-302-DR
NAIRN, SAMANTHA		59774 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
NICKLAW, JOHN O		59706 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
NICKLAW,DAVID A & TINA M		59700 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
NORRIS, CHRISTOPHER D & JANET W		60312 ADDIE TRIPLETT LOOP	BEND, OR 97702	Hoff NOD	23-302-DR
NORRIS,MICHAEL J		59644 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
NORRIS,WILLIAM D & BONNIE T		59790 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
OATHES, DELORIS MAE		19692 BAKER RD	BEND, OR 97702	Hoff NOD	23-302-DR
O'CONNELL, CRYSTAL M ET AL		61382 GEARY DR	BEND, OR 97702	Hoff NOD	23-302-DR
OLEACHEA,GARRY & JENNIFER		59895 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
OLSEN, SANDRA P		59820 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
OLSEN, SANDRA P		59820 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
OREGON HIGH DESERT MUSEUM		59800 S HWY 97	BEND, OR 97702	Hoff NOD	23-302-DR
ORRICO, NICHOLAS A		60287 ADDIE TRIPLETT LOOP	BEND, OR 97702	Hoff NOD	23-302-DR
ORTIZ, JOSE MANUEL ET AL		59920 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
OVERTON, AVERY		59871 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
PACIFICORP		825 NE MULTNOMAH #STE 1900	PORTLAND, OR 97232	Hoff NOD	23-302-DR
PAHLISCH, DENNIS & BEVERLY		210 SW WILSON AVE #100	BEND, OR 97702	Hoff NOD	23-302-DR
PALMER, MICHAEL W & TERESA A		60345 CINDER BUTTE RD	BEND, OR 97702	Hoff NOD	23-302-DR
PALMESE, WILLIAM S		59819 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
PANICO FAMILY TRUST	PANICO, PAUL JOHN TTEE ETAL	8 HILTON HEAD	RANCHO MIRAGE, CA 92270	Hoff NOD	23-302-DR
PAT & CINDY BAGHDIKIAN 2011 REV LIV TR	BAGHDIKIAN, CYNTHIA MARIE TTEE ET AL	PO BOX 8952	SOUTH LAKE TAHOE, CA 96158	Hoff NOD	23-302-DR
PATE, TINA LOUISE		1906 BRAINERD CT	LUTZ, FL 33549	Hoff NOD	23-302-DR
PAULSON FAMILY TRUST	PAULSON, KARL A & MARY A TTEES	3194 NW FAIRWAY HEIGHTS DR	BEND, OR 97703	Hoff NOD	23-302-DR
PECK, ANDREW D		59620 NAVAJO CIR	BEND, OR 97702	Hoff NOD	23-302-DR
PEETERS, CHRISTIAN & RACHAEL ET AL		60260 ADDIE TRIPLETT LOOP	BEND, OR 97702	Hoff NOD	23-302-DR
PEFFERLE LIVING TRUST	PEFFERLE, RANDALL TTEE	59656 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
PEIL,RICHARD R & CYNTHIA M		60680 ROCKING HORSE RD	BEND, OR 97702	Hoff NOD	23-302-DR
PENNY DARLENE ALCORN LIVING TRUST	ALCORN, PENNY DARLENE TTEE	2856 DOS LOMAS	FALLBROOK, CA 92028	Hoff NOD	23-302-DR

PERKINS, CARL W			60060 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
PERRINE,BRIAN S			59626 NAVAJO CIR	BEND, OR 97702	Hoff NOD	23-302-DR
PETERSON,WILLIAM N			PO BOX 1923	BEAVERTON, OR 97075	Hoff NOD	23-302-DR
PHELPS FAMILY TRUST	PHELPS, BARTON P II & LINDA J TTEES		60395 CINDER BUTTE RD	BEND, OR 97702	Hoff NOD	23-302-DR
PHELPS, MATTHEW & DANIELLE			60182 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
PINEDA,JORGE LUIS & ARMINDA			60292 CINDER BUTTE RD	BEND, OR 97702	Hoff NOD	23-302-DR
PONDEROSA PINE ESTATES LLC			475 NE BELLEVUE AVE #210	BEND, OR 97701	Hoff NOD	23-302-DR
PONDEROSA TRUST	SET SAIL LLC, TTEE		3225 MCLEOD DR #777	LAS VEGAS, NV 89121	Hoff NOD	23-302-DR
PRIDAY, COURTNEY RYAN ET AL			19745 BAKER RD	BEND, OR 97702	Hoff NOD	23-302-DR
PURCELL, MARK S & ROSEMARY Y			3554 CHINOOK ST	LONGVIEW, WA 98632	Hoff NOD	23-302-DR
PUTNAM JOINT REVOCABLE LIVING TRUST	PUTNAM, DIANA M & LAWRENCE J TTEES		59988 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
QUARREL, JOHNATHON & COOLEY, LAUREN			60264 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
RADCLIFF,ROY ALAN & TERRI L			60310 CINDER BUTTE RD	BEND, OR 97702	Hoff NOD	23-302-DR
RALEY, NICKLES J			59730 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
RAY, VALERIE A			59937 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
RAYMOND, MICHAEL			60444 POCAHONTAS LN	BEND, OR 97702	Hoff NOD	23-302-DR
RAZO, JUAN C & ROSAURA			60405 POCAHONTAS LN	BEND, OR 97702	Hoff NOD	23-302-DR
REBECCA ANDERSON REVOCABLE TRUST	ANDERSON, REBECCA TTEE		60279 ADDIE TRIPLETT LOOP	BEND, OR 97702	Hoff NOD	23-302-DR
REBTEB LLC			2157 NE KIM LN	BEND, OR 97701	Hoff NOD	23-302-DR
RED BARN INVESTMENTS LLC			PO BOX 2234	BEND, OR 97709	Hoff NOD	23-302-DR
RHOADES,DANIEL S L & SHARON GAYE			19683 PLATINUM WAY	BEND, OR 97702	Hoff NOD	23-302-DR
RICHARDS, JEFF & LISA G			60116 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
RICHARDSON, JENNIFER A ET AL			19358 MOHAWK RD	BEND, OR 97702	Hoff NOD	23-302-DR
RICKETSON, RUSSELL R			60179 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
RIGGS FAMILY TRUST	RIGGS, ROBERT GRANT TTEE ET AL		19552 E CAMPBELL RD	BEND, OR 97702	Hoff NOD	23-302-DR
RIGNEY, MARK L			60812 GRANITE DR	BEND, OR 97702	Hoff NOD	23-302-DR
ROBERTSON, BLAKE & SPANI, JESANN			11 E ALLISON ST #2	SEATTLE, WA 98102	Hoff NOD	23-302-DR
ROBERTSON, KELLY M & PETER L			59754 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
ROBERTSON,PETE L & HAMILTON,KELLY M			59754 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
RODGERS, SHERRY A			66230 BARR RD	BEND, OR 97703	Hoff NOD	23-302-DR
ROGER A KADEL TRUST ET AL	KADEL, ROGER A & JANET S TTEES		22415 SW 65TH AVE	TUALATIN, OR 97062	Hoff NOD	23-302-DR
ROGERS, BARRY D			59892 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
ROGERS, DAMON J			PO BOX 295	LOMITA, CA 90717-9998	Hoff NOD	23-302-DR
ROGERS,LYDIA A			23043 MAPLE AVE #B-625	TORRANCE, CA 90505	Hoff NOD	23-302-DR
ROGERS,VIRGINIA J & DAMON A			PO BOX 295	LOMITA, CA 90717-9998	Hoff NOD	23-302-DR
ROLANDSON, SHELLY ANN			59922 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
ROSE, CATHLEEN			PO BOX 265	MT VERNON, OR 97865	Hoff NOD	23-302-DR
ROSS, CAMERON & BETH			59697 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
RUIZ, ANDREW M & OSBERG, ERIN C			59898 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
RUSH, MICHAEL A			59744 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
RUSSELL,STEPHEN G & DENA M			19850 ROCKING HORSE RD	BEND, OR 97702-8942	Hoff NOD	23-302-DR
RUSSENBERGER, MARCEL			60483 UMATILLA CIR	BEND, OR 97702	Hoff NOD	23-302-DR
RUTH ANN HERZER FAMILY TRUST	HERZER, RUTH ANN TTEE		PO BOX 7762	BEND, OR 97708	Hoff NOD	23-302-DR
RV TRUST	HILDEBRANDT, WARREN R & VICTORIA B TTEES		8180 MANITOBA ST #320	PLAYA DEL REY, CA 90293	Hoff NOD	23-302-DR
SALISBURY, ANTHONY RAY ET AL			60121 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
SAMS, RAYMOND D & CINDY M			19873 ROCKING HORSE RD	BEND, OR 97702	Hoff NOD	23-302-DR
SANTANA, EDUARDO D & SANTANA, MAYRA A			59860 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
SCHNEIDER, VIRGINIA L			61535 S HWY 97 #174	BEND, OR 97702	Hoff NOD	23-302-DR
SELLERS, ASHLEY K	BOTTEN, MELISSA (CB)		4808 MILL CREEK TRL	FORT WORTH, TX 76092	Hoff NOD	23-302-DR
SHIIKI, BETH A			9512 NE 56TH CT	VANCOUVER, WA 98665-8253	Hoff NOD	23-302-DR
SHONKA, PAUL J & CINDY B			19776 BUCK CANYON RD	BEND, OR 97702	Hoff NOD	23-302-DR
SIEG,AVEL G			55 EL CID PL	SPARKS, NV 89441	Hoff NOD	23-302-DR
SILVEY, GUY WILLIAM ET AL			60175 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
SIMPSON,DANIEL B & SUSAN L			60302 CINDER BUTTE RD	BEND, OR 97702	Hoff NOD	23-302-DR
SKELTON, PATRICK R & BRENDA J			59904 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
SMITH, DANIEL S & NATASHA M			20071 SHADY PINE PL	BEND, OR 97702	Hoff NOD	23-302-DR
SMITH, ELIZABETH			59657 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
SMITH, FREDRICK S & ETHEL M			3249 SUMMER BREEZE AVE	ROSAMOND, CA 93560	Hoff NOD	23-302-DR
SMITH,JAMES L & CINDY L			60245 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
SNELL, THOMAS D & SHANNA L			19825 ROCKING HORSE RD	BEND, OR 97702	Hoff NOD	23-302-DR
SOUTH 97 LLC			20335 FAIRWAY DR	BEND, OR 97702	Hoff NOD	23-302-DR
SPATRISANO, KATRINA & DENTON, CHAD			59925 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
SPECIAL NEEDS TRUST FBO KAY O GREER	JOHN S & BARBARA C OTTONE FAM TRUST	C/O LINDSEY BERG & JOSEPH GREER	20631 MARY WAY	BEND, OR 97701	Hoff NOD	23-302-DR
SPERLING LIVING TRUST	SPERLING, DAVID J & PATRICIA M TTEES		20524 BRIGHTENWOOD CIR	BEND, OR 97702	Hoff NOD	23-302-DR
STALEY, MATHEW T & RANAE M			59990 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
STANLEY,JAMIE			60526 CHICKASAW WAY	BEND, OR 97702	Hoff NOD	23-302-DR
STATE OF OREGON DEPT OF TRANSPORTATION			4040 FAIRVIEW INDUSTRIAL DR SE #MS 2	SALEM, OR 97302-1142	Hoff NOD	23-302-DR
STEED, WILLIAM JOSEPH & JESSICA CHERI			19730 MANZANITA LN	BEND, OR 97702	Hoff NOD	23-302-DR
STEELEY, DAVID A & LINDA KAY			60029 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR
STEPHAN, GEORGE & PATRICIA			60259 ADDIE TRIPLETT LOOP	BEND, OR 97702	Hoff NOD	23-302-DR
STEPHEN MARSH REV TRUST	MARSH, STEPHEN TTEE		60315 ADDIE TRIPLETT LOOP	BEND, OR 97702	Hoff NOD	23-302-DR
STEPHEN W ROBERTS TRUST	ROBERTS, STEPHEN W TTEE		19502 COMMANCHE LN	BEND, OR 97702	Hoff NOD	23-302-DR
STEVENS, WILLIAM KENT & ROSE MARIE			19505 COMANCHE LN	BEND, OR 97702	Hoff NOD	23-302-DR
STIFF, BRYAN W & DONNA F			19772 BUCK CANYON RD	BEND, OR 97702	Hoff NOD	23-302-DR
STILLWATER MANAGERS LLC			131 S HIGGENS #STE P-1	MISSOULA, MT 59802	Hoff NOD	23-302-DR
STOCKAMP, MARK C			60204 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR
STOLBERG, RYAN & WOOD, MEGUMI			60295 ADDIE TRIPLETT LOOP	BEND, OR 97702	Hoff NOD	23-302-DR
STONEGATE OWNERS ASSOCIATION		C/O CRYSTAL LAKE PROP MGMT (A)	PO BOX 7384	REDMOND, OR 97708-7384	Hoff NOD	23-302-DR
STORLIE, CHRISTOPHER			1051 SW CROSSCUT	BEND, OR 97701	Hoff NOD	23-302-DR
STROHECKER,SHAWN W			19672 BAKER RD	BEND, OR 97702	Hoff NOD	23-302-DR
STRONG, STANLEY M & JOYCE A			19966 WAGON TREE CT	BEND, OR 97702	Hoff NOD	23-302-DR
STUART, HENRY C III & MILLER, MICHELLE A			60225 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR

SURVIVORS TRUST	ROGERS, SCOTT V TTEES		27024 WOODBROOK RD	RANCHO PALOS VERDES, CA 90275	Hoff NOD	23-302-DR	
SWEET, NATHANIEL DAVID			14925 S CLAIM RD	MOLLALA, OR 97038	Hoff NOD	23-302-DR	
SZIGETI, RYDER			61386 GEARY DR	BEND, OR 97702	Hoff NOD	23-302-DR	
TERRY L & CANDICE E ANDERSON LIV TRUST	ANDERSON, TERRY L & CANDICE E TTEES		PO BOX 2185	SISTERS, OR 97759	Hoff NOD	23-302-DR	
TEXEIRA, JOHN			59956 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR	
THOMPSON, JEFF S & HEATHER L			59862 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR	
THORN, ANDREW			5020 HIDDEN CREEK LN	FAIR OAKS, CA 95628-4111	Hoff NOD	23-302-DR	
THORSTROM, MICHELLE A			60169 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
THUMB LLC		C/O JL WARD CO (A)	20505 MURPHY RD	BEND, OR 97702	Hoff NOD	23-302-DR	
TRACIE LORAINE LAYMAN LIV TRUST	LAYMAN, TRACIE LORAINE TTEE		60254 ADDIE TRIPLETT LOOP	BEND, OR 97702	Hoff NOD	23-302-DR	
UEHLIN, TROY N & BRANDEE			19955 WAGON TREE CT	BEND, OR 97702	Hoff NOD	23-302-DR	
URIZ, DANIEL J & TAMERA A			19770 BUCK CANYON RD	BEND, OR 97702	Hoff NOD	23-302-DR	
URTON, BRIAN D			59822 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR	
VAN VLIET,MARTIN T & DEBBIE D			60155 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
VANDERPOOL, JON K			60174 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR	
VEEK FAMILY REVOCABLE LIVING TRUST	VEEK, JEFFREY ARTHUR TTEE ET AL		60148 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR	
WAISNER,CLARA B			19700 BAKER RD	BEND, OR 97702	Hoff NOD	23-302-DR	
WAITE, BRIAN			60811 GRANITE DR	BEND, OR 97702	Hoff NOD	23-302-DR	
WALLACE, JERRY J			59936 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
WALLACE, STEPHANIE L			19696 MANZANITA LN	BEND, OR 97702	Hoff NOD	23-302-DR	
WARREN, JAMES R			60313 CINDER BUTTE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
WATNE, RYAN P			60100 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR	
WEIGAND, GREGORY LOUIS			59842 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR	
WESTFALL, BRENT C			60224 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR	
WHITE, IAN & CURRIE, JACQUELINE			60193 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
WHITE, TERRY L			60060 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
WHITNEY, DENISE			61149 S HWY 97 #178	BEND, OR 97702	Hoff NOD	23-302-DR	
WHITWORTH, GREGORY A & AMY DARLYNE			59633 NAVAJO CIR	BEND, OR 97702	Hoff NOD	23-302-DR	
WILLIAM & KARLIN CONKLIN TRUST ET AL	CONKLIN, WILLIAM P & KARLIN M TTEES		59935 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR	
WILLIAM R & SHERYLE Y HOFFMAN TRUST	HOFFMAN, WILLIAM R & SHERYLE Y TTEES		60181 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
WILLIAMS, JOHN S & EMILY N			19715 MANZANITA LN	BEND, OR 97702	Hoff NOD	23-302-DR	
WINDLINX RANCH TRUST	WINDLINX, ROBERT H JR TTEE		59850 SCALE HOUSE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
WINDLINX, FREDERICK R			59895 SCALE HOUSE RD	BEND, OR 97702	Hoff NOD	23-302-DR	rwindlinx@empnet.com
WINDLINX, FREDRICK R			59885 SCALE HOUSE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
WINDLINX, RICHARD S & KARIN A			60025 SCALE HOUSE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
WOLFINGER,DWIGHT			60221 CHEYENNE RD	BEND, OR 97702	Hoff NOD	23-302-DR	
WOLTER, KRISTIN K			19738 MANZANITA LN	BEND, OR 97702	Hoff NOD	23-302-DR	
WOOD, BRUCE A & ERTHA MAE			20063 SHADY PINE PL	BEND, OR 97702	Hoff NOD	23-302-DR	
WUERTHNER, GEORGE			PO BOX 8359	BEND, OR 97708	Hoff NOD	23-302-DR	
ZIVNEY, BRYAN CHRISTOPHER & CADY			19736 MANZANITA LN	BEND, OR 97702	Hoff NOD	23-302-DR	
ZOEPHEL, CARL			59878 NAVAJO RD	BEND, OR 97702	Hoff NOD	23-302-DR	
Christopher P. Koback			1331 NW Lovejoy Street, Suite 950	Portland, OR 97209	Hoff NOD	23-302-DR	chris@hathawaylarson.com
Dana Whitelaw					Hoff NOD	23-302-DR	dwhitelaw@highdesertmuseum.org
Stacy C. Posegate	Oregon DOJ Counsel				Hoff NOD	23-302-DR	stacy.c.posegate@doj.state.or.us
Ken Shonkwiler			63055 N. Hwy 97, Bldg M	Bend OR 97703	Hoff NOD	23-302-DR	Kenneth.d.shonkwiler@odot.oregon.gov
April Cleary					Hoff NOD	23-302-DR	acleary@highdesertmuseum.org
David Roth					Hoff NOD	23-302-DR	roth7001@gmail.com
Rob Garrott					Hoff NOD	23-302-DR	rob@bendingpixels.com
Lisa Kieraldo					Hoff NOD	23-302-DR	lisa.m.kieraldo@gmail.com
Brian Harris					Hoff NOD	23-302-DR	bharrisks@hotmail.com
Jim Elliott					Hoff NOD	23-302-DR	jelliott024@gmail.com
Cassie Doll					Hoff NOD	23-302-DR	cassandradoll@gmail.com
Laura Craska Cooper	Brix Law LLP		15 SW Colorado Ave., Suite 3	Bend, OR 97702	Hoff NOD	23-302-DR	lcooper@brixlaw.com
Randy Akacich			1670 NW City View Dr	Bend, OR 97703	Hoff NOD	23-302-DR	randy.akacich@gmail.com