



## STAFF REPORT

**FILE NUMBER:** 247-23-000161-CU

**OWNER/ APPLICANT:** Mailing Name: 20925 HARPER RD LLC  
Map and Taxlot: 1612100000301  
Account: 157180  
Situs Address: 20925 HARPER RD, BEND, OR 97703

Mailing Name: 20925 HARPER RD LLC  
Map and Taxlot: 1612090000600  
Account: 131483  
Situs Address: 20616 HARPER RD, BEND, OR 97703

**PROPOSAL:** The applicant proposes a personal use airport which will consist of an airstrip approximately 75 feet wide and 200 feet in length. Up to 6 flight operations could occur per week, with a flight operation defined as a takeoff and a landing. No structures are proposed. No commercial activities are proposed as part of the airstrip operations. The applicant does not propose to pave, gravel or otherwise improve the airstrip, or create an impervious surface.

The subject application was submitted in response to a remand from the Land Use Board of Appeals ("LUBA") of the county's approval of conditional use permit application, file nos. 247-21-000666-CU, 21-834-A, 1062-A.

**STAFF CONTACT:** Anthony Raguine, Principal Planner  
[anthony.raguine@deschutes.org](mailto:anthony.raguine@deschutes.org)  
541-617-4739

**DOCUMENTS:** Record items associated with 247-000161-CU can be viewed and downloaded from: <https://deschutes.org/harperairport>

Record items associated with 247-21-000666-CU, 834-A, 1062-A can be viewed and downloaded from: <https://deschutes.org/privateairstrip>

Record items can also be viewed and downloaded from:  
[www.buildingpermits.oregon.gov](http://www.buildingpermits.oregon.gov)

**I. APPLICABLE CRITERIA**

Deschutes County Code (“DCC”)

Title 18, Deschutes County Zoning Ordinance

Chapter 18.16, Exclusive Farm Use Zone (“EFU”)

Chapter 18.80, Airport Safety Combining Zone (“AS”)

Chapter 18.84, Landscape Management Combining Zone (“LM”)

Chapter 18.96, Flood Plain (“FP”)

Chapter 18.128, Conditional Uses

Title 22, Deschutes County Development Procedures Ordinance

Oregon Revised Statutes (“ORS”)

Chapter 215, County Planning; Zoning; Housing Codes

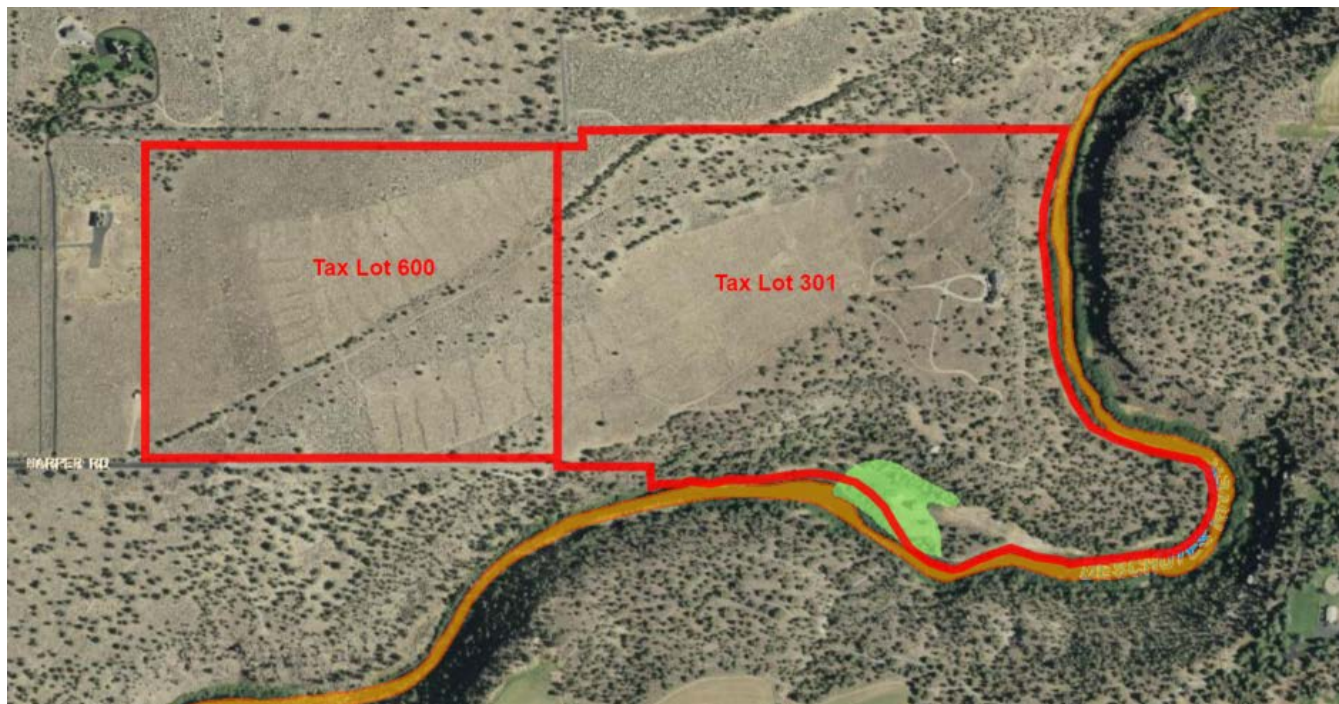
Section 215.435, Deadline for final action by county on remand of land use decision; exception

**II. BASIC FINDINGS**

**LOT OF RECORD:** The subject tax lots are together a single legal lot of record as they were platted Parcel 3 of Minor Partition MP-07-15.

**SITE DESCRIPTION:** The subject approximately 123-acre property is developed with a single-family dwelling and accessory structures on the east side of the property near the Deschutes River. Juniper trees and other native vegetation are located around the parcel. The property is irregular in shape and fronts on Harper Road to the south. Mapped wetlands from the State Wetlands Inventory maps are present and overlay that portion of the Deschutes River which abuts the property to the east and south. A larger mapped wetland areas exists along the southern edge of the parcel, upland of the Deschutes River. According to aerial imagery, there are two access points to the parcel from Harper Road. The parcel is higher in elevation along the west side and slopes down toward the east side of the parcel abutting the Deschutes River. The entire parcel is identified in ***Image One*** below.

**Image One – Subject Parcel**



**REVIEW PERIOD:** Pursuant to ORS 215.435(2)(a), the applicant must request in writing that the County initiate the remand within 180 days of the effective date of the final resolution of any judicial review and the County must take final action on the remand within 120 days of the request to initiate the remand. Further, pursuant to ORS 215.453(1), the 120-day period shall not begin until final resolution of any judicial review sought under ORS 197.830. In this case, the applicant sought judicial review which was undertaken by the Court of Appeals (“Court”). The Court issued its decision on October 12, 2022.

The conditional use permit (“CUP”) application requesting initiation of the remand was submitted on March 6, 2023, within 180 days of the Court’s decision. As noted above, the County must take final action within 120 days of the request to initiate the remand. Consequently, the County must take final action on this application by July 4, 2023. Staff notes July 4<sup>th</sup> is a federal holiday. Under DCC 22.08.070, the time to act is computed by excluding, among other things, a legal holiday.

22.08.070, Time Computation. Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is a Saturday, Sunday, legal holiday or any day on which the County is not open for business pursuant to a county ordinance, in which case it shall also be excluded.

For this reason, staff finds the County must take final action on this application by July 5, 2023.

It is unclear to staff whether a remand proceeding is subject to the 30-day completeness check

period afforded to land use applications under ORS 215.427(2)<sup>1</sup>. Staff notes there is no mention of a required completeness check in the remand provisions of ORS 215.435<sup>2</sup>. For this reason, staff believes there is no completeness check for remand proceedings. Consequently, staff believes the 120-day timeline for the remand proceeding starts upon the applicant's written submittal to initiate the remand on March 6, 2023, and does not begin once the application is deemed complete. Should the Hearings Officer find that a remand proceeding includes a completeness check period, staff deemed the application complete on March 16, 2023. Under this circumstance, the County must take final action on this application by July 14, 2023.

Per DCC 22.34.020,

The Hearings Body for a remanded or withdrawn decision shall be the Hearings Body from which the appeal to LUBA was taken, except that in voluntary or stipulated remands, the

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<sup>1</sup> 215.427 Final action on permit or zone change application; refund of application fees.

...

(2) If an application for a permit, limited land use decision or zone change is incomplete, the governing body or its designee shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information. The application shall be deemed complete for the purpose of subsection (1) of this section and ORS 197.311 upon receipt by the governing body or its designee of:

(a) All of the missing information;

(b) Some of the missing information and written notice from the applicant that no other information will be provided; or

(c) Written notice from the applicant that none of the missing information will be provided.

<sup>2</sup> 215.435 Deadline for final action by county on remand of land use decision; exception. (1) Pursuant to a final order of the Land Use Board of Appeals under ORS 197.830 remanding a decision to a county, the governing body of the county or its designee shall take final action on an application for a permit, limited land use decision or zone change within 120 days of the effective date of the final order issued by the board. For purposes of this subsection, the effective date of the final order is the last day for filing a petition for judicial review of a final order of the board under ORS 197.850 (3). If judicial review of a final order of the board is sought under ORS 197.830, the 120-day period established under this subsection shall not begin until final resolution of the judicial review.

(2)(a) In addition to the requirements of subsection (1) of this section, the 120-day period established under subsection (1) of this section shall not begin until the applicant requests in writing that the county proceed with the application on remand, but if the county does not receive the request within 180 days of the effective date of the final order or the final resolution of the judicial review, the county shall deem the application terminated.

(b) The 120-day period established under subsection (1) of this section may be extended for up to an additional 365 days if the parties enter into mediation as provided by ORS 197.860 prior to the expiration of the initial 120-day period. The county shall deem the application terminated if the matter is not resolved through mediation prior to the expiration of the 365-day extension.

(3) The 120-day period established under subsection (1) of this section applies only to decisions wholly within the authority and control of the governing body of the county.

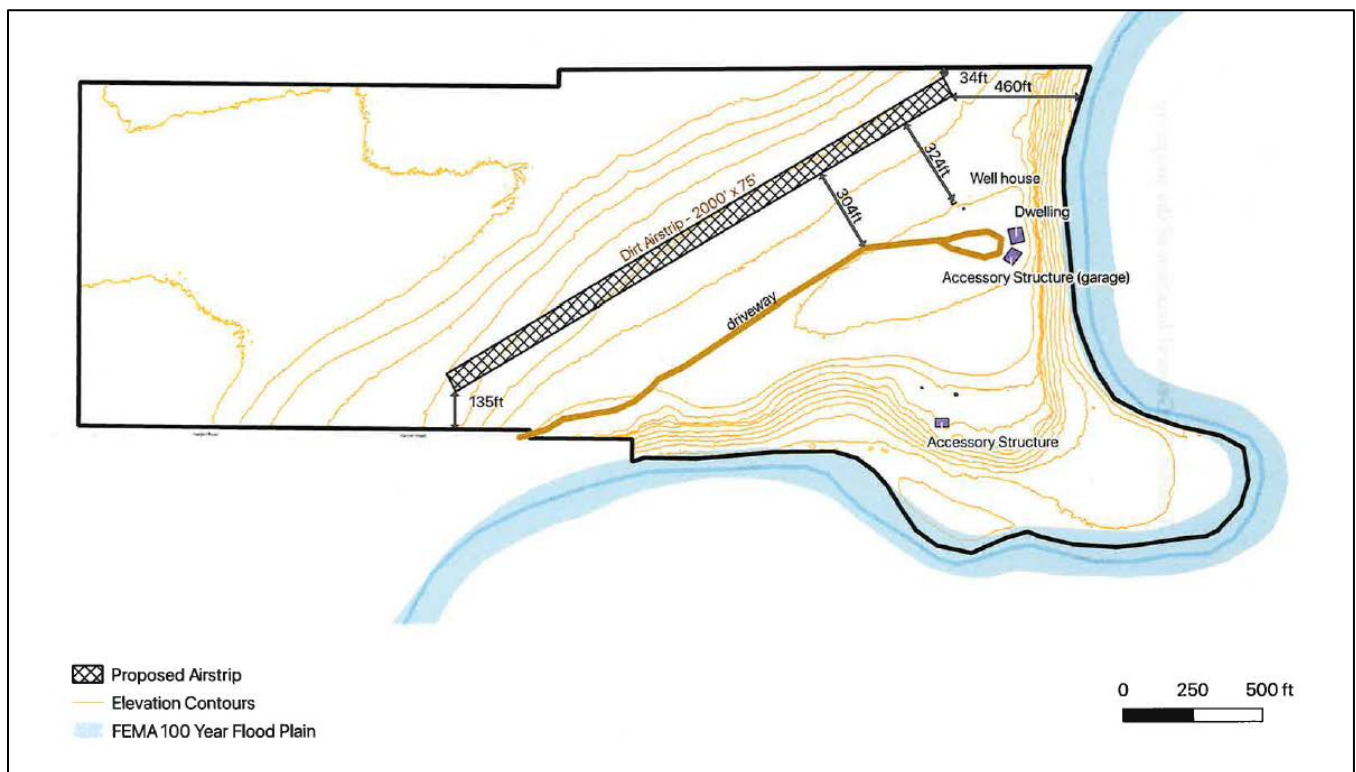
(4) Subsection (1) of this section does not apply to a remand proceeding concerning a decision of the county making a change to an acknowledged comprehensive plan or a land use regulation that is submitted to the Director of the Department of Land Conservation and Development under ORS 197.610. [1999 c.545 §2; 2011 c.280 §11; 2015 c.522 §1]

Board may decide that it will hear the case on remand. If the remand is to the Hearings Officer, the Hearings Officer's decision may be appealed under DCC Title 22 to the Board, subject to the limitations set forth herein.

Because the Board of County Commissioners declined to hear the appeal<sup>3</sup> of the Hearings Officer's approval, the Hearings Body for this remand is the Hearings Officer.

**PROPOSAL:** The applicant is requesting a Conditional Use Permit to establish a private airstrip in the Exclusive Farm Use Zone. The airstrip will be located on tax lot 301 and tax lot 600. The proposed airstrip will be approximately 75 feet wide and 200 feet in length. The proposed airstrip location is depicted in **Image Two** below. Access to the airstrip is proposed from Harper Road to the south.

**Image Two – Proposed Airstrip Location**



The site plan is attached to this staff report.

As noted in the application materials, the applicant proposes up to 6 flight operations per week, with an operation defined as a takeoff and a landing. Further, the applicant proposes to allow use of the airstrip to invited guests on an infrequent and occasional basis, pursuant to the use category limitations under DCC 18.16.030(L). Although allowed under DCC 18.16.030(L), the applicant does not propose any commercial activities as part of the airstrip operations.

<sup>3</sup> File no. 247-21-001062-A.

**SURROUNDING LAND USES:** The immediately surrounding properties on all sides are EFU-zoned lots which vary in size and shape. The properties to the east and north are developed with single-family dwellings. Based on aerial imagery, the majority of the properties west of the Deschutes River and directly adjacent to the subject property do not appear to have irrigated pasture lands. The properties east and south of the Deschutes River appear to have pasture lands and some active farm use. The Maston Wildlife Conservation Area is approximately 4,900 feet to the northeast. The closest Sensitive Bird and Mammal Habitat Combining Zone is approximately 7,700 feet to the northeast.

**LAND USE HISTORY:**

Land Use File	Description
MJP-83-2	Major partition. The subject property is a part of Parcel 2 of this partition.
LM-06-196	Landscape Management review for a detached residential accessory structure.
MP-07-15	Minor partition. The subject property is Parcel 3 of this partition.
247-20-000614-CU	CUP to establish a private airstrip. The Hearings Officer (“HOff”) denied the application because the applicant did not sufficiently address the farm impacts test.
247-21-000666-CU, 834-A, 1062-A	CUP to establish a private airstrip. The HOff approved the application, which was subsequently appealed to LUBA and the Court.

**PUBLIC AGENCY COMMENTS:** The Planning Division mailed notice of the public hearing on March 15, 2023. As of the date of this staff report, no agency comments were received.

The following agencies did not respond to the notice: Bureau of Land Management, Oregon Department of Aviation, Oregon Department of Fish and Wildlife, and Oregon Parks and Recreation Department, Redmond Airport.

**PUBLIC COMMENTS:** The Planning Division mailed notice of the public hearing to all property owners within 750 feet of the subject property (both tax lots) on March 15, 2023. The applicant also complied with the posted notice requirements of Section 22.23.030(B) of Title 22. The applicant submitted a Land Use Action Sign Affidavit indicating the applicant posted notice of the land use action on March 17, 2023. As of the date of this staff report, one public comment was received.

Nunzie Gould, March 17, 2023

Please email the completedness checklist for 247-23-000161-CU

Please email the agency notification list letter and date mailed.

Is there a weblink for this project? If so kindly advise

Staff response on March 17, 2023

Hi Nunzie. There is no formal completeness check list/form that the Planning Division uses for its review of land use applications. The website can be found at <https://deschutes.org/harperairport>. The Notice of Public Hearing and its associated mailing list is on the website.

### III. FINDINGS & CONCLUSIONS

#### **LUBA and the Court**

As discussed above, the approval of 247-21-000666-CU was appealed to LUBA and then to the Court. A number of assignments of error were addressed in those appeals. Taking both LUBA's and the Court's decisions<sup>4</sup> together, two issues remain that must be addressed by the County on remand.

#### Ownership

The Hearings Officer must determine if the owner of the airstrip also controls each of the two aircraft<sup>5</sup> identified in the record that are proposed to be used at the airport.

#### Compatibility

The Hearings Officer must interpret the compatibility standard under Deschutes County Code 18.128.015(B) to determine the geographic scope of the phrase "surrounding properties", and determine whether the proposed airport use is compatible with uses on surrounding properties for golden eagle nesting, without regard for the ability to obtain a Take Permit from the US Fish and Wildlife Service ("USFS") and considering whether the County's program to achieve Goal 5 with respect to golden eagles has any bearing on the determination.

#### **Title 18 of the Deschutes County Code, County Zoning**

#### **Chapter 18.16, Exclusive Farm Use Zones (EFU)**

#### 18.16.040. Limitations on Conditional Uses.

- E. No aircraft may be based on a personal use airport identified in DCC 18.16.030(L) other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to***

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<sup>4</sup> A copy of both LUBA's and the Court's decisions are included with the application materials.

<sup>5</sup> 1983 Cessna 185 (serial #18504412) and a De Havilland Beaver (serial #481).

***any applicable rules of the Oregon Department of Aviation.***

**FINDING:** This criterion repeats a portion of ORS 215.283(2)(h)<sup>6</sup>, and requires the aircraft based at the airport to be owned or controlled by the owner of the airstrip. As of the date of this staff report, no additional argument or evidence has been submitted by the applicant regarding whether the owner of the airstrip also controls the two aircraft.

The property is, and any future airstrip on-site will be, owned by 20925 Harper Rd, LLC. The two aircraft proposed to be used at the airstrip are owned by different LLCs, neither of which is 20925 Harper Rd, LLC. In total, the property and the two aircraft are owned by three different LLCs. The Court found that although Willow Trust is the sole member of each of the three LLCs, Willow Trust does not have an ownership interest in the LLCs' real or personal property. Consequently, the Court found the aircraft proposed to be used at the airstrip would not be owned by the owner of the airstrip. The Court further found that the remaining question is whether 20925 Harper Rd, LLC, owner of the airstrip, controls the two aircraft. Staff asks the Hearings Officer to address this issue.

**Chapter 18.128, Conditional Uses**

18.128.015. General Standards Governing Conditional Uses.

***Except for those conditional uses permitting individual single-family dwellings, conditional uses shall comply with the following standards in addition to the standards of the zone in which the conditional use is located and any other applicable standards of the chapter:***

- A. The site under consideration shall be determined to be suitable for the proposed use based on the following factors:***
  - 1. Site, design and operating characteristics of the use;***
  - 2. Adequacy of transportation access to the site; and***
  - 3. The natural and physical features of the site, including, but not limited to, general topography, natural hazards and natural resource values.***
- B. The proposed use shall be compatible with existing and projected uses on surrounding properties based on the factors listed in DCC 18.128.015(A).***

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<sup>6</sup> 215.283 Uses permitted in exclusive farm use zones in nonmarginal lands counties; rules.

...

(h) Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. A personal-use airport, as used in this section, means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Oregon Department of Aviation.



**FINDING:** The issue on remand revolves around potential impacts to golden eagles on surrounding properties, pursuant to subsection (B). In file no. 247-21-000666-CU, the Hearings Officer found the applicant's ability to obtain any required incidental take permit ("Take Permit") from the USFS would render the proposed airstrip compatible with nearby nesting eagles that are protected under the Bald and Golden Eagle Protection Act. LUBA found that,

...the ability to secure Take Permit is not the equivalent of demonstrating compatibility of the proposed airport use with golden eagle nests on surrounding properties because a Take Permit allows some measure of damage to golden eagles. That finding also does not use the phrase "surrounding properties" or otherwise explain the meaning of "nearby properties."

The Court affirmed LUBA's determination and further found that on remand, the County should address how much weight the Goal 5 program should be given in determining the airstrip will be compatible with golden eagles. For these reasons, the County must determine the scope of the phrase "surrounding properties" under subsection (B). Additionally, the County must determine whether the airstrip will be compatible with golden eagle on surrounding properties, without regard for the ability to obtain a Take Permit and considering whether the County's program to achieve Goal 5 with respect to golden eagles has any bearing on the determination.

Staff asks the Hearings Officer to address these issues. To aid the Hearings Officer's analysis regarding Goal 5, staff attaches to this staff report:

1. Ordinance No. 92-041, an ordinance to adopt inventories, conflict analysis, and Economic, Social, Environmental and Energy ("ESEE") determinations for fish and wildlife resources; and
2. Ordinance No. 94-004, an ordinance to adopt ESEE conflict analysis and decisions for sensitive bird and mammal sites.

As of the date of this staff report, the applicant has not submitted any additional argument or evidence addressing the scope of surrounding properties under subsection (B); compatibility of the airstrip with golden eagles on surrounding properties; or the weight that should be given to the County's Goal 5 program with respect to golden eagles.

## **SYSTEM DEVELOPMENT CHARGE**

As the private airstrip will not consume any road capacity as that term is commonly used, no transportation SDCs are triggered.

## **IV. CONCLUSION**

Staff asks the Hearings Officer to determine whether the applicant has adequately addressed the issues on remand.

**Other permits may be required. The applicants are responsible for obtaining any necessary permits from the Deschutes County Building Division and Deschutes County Environmental**

**Soils Division as well as any required state and federal permits.**

**V. RECOMMENDED CONDITIONS OF APPROVAL**

Under land use file 247-21-000666-CU, the Hearings Officer adopted the following conditions of approval.

- A. Application Materials. This approval is based upon the application, site plan, specifications, and supporting documentation submitted by the applicant. Any substantial change in this approved use will require review through a new land use application.
- B. Necessary Permits. The applicant shall obtain any necessary permits from the Deschutes County Building Division, Environmental Soils Division, and any required state or federal permitting.
- C. Frequency of Operations. Use of the airstrip shall be limited to no more than six flight operations per week.
- D. Limitations on Use.
  - 1. Use of the airstrip shall be limited, except for aircraft emergencies, to the owner and to invited guests on an infrequent and occasional basis.
  - 2. The airstrip may not be used for any other purpose, including commercial activities in conjunction with agricultural activities.
  - 3. Flight operations using the airstrip shall not include overflight of the Maston Wildlife Conservation Area.
- E. Airstrip and Aircraft Ownership. No aircraft may be based at the personal use airport approved in this Decision other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. Applicant's current ownership structure of the aircraft and Subject Property described in the Application satisfies this condition.

**VII. DURATION OF APPROVAL, NOTICE, AND APPEALS**

The applicant shall initiate the use within two (2) years from the date this decision becomes final, or obtain an extension of time pursuant to Section 22.36.010 of the County Code, or this conditional use permit shall be void.

**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 appeal fee of \$250.00 and a statement raising any issue relied upon for appeal with sufficient specificity to afford the Hearings Body an adequate opportunity to respond to and resolve each issue.

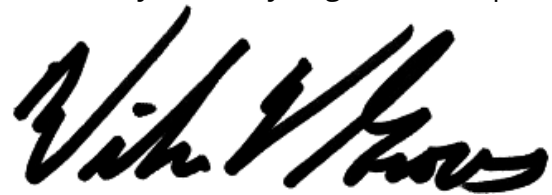
Copies of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost. Copies can be purchased for 25 cents per page.

**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.**

**DESCHUTES COUNTY PLANNING DIVISION**



Written by: Anthony Raguine, Principal Planner



Reviewed by: William Groves, Planning Manager

Attachments:

1. Site Plan
2. Hearings Officer Decision for 247-21-000666-CU, 21-834-A
3. Ordinance No. 92-041
4. Ordinance No. 94-004

# 20925 Harper Rd, Proposed Dirt Personal Use Airstrip, Site Plan



Proposed Airstrip

Elevation Contours

FEMA 100 Year Flood Plain



**DECISION AND FINDINGS OF  
THE DESCHUTES COUNTY HEARINGS OFFICER**

**FILE NUMBER:** 247-21-000834-A  
Appeal of File Number 247-21-000666-CU

**HEARING DATE:** October 7, 2021, 6:00 p.m.

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

**APPLICANTS/OWNER:** 20925 Harper Rd, LLC

**APPELLANT:** Annunziata Gould

**SUBJECT PROPERTY:** The subject property consists of two tax lots located at 20925 Harper Rd, Bend, OR 97703:

1. Map and Taxlot: 1612100000301
2. Map and Taxlot: 1612090000600

**ZONING:** Exclusive Farm Use – Tumalo/Redmond/Bend  
Airport Safety Combining Zone  
Landscape Management Combining Zone  
Flood Plain

**REQUEST:** Appeal of administrative decision approving a Conditional Use Permit to establish a personal use airport in the Exclusive Farm Use Zone

**HEARINGS OFFICER:** Tommy A. Brooks

**SUMMARY OF DECISION:** The Hearings Officer finds that the Applicant has met its burden of proof demonstrating that all criteria applicable to the proposed use have been satisfied. The Hearings Officer therefore DENIES the appeal and APPROVES the conditional use permit sought in the Application, with conditions.

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## **I. APPLICABLE STANDARDS AND CRITERIA**

Deschutes County Code (DCC)

Title 18, Deschutes County Zoning Ordinance  
Chapter 18.16, Exclusive Farm Use Zone (EFU)  
Chapter 18.80, Airport Safety Combining Zone (AS)  
Chapter 18.84, Landscape Management Combining Zone (LM)  
Chapter 18.96, Flood Plain (FP)  
Chapter 18.128, Conditional Uses

Title 22, Deschutes County Development Procedures Ordinance

## **II. BACKGROUND AND PROCEDURE**

### **A. Conditional Use Permit Request**

The Applicant is requesting a Conditional Use Permit to establish a personal use airport in the form of a private airstrip in the Exclusive Farm Use (“EFU”) Zone. The airstrip will be located on both Tax Lot 301 and Tax Lot 600 of the Subject Property. As proposed, the airstrip would be approximately 75 feet wide and 2,000 feet in length, running in a southwest-to-northeast direction.

Construction of the private airstrip would generally require some tree removal and some grading. No structures are proposed as part of the personal use airport use.

### **B. Administrative Decision, Notice, and Hearing**

The County initially reviewed the Application through an Administrative Review. On or about September 1, 2021, the County issued its Findings and Decision (“CUP Approval”) approving the requested conditional use. The CUP Approval included six conditions of approval.

On September 13, 2021, Appellant filed an Appeal Application seeking review of the CUP Approval. The Appeal Application was supported by a letter setting forth nine separate bases for appeal.

On September 14, 2021, the County issued a Notice of Public Hearing (“Notice”) for this matter.

Pursuant to the Notice, the Hearings Officer presided over a *de novo* evidentiary hearing September 7, 2021, at 6:00 p.m. The hearing was held via videoconference, with County Planning Staff (“Staff”) present in the hearing room.

At the beginning of the evidentiary hearing, the Hearings Officer provided an overview of the quasi-judicial process and directed participants to direct comments to the approval criteria and standards, and to raise any issues a participant wanted to preserve for appeal if necessary. The Hearings Officer stated there were no *ex parte* contacts or bias to declare. The Hearings Officer asked for and received no objections to the County’s jurisdiction over the matter or to the Hearings Officer presiding.

At the conclusion of the evidentiary hearing, the Hearings Officer announced that the record would remain open for written materials only as follows: (1) any participant could submit additional materials until October 14, 2021; (2) any participant could submit additional rebuttal materials until October 21, 2021; and (3) the Applicant could submit a final legal argument no later than October 28, 2021.

C. 150-day Clock

The Applicant submitted the Application on July 8, 2021. The County’s Planning Division deemed the Application to be complete August 6, 2021.

Using August 6, 2021 as the date of completeness, the original deadline for a final County decision under ORS 215.427 – “the 150-day clock” – was January 3, 2022. As noted above, the record was held open for an additional 21 days following the Hearing. The extended record period was requested in part by the Applicant, and the Applicant agreed with the specific schedule for keeping the record open as set forth above.

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 requested and 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 original deadline, the new deadline for the County to make a final decision is January 24, 2021.

D. Record Issues

The record materials provided to the Hearings Officer include a submittal from Central Oregon Landwatch (“COLW”) dated and received by the County on September 28, 2021. On that same day, Carol Macbeth, on behalf of COLW, emailed Staff and indicated the submittal was made in error, as it was intended to address File Number 247-21-000616. The Applicant has requested that the COLW submittal be removed from the record. Based on COLW’s email confirming the submittal was made in error, and in the absence of any objection to the Applicant’s request, I am excluding the COLW submittal from the record. A separate letter from COLW, dated October 14, 2021, remains part of the record.

**III. FINDINGS AND CONCLUSIONS**

A. Adoption of Staff’s Basic Findings

As part of the CUP Approval, the County adopted Basic Findings including a determination that the Subject Property is a lot of record, describing the general site, describing the surrounding land uses, and describing the land use history of the Subject Property. No participants to the proceeding object to those portions of the CUP Approval and I hereby adopt those sections of the CUP Approval in these Findings.

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B. Compliance with Chapter 18.16, Exclusive Farm Use Zones (EFU)

1. **18.16.030. Conditional Uses Permitted -High Value and Non-high Value Farmland.**

The Applicant seeks a conditional use permit for an airstrip pursuant to DCC 18.16.030, which states:

*The following uses may be allowed in the Exclusive Farm Use zones on either high value farmland or non-high value farmland subject to applicable provisions of the Comprehensive Plan, DCC 18.16.040 and 18.16.050, and other applicable sections of DCC Title 18.*

\* \* \*

*L. Personal use airport for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. A personal use airport as used in DCC 18.16.030 means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations.*

**Findings:** As proposed by the Applicant, the airstrip would be for personal use only, for no more than six flight operations per week. A “flight operation” is the combination of a single take-off and landing. The flight operations would include use by the owner of the Subject Property and occasional guests. The Applicant volunteers to have a condition of approval that would limit the number of flight operations.

Although the Code would allow an associated hangar, maintenance, and service facilities, the Applicant’s proposal does not include any buildings or other structures. Evidence in the record suggested that other facilities or structures may be needed, such as facilities for refueling or to support the addition of a windsock. The Applicant confirms that no such facilities or structures are proposed.

Although the Code allows commercial aviation activities if they are in conjunction with agricultural operations, the Applicant has confirmed that no commercial use of the airstrip is proposed. Because approval of a conditional use permit is based on the proposal in the Application, any different or expanded use of the airport in the future would need to be included as part of the proposal, or need to be approved in a future application. The addition of buildings or commercial activities could impact whether and how the conditional use and other criteria are satisfied. Thus, this Decision applies the remaining criteria only to the specific proposal in the Application, which excludes any structures or commercial activities.

Some of the testimony in the record implies that the Application should be denied because an airport is not an appropriate use in the EFU Zone. Other testimony asserted the airstrip should be denied because of noise impacts or that it should be reduced in size. The designation of land as “exclusive farm use” is somewhat of a misnomer and is a reference to a state law designation rather than to a standard to be applied to the use. ORS Chapter 215 requires counties to designate certain lands for “exclusive” farm use, but then, through ORS 215.283, provides a rather lengthy list of non-farm uses that are allowed in an EFU zone. The non-farm uses set forth in ORS 215.283(1) are uses a county must allow by right, subject only



to statutory standards rather than local standards.<sup>1</sup> The non-farm uses listed in ORS 215.283(2), in contrast, are considered “conditional” uses that a county can choose to allow, and in doing so a county can impose additional restrictions on those uses.<sup>2</sup>

The County has legislatively determined that it will allow personal use airports in its EFU Zone as allowed by ORS 215.283(2)(h), and the County has not otherwise limited such a use to satisfy specific noise standards or to be a particular size. The County has, however, subjected this use to its conditional use standards. I therefore find no basis to reject or condition the Application merely because it proposes a non-farm use unless to do so is required by other approval criteria in the Code, which are addressed below. I find that the use itself is allowed and, based on the foregoing, the Application can be permitted under DCC 18.16.030(L).

In the CUP Approval, Staff noted this use category limits use of the airstrip, except for aircraft emergencies, to the owner, to invited guests on an infrequent and occasional basis, and to commercial aviation activities in connection with agricultural operations. For that reason, Staff included a condition of approval limiting use of the airstrip for those purposes. The Applicant did not oppose such a condition and, to the contrary, asked that the Hearings Officer to uphold that decision. As noted above, however, use of the airstrip for purposes other than what is proposed in the Application could alter the analysis in this Decision. For example, commercial activities in conjunction with agriculture could change the direction or duration of take-offs and landings. I have therefore imposed a similar condition as Staff, limiting the use of the airstrip, except the condition in this Decision prohibits the use of the airstrip for commercial purposes since the Applicant has not proposed such a use.

## **2. Section 18.16.040. Limitations on Conditional Uses**

*A. Conditional uses permitted by DCC 18.16.030, 18.16.031, and 18.16.033 may be established subject to ORS 215.296, applicable provisions in DCC 18.128, and upon a finding by the Planning Director or Hearings Body that the proposed use:*

- 1. Will not force a significant change in accepted farm or forest practices as defined in ORS 215.203(2)(c) on surrounding lands devoted to farm or forest uses; and*
- 2. Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and*
- 3. That the actual site on which the use is to be located is the least suitable for the production of farm crops or livestock.*

**Findings:** As noted above, personal use airports are an allowed use in the EFU Zone, subject to any additional conditions the County may impose in its Code. Pursuant to DCC 18.16.040, the County has imposed some limitations on conditional uses, including those uses like personal use airports authorized

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<sup>1</sup> *Brentmar v. Jackson Cty.*, 321 Or 481, 496 (1995).

<sup>2</sup> *Id.*

under DCC 18.16.030. The specific restrictions in DCC 18.16.030(A)(1) and (2) are required by state statute, whereas the restriction in DCC 18.16.030(A)(3) is specific to the County.

As alluded to in the preamble of this Code provision, the restrictions in DCC 18.16.030(A)(1) and (2) derive from ORS 215.296(1). The Land Use Board of Appeals (“LUBA”) sometimes refers to these restrictions as the “farm impacts test.”

An applicant carries the burden of proving that the farm impacts test in ORS 215.296(1) has been met.<sup>3</sup> LUBA has a well-established methodology for demonstrating compliance with the farm impacts test.<sup>4</sup> Under that methodology, a proposal can be approved if it: (1) describes farm practices on surrounding lands devoted to farm use; (2) explains why the proposed development will not force a significant change in those practices; and (3) explains why the proposed development will not significantly increase the cost of those practices. To begin that process, LUBA has held that “[i]n applying ORS 215.296(1), it is entirely appropriate for the applicant and county to begin by visually surveying surrounding lands to identify the farm and forest uses to which those lands are devoted.”<sup>5</sup> Other parties are then free to dispute the initial findings, or to add to the record additional evidence of nearby farm uses that the applicant and county must respond to.<sup>6</sup>

In addressing the farm impacts test in the Application, the Applicant followed the process described above. The Applicant’s analysis is summarized in the narrative for the Application and also contained in multiple exhibits to the Application, specifically Exhibits H, I, and J. The Applicant began the process by providing what amounted to a visual survey of the surrounding land.

With respect to forest practices, the Applicant did not identify any forest uses on surrounding lands and, therefore, concluded the analysis there. Because there were no forest uses on surrounding lands, there were no forest practices associated with those uses that could be impacted. No other testimony identifies forest practices that would be impacted by the airstrip. I therefore find that the Applicant has met its burden of showing there will be no impact to forest practices from the airstrip.

With respect to farm uses, the Applicant provided an analysis of all properties within a one-mile radius of the airstrip, which included 126 tax lots. For each of those properties, the Applicant used GIS data, in-person observations, and information solicited from property owners to identify which of those properties are devoted to farm use. For the properties with identified farm uses, the Applicant identified farm practices associated with those farm uses. That information was derived, in part, from information provided by the Oregon State University Extension Service.

The Applicant identified various potential impacts to farm uses that could result from the private airstrip. Those potential impacts arise from the operation of aircraft and not from the airstrip itself. Such impacts include visual impacts, sound impacts, and dust generated by take-offs and landings.

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<sup>3</sup> *Schrepeel v. Yamhill County*, -- Or LUBA – (LUBA No. 2020-066), 2020 WL 8167220, at \*6.

<sup>4</sup> See *Brown v. Union County*, 32 Or LUBA 168 (1996).

<sup>5</sup> *Dierking v. Clackamas County*, 38 Or LUBA 106, 120-21 (2000).

<sup>6</sup> *Id.*

In its analysis, the Applicant determined that some properties in the immediate vicinity of the Subject Property are zoned Multiple Use Agricultural (MUA) zone, which is an exception zone. The Applicant states that all adjacent properties are also engaged in residential use, or are held by the State of Oregon or the Federal Bureau of Land Management (BLM), neither of which are engaged in farm uses. Other properties more distant from the Subject Property are engaged in hay production and livestock (both cattle and horses).

The Applicant then analyzed whether the proposed use would cause any impacts related to these farm uses and their farm practices. A primary conclusion of the Applicant was that only two properties are potentially impacted by the arrival or departure of aircraft using the private airstrip. One of those properties is subject to a conservation easement and management plan that precludes farm uses on that property, and the other property is owned by the Applicant, who states that none of his farm practices will be impacted. For other properties outside the arrival and departure flight paths, the Applicant asserts that no impacts will exist or, if they do, they will be *de minimis*. For hay crops, for example, the Applicant relies on a communication from Josh Underwood, who states that the proposal will have no impact to his haying practices. Similarly, the Applicant states that any potential impacts to livestock, such as from aircraft, is *de minimis* in light of the limit on a maximum of six flight operations per week. Other testimony in the record from individuals with farm uses nearby supported the Applicant's conclusions that no impacts to farm practices will result.

As contemplated by LUBA's methodology, other parties disputed the Applicant's initial findings and added additional testimony asserting impacts to nearby farm uses. Most of that testimony, however, simply concluded that impacts would exist, and very little information was provided that identified the presence of farm practices or types of impacts that were different than what the Applicant included in its analysis. However, multiple submittals from owners and operators of horse boarding, horse training, and horseback riding farms did offer specific details, claiming that "we will be forced to significantly change our farm practices as a result of new, low elevation take offs, landings, and flyovers in the airspace above our property... These flights will cause us to have to undertake additional safety measures to ensure that horses to not become skittish... we may need to consider additional costs to better protect our horses... [such as] upgrades to perimeter fencing as well as for veterinary and/or staff time to care for injured horses that bolt as a result of these flights."

In general, the farm impacts test requires a focus on impacts to farm practices rather than on compatibility with farm uses. The evidentiary standard I must apply is a preponderance of the evidence standard.<sup>7</sup> In doing so, I must determine if the evidence in the record is more likely than not to establish any fact used to satisfy a criterion. The burden to demonstrate compliance with the farm impacts test lies with the Applicant.

Based on my review of the record, I find that the Applicant has met its burden of demonstrating that the proposed use will not force significant changes to farm practices, or the cost of those practices, on surrounding properties devoted to farm use.

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<sup>7</sup> See *Morgan v. Jackson County*, -- Or LUBA -- (LUBA No. 2017-053).

Much of the testimony opposed to the private airstrip focuses on potential impacts from air traffic in general rather than on air traffic that is specific to the proposed airstrip. I find that the use of the airstrip for which impacts may occur is limited to the period of time aircraft will be taking off and landing at the airstrip. Following takeoff or prior to landing, aircraft are simply using the airspace that is available regardless of where the flight begins or ends. In other words, a pilot who chooses to fly in this area, even at low altitudes, can do so from the Redmond Airport or from any of the numerous private airstrips that already exist in the County. Takeoffs and landings using the proposed airstrip, however, are specific to the proposal in the Application and provide the incremental difference beyond what currently exists and that must be analyzed to determine if the farm impacts test is satisfied.

As the Applicant notes, the flight path for take-offs and landings affects only two parcels, one of which is precluded from engaging in any farm uses and one of which the Applicant has demonstrated (because he owns the property) will not be impacted.

With respect to hay and other crops, the evidence in the record is that the practices associated with these farm uses are not impacted by air traffic. While there is testimony in the record from individuals who grow these crops that also oppose the Application, that testimony does not identify haying or crop practices that will be impacted. This is not to say that the Applicant can shift the burden of the farm impacts test to nearby farmers; rather, it shows that the evidence provided by the Applicant is not undermined by other evidence in the record, that Staff's analysis in the CUP Approval was sound, and, therefore, the Applicant has met its burden.<sup>8</sup>

With respect to livestock, I find that the proposed use satisfies the farm impacts test. As noted above, there are no livestock uses within the flightpath of planes that are using the private airstrip. To the extent there is any incremental increase in the number of flights in the area, the evidence in the record shows that such flights are unlikely to impact livestock and, if they do, the impact will be *de minimis*. The main concern of livestock owners appears to be that livestock will get spooked. This could cause safety concerns for those riding livestock, or result in the escape of livestock from the farm. The record shows, however, that actual livestock in the area do not respond to low-flying aircraft, as evidenced by visual observations made when the Applicant conducted flyovers while inventorying farm uses. The record also contains testimony from other than the Applicant describing the fact that livestock is accustomed to air traffic. This makes sense in light of the large amount of air traffic that already exists in this area.

Even if there were impacts to farm practices, I find that the limited use of the airstrip keeps any such impacts to a *de minimis* level. The Applicant has proposed to limit use of the airstrip to six or fewer weekly operations. This means that, at most over the course of a year, there would be less than one takeoff and one landing per day. The Applicant submitted information describing the takeoff and landing process, which is generally described as the period of time the aircraft is climbing to or descending from an altitude of 500 feet, respectively. Based on the location of the airstrip on the Subject Property, the aircraft's

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<sup>8</sup> Testimony from one individual, for example, identified the growing of organic produce as a farm use on their property. That testimony then states that "planes drop fuel contaminants." While the Hearings Officer can infer from this testimony that the individual believes there is an impact from fuel contaminants, the testimony does not identify a farm practice associated with organic produce or explain how that practice is impacted. Further, as noted above, this testimony does not differentiate between air traffic in general and air traffic generated by the proposed use. I therefore find that this testimony does not refute the applicant's conclusions in its farm impacts test analysis.

departure path will require it to be over adjacent property for only very short periods of time. Based on the limited use and short duration, I find that no impact from planes using the airstrip would arise to a level of significance.<sup>9</sup>

The farm impacts test requires a review of not just individual farm impacts, but also the cumulative effect of any individual farm impacts on a single farm. Based on this record and the findings above, no cumulative impacts exist. My primary findings above are that there are no individual farm impacts and, therefore, no impacts to accumulate. Further, the only individual impact that potentially exists is to the practice of keeping livestock contained. Because that is the only potential individual impact, there are no other impacts that could be additive to that impact and, therefore, no significant cumulative impacts exist.

Based on the foregoing, I find that the Applicant has met its burden with respect to DCC 18.16.030(A)(1) and (2).

As noted above, DCC 18.16.030(A)(3) is a County criterion that further limits conditional uses in the EFU Zone by requiring the use to occupy a site that is “the least suitable for the production of farm crops or livestock.” In 2015, the County’s Board of Commissioners (“County Board”) provided guidance on how to apply that provision in File Nos. 247-15-000035-CU and 247-15-000403-A (the “Clough Decision). In doing so, the County Board expressly stated that the “decision is intended to provide guidance to County hearings officers and staff regarding the proper application of the least suitable criterion.” That guidance concludes that the criterion applies to areas that are generally unsuitable for the production of farm crops or livestock or to areas that are suitable for the production of farm crops and livestock but less productive than other areas of the Subject Property.

The record contains a description of the soils on the Subject Property, which are generally well-drained, non-high value soils. Although non-high value soils may be suitable for the production of farm crops or livestock, the Applicant claims that there are no water rights for irrigating the soils and that the entire property is generally unsuitable for such purposes. The Applicant also provided an analysis of an alternative location on the Subject Property that could accommodate the airstrip, but the selected site is less suitable for agriculture.

I find that the Applicant has demonstrated that the portion of the Subject Property to be used for the airstrip is generally unsuitable for farm crops or livestock. Although the soils would be more productive if irrigated, the lack of a water right for that purpose prevents such irrigation.

Based on the foregoing, I find that the Application satisfies DCC 18.16.030(A)(3).

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<sup>9</sup> This includes any impacts from noise and any potential impacts from dust that might escape the area of the landing strip.

*E. No aircraft may be based on a personal use airport identified in DCC 18.16.030(L) other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Oregon Department of Aviation.*

**Findings:** The Applicant asserts that the same individual, Alexander Polvi, owns the Subject Property and the two aircraft to be based at the proposed private airport. Based on that same ownership, Applicant asserts the planes will be owned or controlled by the property owner.

Mr. Polvi does not directly own either the Subject Property or the two aircraft. Instead, each are held by a corporate entity, the sole member of which is a trust, of which Mr. Polvi is ultimately the sole trustee. In support of his ownership, the Applicant submitted two certifications attesting to this corporate ownership structure.

I find that, based on the current corporate structure, this criterion is met. Mr. Polvi is the individual that controls the aircraft and he also owns the airstrip. However, it is possible that the corporate structure could change in the future, or other individuals or entities could become members or trustees, thereby creating an ownership or control that differs between the aircraft and the Subject Property. I will therefore impose a condition of approval requiring the Applicant to retain this corporate structure or otherwise to base aircraft at the airport only if they are owned or controlled by the owner of the Subject Property.

### **3. Sections 18.16.070 through 18.16.090.**

**Findings:** DCC sections 18.16.070 through 18.16.090 impose various development standards for yards and setbacks. Each of those standards apply only where buildings and structures are proposed. Based on my previous finding that the Application does not propose any buildings or structures, I find that these standards do not apply.

#### **C. Compliance with Chapter 18.80, Airport Safety Combining Zone (AS)**

**Findings:** The proposed airstrip is located beneath the Approach Surface for the Redmond Airport. The provisions of Chapter 18.80 are therefore applicable to the proposal.

DCC 18.80.028 imposes certain height limitations in the AS Zone. The proposed airstrip, however, consists solely of a cleared runway and does not include any buildings, structures, or other objects. This Code provision is satisfied.

DCC 18.80.044(A) imposes certain restrictions within noise impact boundaries. The Subject Property is not within an identified noise impact boundary and this Code provision is satisfied.

DCC 18.80.044(B) imposes standards for the direction and shielding of outdoor lighting. The proposal in the Application does not propose any outdoor lighting and, therefore, this Code provision is satisfied.

DCC 18.80.044(C) prohibits the use of glare producing materials on structures. The proposed airstrip, however, consists solely of a cleared runway and does not include any buildings, structures, or other objects. This Code provision is satisfied.

DCC 18.80.044(D) regulates emissions from industrial, mining, or similar uses. No such uses are proposed in the Application and, therefore, this Code provision is satisfied.

DCC 18.80.044(E) prohibits uses in the AS Zone from causing or creating electrical interference with navigational signals or radio communications between an airport and aircraft. The proposed airstrip does not include new structure or communications facilities that would cause electrical interference. This Code provision is satisfied.

DCC 18.80.044(F) provides that, for the approach surface for the nearby Redmond airport, the land uses identified in DCC 18.80 Table 1, and their accessory uses, are permitted, permitted under limited circumstances, or prohibited in the manner therein described. The uses listed in Table 1 fall into three categories and those listed uses are either: (1) permitted, (2) allowed under limited circumstances, or (3) not allowed. The proposed use in this Application is a personal use airport, which is not listed in Table 1. The use listed in Table 1 that is closest in nature to the proposed use is a “public use airport.”

In light of the absence of “personal use airport” in Table 1, the question is whether that use is controlled at all by DCC 18.80.044(F), or if the use is not allowed because it is not listed as a permitted use or a use allowed under limited circumstances. The answer to this question is found in DCC 18.80.054. That Code provision provides that uses permitted conditionally in the AS Zone “shall be those identified as conditional uses in the underlying zone with which the AS Zone is combined, and shall be subject to all conditions of the underlying zone except as provided in DCC 18.80.044.” (Emphases added). In other words, the underlying zone, in this case the EFU Zone, is the primary determination for which uses are allowed conditionally in the AS Zone, and the AS Zone only creates exceptions to specific conditions for the uses that are otherwise allowed. DCC 18.16.031(A), for example, generally allows disposal sites as a conditional use on non-high value farmland in the EFU. DCC 18.80.044(F), through DCC 18.80 Table 1, creates an exception and expressly states that sanitary landfills, a type of disposal site, are not allowed in an approach surface as part of the AS Zone.

Because DCC 18.80 Table 1 creates no exceptions for personal use airports beyond what is already allowed in the EFU Zone, DCC 18.80.044(F) is satisfied. For the same reasons, DCC 18.80.054 is also satisfied.

#### D. Compliance with Chapter 18.84, Landscape Management Combining Zone (LM)

**Findings:** As set forth in DCC 18.84.020, the provisions of DCC Chapter 18.84 apply to all areas within one-fourth mile of roads identified as landscape management corridors in the Comprehensive Plan and the County Zoning Map, as well as to all areas within the boundaries of a State scenic waterway or Federal wild and scenic river corridor and all areas within 660 feet of rivers and streams otherwise identified as landscape management corridors in the comprehensive plan and the County Zoning Map. Because the Deschutes River is identified on the County Zoning Map as a landscape management feature, the Subject Property falls within the LM Zone and DCC Chapter 18.84 applies to the Application.

DCC 18.84.030 and DCC 18.84.030 allow any use in the LM Zone that is permitted or permitted conditionally in the underlying zone, in this case the EFU Zone. As explained in earlier findings, a personal use airport is allowed as a conditional use in the EFU Zone and, therefore, is allowed as a conditional use in the LM Zone.

DCC 18.84.050 places additional limits on structures in the LM Zone. Because the proposal in the Application does not include structures, this Code provision is satisfied.

E. Compliance with Chapter 18.96, Flood Plain (FP) Zone

**Findings:** DCC Chapter 18.96 regulates the Flood Plain (FP) Zone and applies to all areas designated as "Special Flood Hazard Areas." Special Flood Hazard Areas are lands that would be inundated by a 100-year flood event, that are at or below the base flood elevation. Information in the record indicates that the flood map for the Subject Property is FIRM No. 41017C0460D, with an effective date of September 28, 2007. The proposed airstrip will not be located in the mapped 100-year flood plain and, therefore, is not subject to the standards of the FP Zone.

F. Compliance with Chapter 18.128, Conditional Uses

1. **18.128.015. General Standards Governing Conditional Uses**

*Except for those conditional uses permitting individual single-family dwellings, conditional uses shall comply with the following standards in addition to the standards of the zone in which the conditional use is located and any other applicable standards of the chapter:*

*A. The site under consideration shall be determined to be suitable for the proposed use based on the following factors:*

*1. Site, design and operating characteristics of the use;*

**Findings:** The proposed use in the Application is a personal use airport consisting of a single airstrip 75 feet wide and approximately 2,000 feet long. I find that the Applicant has demonstrated that the site for the airstrip on the Subject Property is suitable for this proposed use. Development of the airstrip will require minimal grading and clearing of trees. The Applicant notes that the orientation of the airstrip is aligned with prevailing winds, creating "ideal conditions" for takeoff and landing of aircraft. The Applicant submitted information from the Oregon Department of Aviation describing the site as suitable for an airstrip.

Some of the testimony in the record asserts that the site is not suitable because of alleged off-site impacts that could result after a plane takes off or prior to it landing. However, I find that this Code provision relates to the use of the Subject Property itself for the personal use airport and that potential impacts to surrounding properties are addressed through other criteria. DCC 18.128.015(A)(1) is therefore satisfied.



*2. Adequacy of transportation access to the site; and*

**Findings:** As noted in the CUP Approval, the Subject Property abuts Harper Road to the south. Peter Russell, Senior Transportation Planner for the County, reviewed the Application and did not identify increased transportation impacts related to the proposed personal use airport. Testimony in the record asserts that the personal use airport will increase air transportation impacts by adding additional air traffic to an airspace that is already congested.

Based on the information in the record, I find that it is more likely than not that the air traffic in the general area will remain the same, as there is no evidence that the total number of flights will increase, only that the location of takeoffs and landings will change. The analysis of the County's Transportation Planner supports the conclusion that surface transportation impacts will not increase.

DCC 18.128.015(A)(2) is therefore satisfied.

*3. The natural and physical features of the site, including, but not limited to, general topography, natural hazards and natural resource values*

**Findings:** Like the other provisions of DCC 18.128.015(A), subsection (3) of that Code provision requires a consideration of features on the Subject Property, in this case the natural and physical features, including topography, natural hazards, and natural resource values.

Similar to DCC 18.128.015(A)(1), I find that the Applicant has demonstrated that the site is suitable for the airstrip based on its topography, which is relatively flat and on a natural "shelf" compared to the surrounding area. The record demonstrates that only minimal grading will be required to prepare the airstrip. Further, the record does not reveal any natural hazards on the site (e.g. floodplains) that conflict with the location of the airstrip.

There is testimony in the record asserting that the personal use airport would conflict with natural resource values on the Subject Property – specifically with minerals that could potentially be mined. As the CUP Approval notes, however, the County has not included this site in its inventory for mineral sites. Further, the mere presence of the airstrip does not preclude development of that natural resource at a later time.

Based on the foregoing, I find that the Applicant has demonstrated the site is suitable when considering the natural and physical features of the site. DCC 18.128.015(A)(3) is therefore satisfied.

*B. The proposed use shall be compatible with existing and projected uses on surrounding properties based on the factors listed in DCC 18.128.015(A).*

**Findings:** Evidence in the record reveals that the properties surrounding the Subject Property have a wide variety of uses. As noted above in these Findings relating to the EFU Zone, there are farms in the area. The record includes evidence that these are both commercial farms and hobby farms. Many of the individuals who provided testimony also identified recreational uses and wildlife uses associated with the Deschutes River and the nearby Maston Recreation Area.

The Applicant, Staff, and other participants, including participants opposed to the Application, all appear to agree that the primary potential for off-site impacts to occur include visual impacts and noise from aircraft using the airstrip.

The Application asserts that any off-site impacts will be minimal in light of the limited use of the airstrip. Other comments supportive of the application describe personal use airports as compatible uses in agricultural areas like those surrounding the Subject Property. Comments submitted in opposition to the Application disagreed with the Applicant and asserted that noise and visual impacts from plains would impact wildlife and otherwise erode the peacefulness of the area, which they describe as a fundamental part of the recreational experience for users of the surrounding areas.

Similar to the discussion of potential farm impacts, I find that the use of the airstrip for which off-site impacts may occur is limited to the period of time aircraft will be taking off and landing at the airstrip. Following takeoff and prior to landing, aircraft are simply using the airspace that is available regardless of where the flight begins or ends. Some testimony in the record implies that there is very little air traffic in the area and, as such, additional flights are intrusive and not compatible. Other evidence in the record demonstrates that there is a lot of exiting air traffic in the area. I find that it is more likely than not that any additional flights resulting from the private airstrip are *de minimis*. I further find no basis to conclude that denying the Application would somehow prevent that activity from occurring in the area. Only takeoffs and landings at the proposed airstrip are specific to the proposal in the Application and provide an incremental difference that can be analyzed.

The Applicant has proposed to limit use of the airstrip to six or fewer weekly operations. The Applicant also submitted information describing the takeoff and landing process, which is generally described as the period of time the aircraft is climbing to or descending from an altitude of 500 feet, respectively. Based on the location of the airstrip on the Subject Property, the aircraft's departure path will require it to be over adjacent property for just over seven seconds before it reaches the 500 foot altitude mark. The arrival path over adjacent property is longer, and it requires a time period of less than 11 seconds of descent before the aircraft is over the Subject Property on its way to land. The record demonstrates that aircraft are noisier on takeoff than they are when landing. The Applicant has also proposed a condition of approval that would prohibit any overflight of the Maston Wildlife Conservation Area.

The compatibility factors to be considered for this Code section are the same as for DCC 18.128.15(A): site, design, and operating characteristics; adequacy of transportation; and natural and physical features. The surrounding properties share similar characteristics as the Subject Property, including relying on the same transportation system, and only their operating characteristics (e.g. their use) and natural features differ. For the same reasons I find the Application to satisfy DCC 18.128.15(A), I find it satisfies DCC 18.128.15(B) with respect to site, design, and physical features.

With respect to operating characteristics and natural features of the surrounding properties, the record reveals that there is existing air traffic in this area. The sighting of planes from adjacent properties is therefore already a part of any user's experience while on those properties, whether those users are there for active or passive recreation, or for farming. Based on the minor and temporary addition of noise associated with the proposed airstrip, I find that the use is compatible with other uses on surrounding properties as well. With less than one takeoff and landing per day, each climbing or descending over

adjacent properties for 11 seconds or less, it is likely that many users of the surrounding properties will not even observe the operation. The total takeoff and landing time when these impacts exist is less than two hours spread out over the course of entire year. I agree with the Applicant that this is a *de minimus* impact and, therefore, compatible with those surrounding lands.

To the extent that wildlife uses are part of the natural features of the surrounding properties, both the Bureau of Land Management and the Oregon Department of Fish and Wildlife reviewed the proposal. Neither agency identified or otherwise expressed concern regarding impacts to wildlife that would result from the proposal. Further, the condition of approval preventing overflights of the Maston Wildlife Conservation Area will prevent potential impacts. There is evidence in the record of nearby nesting eagles that are protected under the Bald and Golden Eagle Protection Act. According to the U.S. Fish and Wildlife Service, activities that include nest disturbance are prohibited under that act without an incidental take permit. The act itself, however, does not prohibit the airstrip. I find that obtaining any required incidental take permit would make the proposed use compatible with this wildlife use, and such a requirement could be imposed as a condition of approval.

Based on the foregoing, I find that the proposed use is compatible with uses on surrounding properties and DCC 18.128.15(B) is satisfied.<sup>10</sup>

*C. These standards and any other standards of DCC 18.128 may be met by the imposition of conditions calculated to insure that the standard will be met.*

**Findings:** As discussed in other findings in this Decision, approval of the Application requires the imposition of multiple conditions. Below, I impose conditions relating to the Applicant's use of the airstrip.

**2. Section 18.128.050. Airports, Aircraft Landing Fields, Aircraft Charter, Rental, Service Maintenance Facilities Not Located in the A-D Zone.**

*The Planning Director or Hearings Body shall find that the location and site design of the proposed facility will not be hazardous to the safety and general welfare of surrounding properties and that the location will not unnecessarily restrict existing and future development of surrounding lands as indicated in the Comprehensive Plan.*

**Findings:** The Code does not include specific provisions addressing hazards and safety protocols for the proposed personal use airport. Instead, the County looks to the standards of the Oregon Department of Aviation ("ODA") and the Federal Aviation Administration ("FAA") as evidence of the compliance with hazard and safety regulations.

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<sup>10</sup> There is testimony in the record relating to noise levels from airplanes. The record also reveals that noise is measured in two ways: (1) decibel readings; and (2) perception. No participant has identified specific Code provisions that limit the decibel levels of aircraft using personal use airports. The Hearings Officer, therefore, considers noise in terms of how it is perceived and whether such noise is compatible with surrounding uses. Given the amount of existing air traffic in the area and the ability of pilots to fly in these areas whether or not they use the proposed airstrip, I find that only the noise associated with take-offs and landings from the proposed airstrip are relevant to the criteria, and that such criteria are satisfied.

The record contains materials documenting the Applicant's communications with both ODA and the FAA. Those communications have resulted in the development by the Applicant of a Safety Plan, and neither of the aviation agencies have objected to the establishment of the airstrip, each providing conditional approval.

I find that nothing in the record demonstrates the likelihood that existing or future development on surrounding properties will be unnecessarily restricted. As explained in other findings, surrounding properties are largely undeveloped or devoted to farm and recreation uses. Those and other authorized uses allowed by the Comprehensive Plan can continue on those properties if the airstrip is developed.

#### D. Miscellaneous Issues

##### 1. Title 22 Compliance

The CUP Approval addresses two provisions of Title 22 relating to the Applicant's ability to apply for conditional use approval. During the Hearing, Staff indicated that it had received inquiries implying that an applicant cannot apply for a conditional use permit for a proposal that was recently denied. As the CUP Approval notes, the Code imposes no such limitation.

Relatedly, other testimony in the record questions whether the notice of the Application and Hearing were adequate. The basis for the concern was that the notice of decision denying the Applicant's prior application went to a larger group of individuals and that those individuals should have received notice of the new Application. However, as a new application, the County was not required to expand its notice list. I therefore find that the notice in this matter was consistent with the requirements of the Code.

No other issues relating to the application of Title 22 were raised in this proceeding.

##### 2. Site Plan Review

The record contains comments asserting that the proposal requires Site Plan Review under DCC Chapter 18.24. I find that a Site Plan is not required for this Application. DCC 18.124.030(B) established the specific scenarios when a Site Plan is required. Among those are for any conditional use where a Site Plan is a condition of approval, certain commercial and industrial uses, and other specified uses, like airports, that serve the general public or require parking facilities. As proposed in the Application, none of those scenarios exist.

Appellant specifically argues that the proposal requires parking facilities because aircraft will be tied down when not in use (i.e. parked). However, the plain language of DCC 18.124.030(B) requires Site Plan Review only for uses that "require parking facilities." Even if the tie down of a plane is deemed "parking," no parking facilities are required for this use. Further, the Code appears to refer to parking only as it relates to automobiles. "Parking space," for example, is defined as "a clear, off-street area for temporary parking or storage of one automobile..." I therefore find that the personal use airport does not require parking as contemplated in DCC 18.124.030(B).

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## **V. CONCLUSION AND CONDITIONS OF APPROVAL**

Based on these Findings, the Appeal is DENIED and the Application is APPROVED, subject to the following conditions:

A. Scope of Approval: This approval is based upon the Application, site plan, specifications, and supporting documentation submitted by the Applicant. Any substantial change in this approved use will require review through a new land use application.

B. Frequency of Operations: Use of the airstrip shall be limited to no more than six flight operations per week.

C. Limitations on Use:

1. Use of the airstrip shall be limited, except for aircraft emergencies, to the owner and to invited guests on an infrequent and occasional basis.

2. The airstrip may not be used for any other purpose, including commercial activities in conjunction with agricultural activities.

3. Flight operations using the airstrip shall not include overflight of the Maston Wildlife Conservation Area.

D. Permitting. The applicant shall obtain any necessary permits from the Deschutes County Building Division, Environmental Soils Division, and any required state or federal permitting.

E. Airstrip and Aircraft Ownership. No aircraft may be based at the personal use airport approved in this Decision other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. Applicant's current ownership structure of the aircraft and Subject Property described in the Application satisfies this condition.

Dated this 24th day of November 2021



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Tommy A. Brooks  
Deschutes County Hearings Officer

**DECISION AND FINDINGS OF  
THE DESCHUTES COUNTY HEARINGS OFFICER**

**FILE NUMBER:** 247-21-000834-A  
Appeal of File Number 247-21-000666-CU

**HEARING DATE:** October 7, 2021, 6:00 p.m.

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

**APPLICANTS/OWNER:** 20925 Harper Rd, LLC

**APPELLANT:** Annunziata Gould

**SUBJECT PROPERTY:** The subject property consists of two tax lots located at 20925 Harper Rd, Bend, OR 97703:

1. Map and Taxlot: 1612100000301
2. Map and Taxlot: 1612090000600

**ZONING:** Exclusive Farm Use – Tumalo/Redmond/Bend  
Airport Safety Combining Zone  
Landscape Management Combining Zone  
Flood Plain

**REQUEST:** Appeal of administrative decision approving a Conditional Use Permit to establish a personal use airport in the Exclusive Farm Use Zone

**HEARINGS OFFICER:** Tommy A. Brooks

**SUMMARY OF DECISION:** The Hearings Officer finds that the Applicant has met its burden of proof demonstrating that all criteria applicable to the proposed use have been satisfied. The Hearings Officer therefore DENIES the appeal and APPROVES the conditional use permit sought in the Application, with conditions.

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## **I. APPLICABLE STANDARDS AND CRITERIA**

Deschutes County Code (DCC)

Title 18, Deschutes County Zoning Ordinance  
Chapter 18.16, Exclusive Farm Use Zone (EFU)  
Chapter 18.80, Airport Safety Combining Zone (AS)  
Chapter 18.84, Landscape Management Combining Zone (LM)  
Chapter 18.96, Flood Plain (FP)  
Chapter 18.128, Conditional Uses

Title 22, Deschutes County Development Procedures Ordinance

## **II. BACKGROUND AND PROCEDURE**

### **A. Conditional Use Permit Request**

The Applicant is requesting a Conditional Use Permit to establish a personal use airport in the form of a private airstrip in the Exclusive Farm Use (“EFU”) Zone. The airstrip will be located on both Tax Lot 301 and Tax Lot 600 of the Subject Property. As proposed, the airstrip would be approximately 75 feet wide and 2,000 feet in length, running in a southwest-to-northeast direction.

Construction of the private airstrip would generally require some tree removal and some grading. No structures are proposed as part of the personal use airport use.

### **B. Administrative Decision, Notice, and Hearing**

The County initially reviewed the Application through an Administrative Review. On or about September 1, 2021, the County issued its Findings and Decision (“CUP Approval”) approving the requested conditional use. The CUP Approval included six conditions of approval.

On September 13, 2021, Appellant filed an Appeal Application seeking review of the CUP Approval. The Appeal Application was supported by a letter setting forth nine separate bases for appeal.

On September 14, 2021, the County issued a Notice of Public Hearing (“Notice”) for this matter.

Pursuant to the Notice, the Hearings Officer presided over a *de novo* evidentiary hearing September 7, 2021, at 6:00 p.m. The hearing was held via videoconference, with County Planning Staff (“Staff”) present in the hearing room.

At the beginning of the evidentiary hearing, the Hearings Officer provided an overview of the quasi-judicial process and directed participants to direct comments to the approval criteria and standards, and to raise any issues a participant wanted to preserve for appeal if necessary. The Hearings Officer stated there were no *ex parte* contacts or bias to declare. The Hearings Officer asked for and received no objections to the County’s jurisdiction over the matter or to the Hearings Officer presiding.

At the conclusion of the evidentiary hearing, the Hearings Officer announced that the record would remain open for written materials only as follows: (1) any participant could submit additional materials until October 14, 2021; (2) any participant could submit additional rebuttal materials until October 21, 2021; and (3) the Applicant could submit a final legal argument no later than October 28, 2021.

C. 150-day Clock

The Applicant submitted the Application on July 8, 2021. The County’s Planning Division deemed the Application to be complete August 6, 2021.

Using August 6, 2021 as the date of completeness, the original deadline for a final County decision under ORS 215.427 – “the 150-day clock” – was January 3, 2022. As noted above, the record was held open for an additional 21 days following the Hearing. The extended record period was requested in part by the Applicant, and the Applicant agreed with the specific schedule for keeping the record open as set forth above.

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 requested and 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 original deadline, the new deadline for the County to make a final decision is January 24, 2021.

D. Record Issues

The record materials provided to the Hearings Officer include a submittal from Central Oregon Landwatch (“COLW”) dated and received by the County on September 28, 2021. On that same day, Carol Macbeth, on behalf of COLW, emailed Staff and indicated the submittal was made in error, as it was intended to address File Number 247-21-000616. The Applicant has requested that the COLW submittal be removed from the record. Based on COLW’s email confirming the submittal was made in error, and in the absence of any objection to the Applicant’s request, I am excluding the COLW submittal from the record. A separate letter from COLW, dated October 14, 2021, remains part of the record.

**III. FINDINGS AND CONCLUSIONS**

A. Adoption of Staff’s Basic Findings

As part of the CUP Approval, the County adopted Basic Findings including a determination that the Subject Property is a lot of record, describing the general site, describing the surrounding land uses, and describing the land use history of the Subject Property. No participants to the proceeding object to those portions of the CUP Approval and I hereby adopt those sections of the CUP Approval in these Findings.

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B. Compliance with Chapter 18.16, Exclusive Farm Use Zones (EFU)

1. **18.16.030. Conditional Uses Permitted -High Value and Non-high Value Farmland.**

The Applicant seeks a conditional use permit for an airstrip pursuant to DCC 18.16.030, which states:

*The following uses may be allowed in the Exclusive Farm Use zones on either high value farmland or non-high value farmland subject to applicable provisions of the Comprehensive Plan, DCC 18.16.040 and 18.16.050, and other applicable sections of DCC Title 18.*

\* \* \*

*L. Personal use airport for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. A personal use airport as used in DCC 18.16.030 means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations.*

**Findings:** As proposed by the Applicant, the airstrip would be for personal use only, for no more than six flight operations per week. A “flight operation” is the combination of a single take-off and landing. The flight operations would include use by the owner of the Subject Property and occasional guests. The Applicant volunteers to have a condition of approval that would limit the number of flight operations.

Although the Code would allow an associated hangar, maintenance, and service facilities, the Applicant’s proposal does not include any buildings or other structures. Evidence in the record suggested that other facilities or structures may be needed, such as facilities for refueling or to support the addition of a windsock. The Applicant confirms that no such facilities or structures are proposed.

Although the Code allows commercial aviation activities if they are in conjunction with agricultural operations, the Applicant has confirmed that no commercial use of the airstrip is proposed. Because approval of a conditional use permit is based on the proposal in the Application, any different or expanded use of the airport in the future would need to be included as part of the proposal, or need to be approved in a future application. The addition of buildings or commercial activities could impact whether and how the conditional use and other criteria are satisfied. Thus, this Decision applies the remaining criteria only to the specific proposal in the Application, which excludes any structures or commercial activities.

Some of the testimony in the record implies that the Application should be denied because an airport is not an appropriate use in the EFU Zone. Other testimony asserted the airstrip should be denied because of noise impacts or that it should be reduced in size. The designation of land as “exclusive farm use” is somewhat of a misnomer and is a reference to a state law designation rather than to a standard to be applied to the use. ORS Chapter 215 requires counties to designate certain lands for “exclusive” farm use, but then, through ORS 215.283, provides a rather lengthy list of non-farm uses that are allowed in an EFU zone. The non-farm uses set forth in ORS 215.283(1) are uses a county must allow by right, subject only

to statutory standards rather than local standards.<sup>1</sup> The non-farm uses listed in ORS 215.283(2), in contrast, are considered “conditional” uses that a county can choose to allow, and in doing so a county can impose additional restrictions on those uses.<sup>2</sup>

The County has legislatively determined that it will allow personal use airports in its EFU Zone as allowed by ORS 215.283(2)(h), and the County has not otherwise limited such a use to satisfy specific noise standards or to be a particular size. The County has, however, subjected this use to its conditional use standards. I therefore find no basis to reject or condition the Application merely because it proposes a non-farm use unless to do so is required by other approval criteria in the Code, which are addressed below. I find that the use itself is allowed and, based on the foregoing, the Application can be permitted under DCC 18.16.030(L).

In the CUP Approval, Staff noted this use category limits use of the airstrip, except for aircraft emergencies, to the owner, to invited guests on an infrequent and occasional basis, and to commercial aviation activities in connection with agricultural operations. For that reason, Staff included a condition of approval limiting use of the airstrip for those purposes. The Applicant did not oppose such a condition and, to the contrary, asked that the Hearings Officer to uphold that decision. As noted above, however, use of the airstrip for purposes other than what is proposed in the Application could alter the analysis in this Decision. For example, commercial activities in conjunction with agriculture could change the direction or duration of take-offs and landings. I have therefore imposed a similar condition as Staff, limiting the use of the airstrip, except the condition in this Decision prohibits the use of the airstrip for commercial purposes since the Applicant has not proposed such a use.

## **2. Section 18.16.040. Limitations on Conditional Uses**

*A. Conditional uses permitted by DCC 18.16.030, 18.16.031, and 18.16.033 may be established subject to ORS 215.296, applicable provisions in DCC 18.128, and upon a finding by the Planning Director or Hearings Body that the proposed use:*

- 1. Will not force a significant change in accepted farm or forest practices as defined in ORS 215.203(2)(c) on surrounding lands devoted to farm or forest uses; and*
- 2. Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and*
- 3. That the actual site on which the use is to be located is the least suitable for the production of farm crops or livestock.*

**Findings:** As noted above, personal use airports are an allowed use in the EFU Zone, subject to any additional conditions the County may impose in its Code. Pursuant to DCC 18.16.040, the County has imposed some limitations on conditional uses, including those uses like personal use airports authorized

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<sup>1</sup> *Brentmar v. Jackson Cty.*, 321 Or 481, 496 (1995).

<sup>2</sup> *Id.*

under DCC 18.16.030. The specific restrictions in DCC 18.16.030(A)(1) and (2) are required by state statute, whereas the restriction in DCC 18.16.030(A)(3) is specific to the County.

As alluded to in the preamble of this Code provision, the restrictions in DCC 18.16.030(A)(1) and (2) derive from ORS 215.296(1). The Land Use Board of Appeals (“LUBA”) sometimes refers to these restrictions as the “farm impacts test.”

An applicant carries the burden of proving that the farm impacts test in ORS 215.296(1) has been met.<sup>3</sup> LUBA has a well-established methodology for demonstrating compliance with the farm impacts test.<sup>4</sup> Under that methodology, a proposal can be approved if it: (1) describes farm practices on surrounding lands devoted to farm use; (2) explains why the proposed development will not force a significant change in those practices; and (3) explains why the proposed development will not significantly increase the cost of those practices. To begin that process, LUBA has held that “[i]n applying ORS 215.296(1), it is entirely appropriate for the applicant and county to begin by visually surveying surrounding lands to identify the farm and forest uses to which those lands are devoted.”<sup>5</sup> Other parties are then free to dispute the initial findings, or to add to the record additional evidence of nearby farm uses that the applicant and county must respond to.<sup>6</sup>

In addressing the farm impacts test in the Application, the Applicant followed the process described above. The Applicant’s analysis is summarized in the narrative for the Application and also contained in multiple exhibits to the Application, specifically Exhibits H, I, and J. The Applicant began the process by providing what amounted to a visual survey of the surrounding land.

With respect to forest practices, the Applicant did not identify any forest uses on surrounding lands and, therefore, concluded the analysis there. Because there were no forest uses on surrounding lands, there were no forest practices associated with those uses that could be impacted. No other testimony identifies forest practices that would be impacted by the airstrip. I therefore find that the Applicant has met its burden of showing there will be no impact to forest practices from the airstrip.

With respect to farm uses, the Applicant provided an analysis of all properties within a one-mile radius of the airstrip, which included 126 tax lots. For each of those properties, the Applicant used GIS data, in-person observations, and information solicited from property owners to identify which of those properties are devoted to farm use. For the properties with identified farm uses, the Applicant identified farm practices associated with those farm uses. That information was derived, in part, from information provided by the Oregon State University Extension Service.

The Applicant identified various potential impacts to farm uses that could result from the private airstrip. Those potential impacts arise from the operation of aircraft and not from the airstrip itself. Such impacts include visual impacts, sound impacts, and dust generated by take-offs and landings.

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<sup>3</sup> *Schrepeel v. Yamhill County*, -- Or LUBA – (LUBA No. 2020-066), 2020 WL 8167220, at \*6.

<sup>4</sup> See *Brown v. Union County*, 32 Or LUBA 168 (1996).

<sup>5</sup> *Dierking v. Clackamas County*, 38 Or LUBA 106, 120-21 (2000).

<sup>6</sup> *Id.*

In its analysis, the Applicant determined that some properties in the immediate vicinity of the Subject Property are zoned Multiple Use Agricultural (MUA) zone, which is an exception zone. The Applicant states that all adjacent properties are also engaged in residential use, or are held by the State of Oregon or the Federal Bureau of Land Management (BLM), neither of which are engaged in farm uses. Other properties more distant from the Subject Property are engaged in hay production and livestock (both cattle and horses).

The Applicant then analyzed whether the proposed use would cause any impacts related to these farm uses and their farm practices. A primary conclusion of the Applicant was that only two properties are potentially impacted by the arrival or departure of aircraft using the private airstrip. One of those properties is subject to a conservation easement and management plan that precludes farm uses on that property, and the other property is owned by the Applicant, who states that none of his farm practices will be impacted. For other properties outside the arrival and departure flight paths, the Applicant asserts that no impacts will exist or, if they do, they will be *de minimis*. For hay crops, for example, the Applicant relies on a communication from Josh Underwood, who states that the proposal will have no impact to his haying practices. Similarly, the Applicant states that any potential impacts to livestock, such as from aircraft, is *de minimis* in light of the limit on a maximum of six flight operations per week. Other testimony in the record from individuals with farm uses nearby supported the Applicant's conclusions that no impacts to farm practices will result.

As contemplated by LUBA's methodology, other parties disputed the Applicant's initial findings and added additional testimony asserting impacts to nearby farm uses. Most of that testimony, however, simply concluded that impacts would exist, and very little information was provided that identified the presence of farm practices or types of impacts that were different than what the Applicant included in its analysis. However, multiple submittals from owners and operators of horse boarding, horse training, and horseback riding farms did offer specific details, claiming that "we will be forced to significantly change our farm practices as a result of new, low elevation take offs, landings, and flyovers in the airspace above our property... These flights will cause us to have to undertake additional safety measures to ensure that horses to not become skittish... we may need to consider additional costs to better protect our horses... [such as] upgrades to perimeter fencing as well as for veterinary and/or staff time to care for injured horses that bolt as a result of these flights."

In general, the farm impacts test requires a focus on impacts to farm practices rather than on compatibility with farm uses. The evidentiary standard I must apply is a preponderance of the evidence standard.<sup>7</sup> In doing so, I must determine if the evidence in the record is more likely than not to establish any fact used to satisfy a criterion. The burden to demonstrate compliance with the farm impacts test lies with the Applicant.

Based on my review of the record, I find that the Applicant has met its burden of demonstrating that the proposed use will not force significant changes to farm practices, or the cost of those practices, on surrounding properties devoted to farm use.

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<sup>7</sup> See *Morgan v. Jackson County*, -- Or LUBA -- (LUBA No. 2017-053).

Much of the testimony opposed to the private airstrip focuses on potential impacts from air traffic in general rather than on air traffic that is specific to the proposed airstrip. I find that the use of the airstrip for which impacts may occur is limited to the period of time aircraft will be taking off and landing at the airstrip. Following takeoff or prior to landing, aircraft are simply using the airspace that is available regardless of where the flight begins or ends. In other words, a pilot who chooses to fly in this area, even at low altitudes, can do so from the Redmond Airport or from any of the numerous private airstrips that already exist in the County. Takeoffs and landings using the proposed airstrip, however, are specific to the proposal in the Application and provide the incremental difference beyond what currently exists and that must be analyzed to determine if the farm impacts test is satisfied.

As the Applicant notes, the flight path for take-offs and landings affects only two parcels, one of which is precluded from engaging in any farm uses and one of which the Applicant has demonstrated (because he owns the property) will not be impacted.

With respect to hay and other crops, the evidence in the record is that the practices associated with these farm uses are not impacted by air traffic. While there is testimony in the record from individuals who grow these crops that also oppose the Application, that testimony does not identify haying or crop practices that will be impacted. This is not to say that the Applicant can shift the burden of the farm impacts test to nearby farmers; rather, it shows that the evidence provided by the Applicant is not undermined by other evidence in the record, that Staff's analysis in the CUP Approval was sound, and, therefore, the Applicant has met its burden.<sup>8</sup>

With respect to livestock, I find that the proposed use satisfies the farm impacts test. As noted above, there are no livestock uses within the flightpath of planes that are using the private airstrip. To the extent there is any incremental increase in the number of flights in the area, the evidence in the record shows that such flights are unlikely to impact livestock and, if they do, the impact will be *de minimis*. The main concern of livestock owners appears to be that livestock will get spooked. This could cause safety concerns for those riding livestock, or result in the escape of livestock from the farm. The record shows, however, that actual livestock in the area do not respond to low-flying aircraft, as evidenced by visual observations made when the Applicant conducted flyovers while inventorying farm uses. The record also contains testimony from other than the Applicant describing the fact that livestock is accustomed to air traffic. This makes sense in light of the large amount of air traffic that already exists in this area.

Even if there were impacts to farm practices, I find that the limited use of the airstrip keeps any such impacts to a *de minimis* level. The Applicant has proposed to limit use of the airstrip to six or fewer weekly operations. This means that, at most over the course of a year, there would be less than one takeoff and one landing per day. The Applicant submitted information describing the takeoff and landing process, which is generally described as the period of time the aircraft is climbing to or descending from an altitude of 500 feet, respectively. Based on the location of the airstrip on the Subject Property, the aircraft's

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<sup>8</sup> Testimony from one individual, for example, identified the growing of organic produce as a farm use on their property. That testimony then states that "planes drop fuel contaminants." While the Hearings Officer can infer from this testimony that the individual believes there is an impact from fuel contaminants, the testimony does not identify a farm practice associated with organic produce or explain how that practice is impacted. Further, as noted above, this testimony does not differentiate between air traffic in general and air traffic generated by the proposed use. I therefore find that this testimony does not refute the applicant's conclusions in its farm impacts test analysis.

departure path will require it to be over adjacent property for only very short periods of time. Based on the limited use and short duration, I find that no impact from planes using the airstrip would arise to a level of significance.<sup>9</sup>

The farm impacts test requires a review of not just individual farm impacts, but also the cumulative effect of any individual farm impacts on a single farm. Based on this record and the findings above, no cumulative impacts exist. My primary findings above are that there are no individual farm impacts and, therefore, no impacts to accumulate. Further, the only individual impact that potentially exists is to the practice of keeping livestock contained. Because that is the only potential individual impact, there are no other impacts that could be additive to that impact and, therefore, no significant cumulative impacts exist.

Based on the foregoing, I find that the Applicant has met its burden with respect to DCC 18.16.030(A)(1) and (2).

As noted above, DCC 18.16.030(A)(3) is a County criterion that further limits conditional uses in the EFU Zone by requiring the use to occupy a site that is “the least suitable for the production of farm crops or livestock.” In 2015, the County’s Board of Commissioners (“County Board”) provided guidance on how to apply that provision in File Nos. 247-15-000035-CU and 247-15-000403-A (the “Clough Decision). In doing so, the County Board expressly stated that the “decision is intended to provide guidance to County hearings officers and staff regarding the proper application of the least suitable criterion.” That guidance concludes that the criterion applies to areas that are generally unsuitable for the production of farm crops or livestock or to areas that are suitable for the production of farm crops and livestock but less productive than other areas of the Subject Property.

The record contains a description of the soils on the Subject Property, which are generally well-drained, non-high value soils. Although non-high value soils may be suitable for the production of farm crops or livestock, the Applicant claims that there are no water rights for irrigating the soils and that the entire property is generally unsuitable for such purposes. The Applicant also provided an analysis of an alternative location on the Subject Property that could accommodate the airstrip, but the selected site is less suitable for agriculture.

I find that the Applicant has demonstrated that the portion of the Subject Property to be used for the airstrip is generally unsuitable for farm crops or livestock. Although the soils would be more productive if irrigated, the lack of a water right for that purpose prevents such irrigation.

Based on the foregoing, I find that the Application satisfies DCC 18.16.030(A)(3).

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<sup>9</sup> This includes any impacts from noise and any potential impacts from dust that might escape the area of the landing strip.

*E. No aircraft may be based on a personal use airport identified in DCC 18.16.030(L) other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. A personal use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Oregon Department of Aviation.*

**Findings:** The Applicant asserts that the same individual, Alexander Polvi, owns the Subject Property and the two aircraft to be based at the proposed private airport. Based on that same ownership, Applicant asserts the planes will be owned or controlled by the property owner.

Mr. Polvi does not directly own either the Subject Property or the two aircraft. Instead, each are held by a corporate entity, the sole member of which is a trust, of which Mr. Polvi is ultimately the sole trustee. In support of his ownership, the Applicant submitted two certifications attesting to this corporate ownership structure.

I find that, based on the current corporate structure, this criterion is met. Mr. Polvi is the individual that controls the aircraft and he also owns the airstrip. However, it is possible that the corporate structure could change in the future, or other individuals or entities could become members or trustees, thereby creating an ownership or control that differs between the aircraft and the Subject Property. I will therefore impose a condition of approval requiring the Applicant to retain this corporate structure or otherwise to base aircraft at the airport only if they are owned or controlled by the owner of the Subject Property.

### **3. Sections 18.16.070 through 18.16.090.**

**Findings:** DCC sections 18.16.070 through 18.16.090 impose various development standards for yards and setbacks. Each of those standards apply only where buildings and structures are proposed. Based on my previous finding that the Application does not propose any buildings or structures, I find that these standards do not apply.

#### **C. Compliance with Chapter 18.80, Airport Safety Combining Zone (AS)**

**Findings:** The proposed airstrip is located beneath the Approach Surface for the Redmond Airport. The provisions of Chapter 18.80 are therefore applicable to the proposal.

DCC 18.80.028 imposes certain height limitations in the AS Zone. The proposed airstrip, however, consists solely of a cleared runway and does not include any buildings, structures, or other objects. This Code provision is satisfied.

DCC 18.80.044(A) imposes certain restrictions within noise impact boundaries. The Subject Property is not within an identified noise impact boundary and this Code provision is satisfied.

DCC 18.80.044(B) imposes standards for the direction and shielding of outdoor lighting. The proposal in the Application does not propose any outdoor lighting and, therefore, this Code provision is satisfied.

DCC 18.80.044(C) prohibits the use of glare producing materials on structures. The proposed airstrip, however, consists solely of a cleared runway and does not include any buildings, structures, or other objects. This Code provision is satisfied.

DCC 18.80.044(D) regulates emissions from industrial, mining, or similar uses. No such uses are proposed in the Application and, therefore, this Code provision is satisfied.

DCC 18.80.044(E) prohibits uses in the AS Zone from causing or creating electrical interference with navigational signals or radio communications between an airport and aircraft. The proposed airstrip does not include new structure or communications facilities that would cause electrical interference. This Code provision is satisfied.

DCC 18.80.044(F) provides that, for the approach surface for the nearby Redmond airport, the land uses identified in DCC 18.80 Table 1, and their accessory uses, are permitted, permitted under limited circumstances, or prohibited in the manner therein described. The uses listed in Table 1 fall into three categories and those listed uses are either: (1) permitted, (2) allowed under limited circumstances, or (3) not allowed. The proposed use in this Application is a personal use airport, which is not listed in Table 1. The use listed in Table 1 that is closest in nature to the proposed use is a “public use airport.”

In light of the absence of “personal use airport” in Table 1, the question is whether that use is controlled at all by DCC 18.80.044(F), or if the use is not allowed because it is not listed as a permitted use or a use allowed under limited circumstances. The answer to this question is found in DCC 18.80.054. That Code provision provides that uses permitted conditionally in the AS Zone “shall be those identified as conditional uses in the underlying zone with which the AS Zone is combined, and shall be subject to all conditions of the underlying zone except as provided in DCC 18.80.044.” (Emphases added). In other words, the underlying zone, in this case the EFU Zone, is the primary determination for which uses are allowed conditionally in the AS Zone, and the AS Zone only creates exceptions to specific conditions for the uses that are otherwise allowed. DCC 18.16.031(A), for example, generally allows disposal sites as a conditional use on non-high value farmland in the EFU. DCC 18.80.044(F), through DCC 18.80 Table 1, creates an exception and expressly states that sanitary landfills, a type of disposal site, are not allowed in an approach surface as part of the AS Zone.

Because DCC 18.80 Table 1 creates no exceptions for personal use airports beyond what is already allowed in the EFU Zone, DCC 18.80.044(F) is satisfied. For the same reasons, DCC 18.80.054 is also satisfied.

#### D. Compliance with Chapter 18.84, Landscape Management Combining Zone (LM)

**Findings:** As set forth in DCC 18.84.020, the provisions of DCC Chapter 18.84 apply to all areas within one-fourth mile of roads identified as landscape management corridors in the Comprehensive Plan and the County Zoning Map, as well as to all areas within the boundaries of a State scenic waterway or Federal wild and scenic river corridor and all areas within 660 feet of rivers and streams otherwise identified as landscape management corridors in the comprehensive plan and the County Zoning Map. Because the Deschutes River is identified on the County Zoning Map as a landscape management feature, the Subject Property falls within the LM Zone and DCC Chapter 18.84 applies to the Application.



DCC 18.84.030 and DCC 18.84.030 allow any use in the LM Zone that is permitted or permitted conditionally in the underlying zone, in this case the EFU Zone. As explained in earlier findings, a personal use airport is allowed as a conditional use in the EFU Zone and, therefore, is allowed as a conditional use in the LM Zone.

DCC 18.84.050 places additional limits on structures in the LM Zone. Because the proposal in the Application does not include structures, this Code provision is satisfied.

E. Compliance with Chapter 18.96, Flood Plain (FP) Zone

**Findings:** DCC Chapter 18.96 regulates the Flood Plain (FP) Zone and applies to all areas designated as "Special Flood Hazard Areas." Special Flood Hazard Areas are lands that would be inundated by a 100-year flood event, that are at or below the base flood elevation. Information in the record indicates that the flood map for the Subject Property is FIRM No. 41017C0460D, with an effective date of September 28, 2007. The proposed airstrip will not be located in the mapped 100-year flood plain and, therefore, is not subject to the standards of the FP Zone.

F. Compliance with Chapter 18.128, Conditional Uses

1. **18.128.015. General Standards Governing Conditional Uses**

*Except for those conditional uses permitting individual single-family dwellings, conditional uses shall comply with the following standards in addition to the standards of the zone in which the conditional use is located and any other applicable standards of the chapter:*

*A. The site under consideration shall be determined to be suitable for the proposed use based on the following factors:*

*1. Site, design and operating characteristics of the use;*

**Findings:** The proposed use in the Application is a personal use airport consisting of a single airstrip 75 feet wide and approximately 2,000 feet long. I find that the Applicant has demonstrated that the site for the airstrip on the Subject Property is suitable for this proposed use. Development of the airstrip will require minimal grading and clearing of trees. The Applicant notes that the orientation of the airstrip is aligned with prevailing winds, creating "ideal conditions" for takeoff and landing of aircraft. The Applicant submitted information from the Oregon Department of Aviation describing the site as suitable for an airstrip.

Some of the testimony in the record asserts that the site is not suitable because of alleged off-site impacts that could result after a plane takes off or prior to it landing. However, I find that this Code provision relates to the use of the Subject Property itself for the personal use airport and that potential impacts to surrounding properties are addressed through other criteria. DCC 18.128.015(A)(1) is therefore satisfied.

*2. Adequacy of transportation access to the site; and*

**Findings:** As noted in the CUP Approval, the Subject Property abuts Harper Road to the south. Peter Russell, Senior Transportation Planner for the County, reviewed the Application and did not identify increased transportation impacts related to the proposed personal use airport. Testimony in the record asserts that the personal use airport will increase air transportation impacts by adding additional air traffic to an airspace that is already congested.

Based on the information in the record, I find that it is more likely than not that the air traffic in the general area will remain the same, as there is no evidence that the total number of flights will increase, only that the location of takeoffs and landings will change. The analysis of the County's Transportation Planner supports the conclusion that surface transportation impacts will not increase.

DCC 18.128.015(A)(2) is therefore satisfied.

*3. The natural and physical features of the site, including, but not limited to, general topography, natural hazards and natural resource values*

**Findings:** Like the other provisions of DCC 18.128.015(A), subsection (3) of that Code provision requires a consideration of features on the Subject Property, in this case the natural and physical features, including topography, natural hazards, and natural resource values.

Similar to DCC 18.128.015(A)(1), I find that the Applicant has demonstrated that the site is suitable for the airstrip based on its topography, which is relatively flat and on a natural "shelf" compared to the surrounding area. The record demonstrates that only minimal grading will be required to prepare the airstrip. Further, the record does not reveal any natural hazards on the site (e.g. floodplains) that conflict with the location of the airstrip.

There is testimony in the record asserting that the personal use airport would conflict with natural resource values on the Subject Property – specifically with minerals that could potentially be mined. As the CUP Approval notes, however, the County has not included this site in its inventory for mineral sites. Further, the mere presence of the airstrip does not preclude development of that natural resource at a later time.

Based on the foregoing, I find that the Applicant has demonstrated the site is suitable when considering the natural and physical features of the site. DCC 18.128.015(A)(3) is therefore satisfied.

*B. The proposed use shall be compatible with existing and projected uses on surrounding properties based on the factors listed in DCC 18.128.015(A).*

**Findings:** Evidence in the record reveals that the properties surrounding the Subject Property have a wide variety of uses. As noted above in these Findings relating to the EFU Zone, there are farms in the area. The record includes evidence that these are both commercial farms and hobby farms. Many of the individuals who provided testimony also identified recreational uses and wildlife uses associated with the Deschutes River and the nearby Maston Recreation Area.

The Applicant, Staff, and other participants, including participants opposed to the Application, all appear to agree that the primary potential for off-site impacts to occur include visual impacts and noise from aircraft using the airstrip.

The Application asserts that any off-site impacts will be minimal in light of the limited use of the airstrip. Other comments supportive of the application describe personal use airports as compatible uses in agricultural areas like those surrounding the Subject Property. Comments submitted in opposition to the Application disagreed with the Applicant and asserted that noise and visual impacts from plains would impact wildlife and otherwise erode the peacefulness of the area, which they describe as a fundamental part of the recreational experience for users of the surrounding areas.

Similar to the discussion of potential farm impacts, I find that the use of the airstrip for which off-site impacts may occur is limited to the period of time aircraft will be taking off and landing at the airstrip. Following takeoff and prior to landing, aircraft are simply using the airspace that is available regardless of where the flight begins or ends. Some testimony in the record implies that there is very little air traffic in the area and, as such, additional flights are intrusive and not compatible. Other evidence in the record demonstrates that there is a lot of exiting air traffic in the area. I find that it is more likely than not that any additional flights resulting from the private airstrip are *de minimis*. I further find no basis to conclude that denying the Application would somehow prevent that activity from occurring in the area. Only takeoffs and landings at the proposed airstrip are specific to the proposal in the Application and provide an incremental difference that can be analyzed.

The Applicant has proposed to limit use of the airstrip to six or fewer weekly operations. The Applicant also submitted information describing the takeoff and landing process, which is generally described as the period of time the aircraft is climbing to or descending from an altitude of 500 feet, respectively. Based on the location of the airstrip on the Subject Property, the aircraft's departure path will require it to be over adjacent property for just over seven seconds before it reaches the 500 foot altitude mark. The arrival path over adjacent property is longer, and it requires a time period of less than 11 seconds of descent before the aircraft is over the Subject Property on its way to land. The record demonstrates that aircraft are noisier on takeoff than they are when landing. The Applicant has also proposed a condition of approval that would prohibit any overflight of the Maston Wildlife Conservation Area.

The compatibility factors to be considered for this Code section are the same as for DCC 18.128.15(A): site, design, and operating characteristics; adequacy of transportation; and natural and physical features. The surrounding properties share similar characteristics as the Subject Property, including relying on the same transportation system, and only their operating characteristics (e.g. their use) and natural features differ. For the same reasons I find the Application to satisfy DCC 18.128.15(A), I find it satisfies DCC 18.128.15(B) with respect to site, design, and physical features.

With respect to operating characteristics and natural features of the surrounding properties, the record reveals that there is existing air traffic in this area. The sighting of planes from adjacent properties is therefore already a part of any user's experience while on those properties, whether those users are there for active or passive recreation, or for farming. Based on the minor and temporary addition of noise associated with the proposed airstrip, I find that the use is compatible with other uses on surrounding properties as well. With less than one takeoff and landing per day, each climbing or descending over

adjacent properties for 11 seconds or less, it is likely that many users of the surrounding properties will not even observe the operation. The total takeoff and landing time when these impacts exist is less than two hours spread out over the course of entire year. I agree with the Applicant that this is a *de minimus* impact and, therefore, compatible with those surrounding lands.

To the extent that wildlife uses are part of the natural features of the surrounding properties, both the Bureau of Land Management and the Oregon Department of Fish and Wildlife reviewed the proposal. Neither agency identified or otherwise expressed concern regarding impacts to wildlife that would result from the proposal. Further, the condition of approval preventing overflights of the Maston Wildlife Conservation Area will prevent potential impacts. There is evidence in the record of nearby nesting eagles that are protected under the Bald and Golden Eagle Protection Act. According to the U.S. Fish and Wildlife Service, activities that include nest disturbance are prohibited under that act without an incidental take permit. The act itself, however, does not prohibit the airstrip. I find that obtaining any required incidental take permit would make the proposed use compatible with this wildlife use, and such a requirement could be imposed as a condition of approval.

Based on the foregoing, I find that the proposed use is compatible with uses on surrounding properties and DCC 18.128.15(B) is satisfied.<sup>10</sup>

*C. These standards and any other standards of DCC 18.128 may be met by the imposition of conditions calculated to insure that the standard will be met.*

**Findings:** As discussed in other findings in this Decision, approval of the Application requires the imposition of multiple conditions. Below, I impose conditions relating to the Applicant's use of the airstrip.

***2. Section 18.128.050. Airports, Aircraft Landing Fields, Aircraft Charter, Rental, Service Maintenance Facilities Not Located in the A-D Zone.***

*The Planning Director or Hearings Body shall find that the location and site design of the proposed facility will not be hazardous to the safety and general welfare of surrounding properties and that the location will not unnecessarily restrict existing and future development of surrounding lands as indicated in the Comprehensive Plan.*

**Findings:** The Code does not include specific provisions addressing hazards and safety protocols for the proposed personal use airport. Instead, the County looks to the standards of the Oregon Department of Aviation ("ODA") and the Federal Aviation Administration ("FAA") as evidence of the compliance with hazard and safety regulations.

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<sup>10</sup> There is testimony in the record relating to noise levels from airplanes. The record also reveals that noise is measured in two ways: (1) decibel readings; and (2) perception. No participant has identified specific Code provisions that limit the decibel levels of aircraft using personal use airports. The Hearings Officer, therefore, considers noise in terms of how it is perceived and whether such noise is compatible with surrounding uses. Given the amount of existing air traffic in the area and the ability of pilots to fly in these areas whether or not they use the proposed airstrip, I find that only the noise associated with take-offs and landings from the proposed airstrip are relevant to the criteria, and that such criteria are satisfied.

The record contains materials documenting the Applicant's communications with both ODA and the FAA. Those communications have resulted in the development by the Applicant of a Safety Plan, and neither of the aviation agencies have objected to the establishment of the airstrip, each providing conditional approval.

I find that nothing in the record demonstrates the likelihood that existing or future development on surrounding properties will be unnecessarily restricted. As explained in other findings, surrounding properties are largely undeveloped or devoted to farm and recreation uses. Those and other authorized uses allowed by the Comprehensive Plan can continue on those properties if the airstrip is developed.

#### D. Miscellaneous Issues

##### 1. Title 22 Compliance

The CUP Approval addresses two provisions of Title 22 relating to the Applicant's ability to apply for conditional use approval. During the Hearing, Staff indicated that it had received inquiries implying that an applicant cannot apply for a conditional use permit for a proposal that was recently denied. As the CUP Approval notes, the Code imposes no such limitation.

Relatedly, other testimony in the record questions whether the notice of the Application and Hearing were adequate. The basis for the concern was that the notice of decision denying the Applicant's prior application went to a larger group of individuals and that those individuals should have received notice of the new Application. However, as a new application, the County was not required to expand its notice list. I therefore find that the notice in this matter was consistent with the requirements of the Code.

No other issues relating to the application of Title 22 were raised in this proceeding.

##### 2. Site Plan Review

The record contains comments asserting that the proposal requires Site Plan Review under DCC Chapter 18.24. I find that a Site Plan is not required for this Application. DCC 18.124.030(B) established the specific scenarios when a Site Plan is required. Among those are for any conditional use where a Site Plan is a condition of approval, certain commercial and industrial uses, and other specified uses, like airports, that serve the general public or require parking facilities. As proposed in the Application, none of those scenarios exist.

Appellant specifically argues that the proposal requires parking facilities because aircraft will be tied down when not in use (i.e. parked). However, the plain language of DCC 18.124.030(B) requires Site Plan Review only for uses that "require parking facilities." Even if the tie down of a plane is deemed "parking," no parking facilities are required for this use. Further, the Code appears to refer to parking only as it relates to automobiles. "Parking space," for example, is defined as "a clear, off-street area for temporary parking or storage of one automobile..." I therefore find that the personal use airport does not require parking as contemplated in DCC 18.124.030(B).

///

## **V. CONCLUSION AND CONDITIONS OF APPROVAL**

Based on these Findings, the Appeal is DENIED and the Application is APPROVED, subject to the following conditions:

A. Scope of Approval: This approval is based upon the Application, site plan, specifications, and supporting documentation submitted by the Applicant. Any substantial change in this approved use will require review through a new land use application.

B. Frequency of Operations: Use of the airstrip shall be limited to no more than six flight operations per week.

C. Limitations on Use:

1. Use of the airstrip shall be limited, except for aircraft emergencies, to the owner and to invited guests on an infrequent and occasional basis.

2. The airstrip may not be used for any other purpose, including commercial activities in conjunction with agricultural activities.

3. Flight operations using the airstrip shall not include overflight of the Maston Wildlife Conservation Area.

D. Permitting. The applicant shall obtain any necessary permits from the Deschutes County Building Division, Environmental Soils Division, and any required state or federal permitting.

E. Airstrip and Aircraft Ownership. No aircraft may be based at the personal use airport approved in this Decision other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Oregon Department of Aviation in specific instances. Applicant's current ownership structure of the aircraft and Subject Property described in the Application satisfies this condition.

Dated this 24th day of November 2021



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Tommy A. Brooks  
Deschutes County Hearings Officer

REVIEWED  
Burd  
LEGAL COUNSEL

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending PL-20, the Deschutes  
County Year 2000 Plan, as Amended, to Adopt  
Inventories, Conflict Analysis and ESEE  
Determinations for Fish and Wildlife  
Resources and Declaring an Emergency.

92 AUG -6 PM 1:26

MARY SUE PENHOLLOW  
COUNTY CLERK

0119-0189

92-26468

ORDINANCE NO. 92-041

WHEREAS, Statewide Planning Goal 5 requires that local governments inventory, identify conflicts with, and analyze the Economic, Social, Environmental, and Energy consequences of protecting or not protecting certain resources, including fish and wildlife resources pursuant to Statewide Planning Goal 5, and determine to what extent, if at all, such resources should be protected.

WHEREAS, pursuant to the requirements of the Oregon Department of Land Conservation and Development (LCDC) the County has been required to review and update its Comprehensive Land Use Plan and implementing ordinances, including for fish and wildlife resources, to assure continuing compliance with Statewide Land Use Planning Goals; and

WHEREAS, public hearings have been held in furtherance of this objective in conformance with state law before the Deschutes County Planning Commission and the Board of County Commissioners for Deschutes County; and

WHEREAS, the Board of County Commissioners has considered the recommendations of the Planning Commission and the public; now therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON ORDAINS AS FOLLOWS:

Section 1. REPEAL OF EXISTING RESOURCE ELEMENT. The existing Plan Fish and Wildlife resource element, found at pages 59-79 of the Resource Element of the Plan, is hereby repealed.

Section 2. ADOPTION OF FISH AND WILDLIFE RESOURCE ELEMENT. Ordinance No. PL-20, the Deschutes County Year 2000 Comprehensive Plan, as amended, (hereafter referred to as "the Plan") is further amended by adoption as part of the resource element of the Plan the inventory, conflicts analysis and ESEE analysis of inventoried resources concerning fish and wildlife resources in the County attached hereto as Exhibit "A" and incorporated herein by reference.

AUG 11 1992  
MICROFILMED  
AUG 13 1992

Those ESEEs address the following specific resources:

Fish Habitat  
 Deer Winter Range  
 Deer Migration Corridor  
 Elk Habitat  
 Antelope Habitat  
 Habitat Areas for Sensitive Birds  
 Habitat Areas for Townsend's Big-Eared Bats  
 Upland Game Bird Habitat  
 Furbearer Habitat  
 Wetlands and Riparian Areas  
 Threatened and Endangered Species Habitat

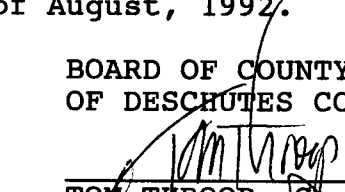
Section 3. FINDINGS. The Board of County Commissioners adopts as its findings and conclusions in support of the amendments set forth herein the Findings attached hereto as Exhibit "B" and incorporated herein by reference.


Section 4. SEVERABILITY. The provisions of this ordinance are severable. If any section, sentence, clause, or phrase of this ordinance or any Exhibit thereto is adjudged to be invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this ordinance or any Exhibit thereto.

Section 5. EMERGENCY. This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

DATED this 5<sup>th</sup> day of August, 1992.

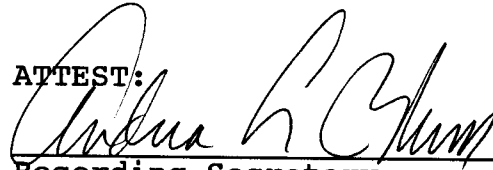
BOARD OF COUNTY COMMISSIONERS  
 OF DESCHUTES COUNTY, OREGON

  
 \_\_\_\_\_  
 TOM THROOP, Commissioner

  
 \_\_\_\_\_  
 NANCY POPE SCHLANGEN, Commissioner

  
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 DICK MAUDLIN, Chairman

ATTEST:

  
 \_\_\_\_\_  
 Recording Secretary



0119-0191

**ORDINANCE NO. 92-041 - EXHIBIT "A"**  
**DESCHUTES COUNTY YEAR 2000 COMPREHENSIVE PLAN**  
**RESOURCE ELEMENT**  
**FISH AND WILDLIFE**  
**INVENTORIES CONFLICT**  
**ESEE ANALYSES**

Because fish and wildlife are such a common part of rural life, the importance of this resource, and its sensitivity to human development can be easily overlooked. Perhaps less obvious, but just as important, is the economic significance of this resource to the local population.

The need to protect this critical natural asset has been recognized. For this reason, State Land Use Goal 5 has been developed to ensure fish and wildlife needs are considered in the development decisions of each local jurisdiction.

Deschutes County is fortunate to have resident within its area not only large populations of game animals (such as antelope, deer, elk, sage grouse, etc.) but also a variety of non-games species. The purposes of this plan element is to provide some information about the numbers, locations, and importance of the fish and wildlife resources of the county. This resource element also includes the Environmental, Social, Economic and Energy (ESEE) analysis required by Goal 5 and OAR 660-16-000.

The Oregon Department of Fish and Wildlife has provided inventory information on the mammals, birds and amphibians and reptiles found in Deschutes County. Table 1, Deschutes County Wildlife Inventory, identifies all species found in the county, identifies the time of year they are found and their relative abundance. The county has inventoried, provided information on the quality, quantity and location and completed and ESEE analysis in accordance with OAR 660-16 for the species and habitat areas listed below. The county finds that the other species and their habitat are not significant under Goal 5.

This chapter contains the inventories of significant fish and wildlife habitat areas and the ESEE analysis for the habitat. The chapter is organized in the following order:

Fish Habitat	Page 12
Deer Winter Range	Page 22
Deer Migration Corridor	Page 26
Elk Habitat	Page 32
Antelope Habitat	Page 38
Sensitive Birds	Page 41
Waterfowl Habitat	Page 56
Upland Game Bird Habitat	Page 60
Furbearer Habitat	Page 66
Townsend's Big-eared Bat Habitat	Page 69
Wetlands and Riparian Areas	Page 73
Threatened and Endangered Species Habitat	Page 77

The Oregon Department of Fish and Wildlife (ODFW) has provided the following information on big game populations in the County.

Big Game Population Estimates, Deschutes County, 1992

<u>Species</u>	<u>Number</u>
Mule Deer	25,000
Elk	800
Antelope	1,000
Cougar	10
Bear	40
Silver Grey Squirrel	500

NON-GAME WILDLIFE

Because of the large diversity of nongame wildlife species, their habitat requirements vary considerably depending on the individual species concerned. Habitat requirements outlined for the inventoried wildlife groups are applicable for many species of non-game wildlife.

One of the most important values of non-game wildlife is the non-consumptive use they provide. Numerous hours of bird watching, photography nature studies, etc., are spent on non-game wildlife. It is estimated that 2/3 of all wildlife use is non-consumptive. A 1974 survey shows that during a one year period in Oregon an estimated 719,000 people watched birds or other wildlife, 688,000 fed birds, and 245,000 put up bird houses or nest boxes. The importance of non-game wildlife cannot be over emphasized. Parks are extremely important, particularly in urban areas, because they provide the habitat for small non-game mammals and birds.

Deschutes County contains important populations of hawks, owls, songbirds, small mammals, and numerous other non-game wildlife species. Most of the non-game birds found in Central Oregon are protected.

Non-game wildlife is found throughout sensitive habitat areas outlined for big game, upland game, and waterfowl in Deschutes County. Sensitive habitat within the urban and suburban areas is found in parks, both city and county, and adjacent water areas. Another sensitive habitat type is the snag tree which is used by a variety of cavity nesting birds and mammals.

The land use conflicts listed in the ESEE analysis for the elk, deer, upland game birds, furbearers, sensitive birds,

waterfowl and riparian and wetland habitat also affect non-game wildlife since they are found throughout the same habitat. In addition, land use activities in the urban setting that eliminate open space are also in conflict with non-game wildlife.

#### ECONOMIC VALUE OF FISH AND WILDLIFE

Often overlooked is the significant contribution to the economy made by people who come to hunt and fish in the county. The Oregon Department of Fish and Wildlife reports that the most current data available (1989) indicates that a hunter day in Oregon's economy is worth 46.69 for deer and \$48.94 for elk. Deschutes County encompasses all or portions of the Metolius, Paulina, Grizzly, Maury, and Upper Deschutes Big Game Management units. Collectively, all these units generate a total of 75,885 hunter days for deer and 10,108 hunter days for elk. This represents a value of approximately \$3,453,100 for deer and \$494,690 for elk. The estimated worth of a hunter day does not include the money generated from game bird hunting or furbearer trapping. Data from these are not listed by local areas. However, a 1980 estimate showed that small game and game bird hunters contributed \$70.84 per participant on a state wide basis.

The value of angler days is estimated by zones within the state. Deschutes County is located within the Central Zone and the majority of the angling occurs in Deschutes County. In 1991 resident and non-resident anglers combined spent 1,071,135 days angling in the Central Zone. This represents a total economic value within this zone of \$25,392,965. Resident anglers contributed \$28.07 per day and non-resident anglers contributed \$21.94 per day.

Obviously, a considerable number of dollars could be added to the total if data were available on the money spent by people who come only to view or photograph the wildlife. Apparently, fish and wildlife are an important part of our local economy, particularly if a figure was added for the many times that initial outside money is respent in the community, each time adding to local incomes.

#### CONCLUSION

The fish and wildlife resources of Deschutes County have an important role to play in the maintenance of the environment that so many local residents enjoy, and which attracts so many visitors each year. The role of this resource in the local economy also must not be overlooked. And finally, our responsibility as guardians of this increasingly rare and irreplaceable resource cannot be forgotten.

FISH AND WILDLIFE TABLES

0119-0195

Table 1	Deschutes County Wildlife Inventory
Table 2	Fish Inventory
Table 3	Minimum Stream Flows
Table 4	Instream Water Rights
Table 5	Bald Eagle Nest - Non-Federal Inventory
Table 6	Bald Eagle Nest - Federal Inventory
Table 7	Golden Eagle Nest - Non-Federal Inventory
Table 8	Golden Eagle Nest - Federal Inventory
Table 9	Prairie Falcon Nest- Non-Federal Inventory
Table 10	Osprey Nest - Non-Federal Inventory
Table 11	Osprey Nest - Federal Inventory
Table 12	Heron Rookery - Non-Federal Inventory
Table 13	Heron Rookery - Federal Inventory
Table 14	Great Grey Owl - Non-Federal Inventory
Table 15	Great Grey Owl - Federal Inventory
Table 16	Sage Grouse Lek - Federal Inventory
Table 17	Sage Grouse Lek - Non-Federal Inventory
Table 18	Townsend's Big-Eared Bat - Non-Federal Inventory
Table 19	Townsend's Big-Eared Bat - Federal Inventory
Table 20	Townsend's Big-Eared Bat - "1B" Inventory

## DESCHUTES COUNTY WILDLIFE

0119-0196

Deschutes County Planning Unit, 1992.

*Selected List	Use	Relative	Releative
	Period	Abundance	Abundance
	Key	Key	Key
			R = Rare
			F = Few
			C = Common
			A = Abundant
			U = Unknown
Species	Use	Relative	
	Period	Abundance	
			X=Year Around
			S=Summer
			W=Winter
<b>Birds</b>			
American Avocet	S	F	
American Bittern	S	F	
American Coot	X	C	
American Goldfinch	S	C	
American Kestrel	X	C	
American Widgeon	X	C	
Anna's Hummingbird	S	F	
Ash-throated Flycatcher	S	F	
Bald Eagle	X	F	
Bank Swallow	S	F	
Barn Owl	X	C	
Barn Swallow	S	C	
Barred Owl	X	U	
Belted Kingfisher	X	F	
Bewick's Wren	X	F	
Black-backed Woodpecker	X	F	
Black-billed Magpie	X	C	
Black-capped Chickadee	W	F	
Black-chinned Hummingbird	S	F	
Black-crowned Night Heron	S	F	
Black-headed Grosbeak	S	F	
Black-throated Grey Warble	S	F	
Blue Grouse	X	F	
Blue-winged Teal	S	F	
Bohemian Waxwing	W	F	
Boreal Owl	X	F	
Brewer's Blackbird	X	C	
Brewer's Sparrow	S	F	
Brown Creeper	X	F	
Brown-headed Cowbird	S	C	
Bufflehead	X	C	
Burrowing Owl	S	R	
California Valley Quail	X	C	
Calliope Hummingbird	S	F	
Canada Goose	X	C	
Canyon Wren	X	C	
Caspian Tern	S	F	
Cassin's Finch	X	C	

Deschutes County Planning Unit, 1992.

*Selected List	Use	Relative	Use	Relative	Releative
	Period	Abundance	Period	Abundance	Abundance
Species	Period	Abundance	W=Winter	S=Summer	Key
Cedar Waxwing	X	C			R = Rare
Chipping Sparrow	S	C			F = Few
Chukar Partridge	X	R			C = Common
Claifornia Gull	X	C			A = Abundant
Clark's Nutcracker	X	C			U = Unknown
Cliff Swallow	S	C			
Common Bushtit	X	C			
Common Crow	X	R			
Common Loon	S	R			
Common Merganser	X	C			
Common Nighthawk	S	C			
Common Raven	X	C			
Common Snipe	S	F			
Coopers Hawk	X	C			
Dark-eyed Junco	X	A			
Dipper	X	F			
Double-crested Cormorant	S	C			
Downy Woodpecker	X	C			
Dusky Flycatcher	S	F			
Eared Grebe	W	F			
Eastern Kingbird	S	F			
Evening Grosbeak	X	C			
Ferruginous Hawk	S	F			
Flammulated Owl	S	F			
Fox Sparrow	S	C			
Franklin's Gull	S	F			
Gadwall	W	F			
Golden Eagle	X	F			
Golden-crowned Kinglet	X	F			
Goldeneye	X	C			
Goshawk	X	F			
Gray Jay	X	C			
Gray Partridge	X	R			
Great Blue Heron	X	C			
Great Gray Owl	X	F			
Great Horned Owl	X	C			
Greater Yellowleg	S	F			
Green Heron	S	R			
Green-tailed Towhee	S	F			
Green-winged Teal	X	F			
Hairy Woodpecker	X	C			

Deschutes County Planning Unit, 1992.

*Selected List	Use	Relative	Use	Relative	Releative
	Period	Abundance	Period	Abundance	Abundance
Species	Period	Abundance	W=Winter	S=Summer	Key
Hammond's Flycatcher	S	F			
Hermit Thrush	S	F			
Hooded Merganser	X	F			
Horned Lark	X	F			
House Finch	X	C			
House Sparrow	X	C			
House Wren	S	F			
Killdeer	X	C			
Lark Sparrow	S	F			
Lazuli Bunting	S	F			
Least Sandpiper	S	F			
Lesser Goldfinch	X	R			
Lesser Scaup	W	C			
Lewis' Woodpecker	S	F			
Lincoln's Sparrow	X	F			
Loggerhead Shrike	X	F			
Long-billed Curlew	S	R			
Long-billed Marsh Wren	S	F			
Long-eared Owl	X	F			
MacGillivray's Warbler	S	F			
Mallard	X	C			
Merlin	W	R			
Mountain Bluebird	X	C			
Mountain Chickadee	X	C			
Mourning Dove	X	C			
Nashville Warbler	X	F			
Northern Harrier	X	F			
Northern Oriole	S	F			
Northern Phalarope	S	F			
Three-toed Woodpecker	X	F			
Olive-sided Flycatcher	S	C			
Orange-crowned Warbler	S	F			
Osprey	S	C			
Peregrine Falcon	X	R			
Pileated Woodpecker	X	F			
Pine Grosbeak	X	R			
Pine Siskin	X	C			
Pinon Jay	X	C			
Pintail	W	C			
Prairie Falcon	X	C			



## DESCHUTES COUNTY WILDLIFE

0119-0199

Deschutes County Planning Unit, 1992.

*Selected List	Use	Relative	Use	Relative	Releative
	Period	Abundance	Period	Abundance	Abundance
Species	Period	Abundance	Period	Abundance	Abundance
Purple Finch	X	F			
Pygmy Nuthatch	X	C			
Pygmy Owl	X	F			
Red Crossbill	X	F			
Red-breasted Nuthatch	X	C			
Redhead	W	F			
Red-shafted Flicker	X	C			
Red-tailed Hawk	X	C			
Red-winged Blackbird	X	C			
Ring-billed Gull	X	C			
Ring-neck Duck	W	F			
Ring-necked Pheasant	X	F			
Robin	X	C			
Rock Dove	X	C			
Rock Wren	S	C			
Rosy Finch	X	R			
Rough-legged Hawk	W	C			
Rough-winged Swallow	S	F			
Ruby-crowned Kinglet	X	F			
Ruffed Grouse	X	F			
Rufous Hummingbird	S	F			
Rufous-sided Towhee	X	F			
Sage Grouse	X	F			
Sage Sparrow	S	R			
Sage Thrasher	S	C			
Sandhill Crane	S	F			
Savannah Sparrow	S	C			
Saw-whet Owl	X	F			
Say's Pheobe	S	F			
Screech Owl	X	F			
Semipalmated Plover	S	R			
Sharp-shinned Hawk	X	F			
Short-eared Owl	S	F			
Shoveler	W	F			
Snowy Egret	S	F			
Solitary Vireo	S	F			
Song Sparrow	X	F			
Sora	S	F			
Spotted Owl	X	F			
Spotted Sandpiper	S	F			
Starling	X	C			

*Selected List	Use Period Key	Relative Abundance Key
		R = Rare
		F = Few
	X=Year Around	C = Common
	S=Summer	A = Abundant
	W=Winter	U = Unknown
Species	Use Period	Relative Abundance
Steller's Jay	X	F
Swainson's Hawk	S	R
Swainson's Thrush	S	F
Townsend's Solitaire	X	C
Tree Swallow	S	C
Turkey	X	C
Turkey Vulture	S	C
Varied Thrush	X	F
Vaux's Swift	S	F
Vesper Sparrow	S	F
Violet-green Swallow	S	C
Virginia Rail	S	F
Warbling Vireo	S	F
Water Pipit	X	F
Western Bluebird	S	F
Western Flycatcher	S	F
Western Grebe	S	C
Western Kingbird	S	F
Western Meadowlark	S	C
Western Sandpiper	S	F
Western Tanager	S	F
Western Wood Pewee	S	F
White-breasted Nuthatch	X	F
White-crowned Sparrow	S	F
White-headed Woodpecker	X	F
Wigeon	X	F
Williamson's Sapsucker	X	F
Willow Flycatcher	S	R
Wilson's Phalarope	S	R
Wilson's Warbler	S	F
Winter Wren	X	F
Wood Duck	S	F
Yellow Warbler	S	F
Yellow-bellied Sapsucker	X	F
Yellow-headed Blackbird	S	F
Yellowthroat	S	F

**Amphibians and Reptiles**

Bullfrog	X	F
Cascades Frog	X	F

TABLE 1

## DESCHUTES COUNTY WILDLIFE

0119-0201

## Deschutes County Planning Unit, 1992.

*Selected List	Use Period Key	Relative Abundance Key
		R = Rare
		F = Few
	X=Year Around	C = Common
	S=Summer	A = Abundant
	W=Winter	U = Unknown
Species	Use Period	Relative Abundance
N. Grasshopper Mouse	X	F
Northern Water Shrew	X	F
Norway Rat	X	F
N. Pocket Gopher	X	U
Ord's Kangaroo Rat	X	C
Pacific Mole	X	U
Pallid Bat	S	U
Pine Marten	X	C
Pinon Mouse	X	F
Porcupine	X	C
Pronghorn Antelope	X	C
Raccoon	X	C
Red Fox	X	F
River Otter	X	C
Rocky Mtn Elk	X	C
Roosevelt Elk	X	C
Sagebrush Vole	X	C
Shorttail Weasel	X	F
Silver-haired Bat	S	U
Small-footed Myotis	S	U
Snowshoe Hare	X	F
Striped Skunk	X	C
Townsend Ground Squirrel	X	C
Townsend's Big-eared Bat	X	F
Trowbridge Shrew	X	F
Vagrant Shrew	X	U
Water Vole	X	C
Western Gray Squirrel	X	C
Western Harvest Mouse	X	C
Western Jumping Mouse	X	F
Western Pipistrel	S	U
Whitetail Jackrabbit	X	R
Wolverine	X	R
Yellow Pine Chipmunk	X	C
Yellow-bellied Marmot	X	F
Yuma Myotis	X	F

TABLE 1

## DESCHUTES COUNTY WILDLIFE

0119-0202

Deschutes County Planning Unit, 1992.

*Selected List	Use Period Key	Relative Abundance Key
		R = Rare
		F = Few
	X=Year Around	C = Common
	S=Summer	A = Abundant
	W=Winter	U = Unknown
Species	Use Period	Relative Abundance
Common Garter Snake	X	F
Ensatina	X	R
Gopher Snake	X	C
Great Basin Spadefoot Toad	X	F
Long-toed Salamander	X	F
Night Snake	X	U
Northern alligator Lizard	X	F
Pacific Tree Frog	X	C
Racer	X	F
Red-legged Frog	X	F
Roughskin Newt	X	R
Rubber Boa	X	F
Sagebrush Lizard	X	F
Sharp-tailed Snake	X	U
Short-horned Lizard	X	R
Side-blotched Lizard	X	U
Spotted Frog	X	F
Striped Whipsnake	X	U
Tailed Frog	X	F
Western Fence Lizard	X	C
Western Rattlesnake	X	F
Western Skink	X	F
Western Toad	X	F

FISH HABITAT

The many streams, lakes and reservoirs found in Deschutes County provide not only for a large fish population, but also for great variety in species. Each year many hundreds of thousands of angler days are spent in the pursuit of an equally huge number of fish. East and Paulina Lakes alone produced 154,027 fish during 1968. Table 2 identifies the local fish species and how they are distributed throughout the county.

Naturally spawning populations of native rainbow trout and whitefish along with introduced populations of rainbow, brown and brook trout and kokanee salmon are present in streams and reservoirs. Most natural lakes were historically barren of fish populations but today nearly all suitable lakes are stocked annually with fingerling or legal sized rainbow, brook, brown and cutthroat trout and kokanee, coho and Atlantic salmon. Lake trout have been introduced into Big Cultus Lake and have established a natural producing population. Most lakes do not provide suitable spawning habitat and populations can only be maintained by continued stocking. Stocking and management programs are designed to provide a diverse array of opportunities for resident and visiting anglers. It is important to sustain the naturally producing populations and to balance stocking programs with the proper habitats. One native species, the bull trout, has disappeared from the county due to a combination of habitat degradation, overfishing and competition from introduced species.

Historically, summer steelhead that spawned in the upper reaches of Squaw Creek were the only anadromous populations that reached Deschutes County. A series of natural barriers west of Terrebonne blocked access to the Upper Deschutes River. The construction of Round Butte Dam in the 1960's created an additional barrier and blocked the runs into Squaw Creek.

An illegal introduction, the Tui Chub or roach, has prospered in Big and Little Lava Lakes, David Lake, East Lake, Paulina Lake, Crane Prairie Reservoir and Wickiup Reservoir and competes vigorously with the desirable trout populations. Control efforts have been attempted, but have generally provided only short term relief.

Warmwater game fish such as bass and bluegill have been introduced into numerous private ponds but provide little recreation to the general public. An illegal, release (early 1980's) of largemouth bass into Crane Prairie Reservoir has

prospered and provides a popular fishery. Fortuitously, this introduction appears to have had little adverse effect on the premier trout fishery in the reservoir.

Some fish habitat has been lost or damaged by man's activities. Most of the damage has occurred along the Deschutes River with lesser damage along the Little Deschutes River. Dredging, filling, riparian vegetation removal, and some types of stream bank protection have resulted in major loss of fisheries habitat. A large wood structure was removed from the river in the early 1900's to facilitate log drives. Cattle grazing has damaged riparian vegetation with most damage occurring along the Little Deschutes River. Four dams within Bend's city limits impede fish passage and considerable fish loss occurs when fish pass through the Pacific Corporation hydro plant turbines.

However, the major fish production loss is related to the water flow manipulation associated with the Deschutes River irrigation system. Between Wickiup Dam and Bend (62 river miles) the extreme low winter flow (20 cfs) and the wide range of flow fluctuations (20 cfs to 2100 cfs at Wickiup Dam) have resulted in dewatered spawning areas, reduced rearing habitat, high turbidity levels, decreased fish food production, stranding losses, and elimination of several cover components (large wood, undercut banks, and riparian vegetation).

The most drastic impacts are in the first 27 miles above Fall River (River Mile 200). Tributary inflow from Fall River, Little Deschutes River (River Mile 193) and Spring River (River Mile 190) has moderated the impacts of the present flow regime to some degree in the remaining 35 miles down to Bend.

Wickiup and Crane Prairie Dams have blocked access to high quality spawning areas and cut off the downstream transfer of gravel into lower spawning areas. While the reservoirs have created popular fisheries and recreation areas, the extreme fluctuations arising from irrigation withdrawal/storage detracts from their potential.

At Bend nearly all of the remaining flow is diverted into the irrigation system from early April through Mid-October. Summer flows below Bend are about 30 cfs until major springs add considerable volume below Lower Bridge. Natural summer flows were 1400 - 1600 cfs. The low summer flow results in very high water temperatures (high 70's to low 80's degrees F) and greatly reduced rearing areas in the 35 stream miles above Lower Bridge. Trout populations appear to be maintaining themselves at a low level, while populations below the spring inflow are excellent.

Other streams with major irrigation driven impacts are Squaw

Creek, Indian Ford Creek, Tumalo Creek and Paulina Creek. Sections of all of these streams are completely dewatered during the irrigation season. Unscreened and inadequately screened irrigation diversions are another major source of fish production loss. Any fish entering these diversions is lost when the canals are dewatered at the end of the irrigation season. There are hundreds of miles of main canals and lateral ditches within the county and the extent of the fish loss is unknown. A recent (1991) study did estimate a loss of over 2600 trout in 13 miles of one major diversion canal off the Deschutes River. The canal was screened, but obviously the screen design was inadequate.

Historical fish populations were thought to be some of the best in the Pacific Northwest. Lake stocking programs have expanded the fishery resource throughout the county, but river populations have been greatly degraded.

Improvement in the extreme low flows and modification to the widely fluctuating flow regimes are critical to restoration efforts. Table 2 provides minimum recommended stream flows. These recommendations are not being met in any of the streams where flows are being diverted for irrigation.

The need for water conservation actions, improved irrigation systems, and alternative water sources is widely recognized. Recent state legislation facilitates developing and implementing such programs. A pilot project to evaluate irrigation canal lining is currently being implemented.

A substantial reduction in the loss of fish entering irrigation diversion canals is a key element in fish population restoration. Existing state laws require screening and recent legislation has expanded this to include the smaller diversions. This same legislation provides funding and technical assistance for implementing a screening program.

Alteration of stream banks and riparian areas continues to erode fish habitat. Existing state and county laws and ordinances provide considerable protection for stream banks and beds, wetland and flood plains. A 10-foot strip of streamside vegetation is protected by county ordinance. However, since all violations are not recognized and/or reported, prevention is a better means of protection than enforcement. Recent joint agency efforts have attempted to notify riverfront landowners and the real estate industry.

There is considerable support to restore the degraded fish habitats. ODFW and the U.S. Forest Service are active in planning, funding and implementing a variety of restoration projects. There is an unusually large number of active, dedicated volunteers willing to donate time, money and services toward restoration efforts. Some private landowners

have expressed a commitment to restore or enhance habitat on their property. A unique mitigation plan tied to the Central Oregon Irrigation District hydro project will provide a substantial funding base for Deschutes River restoration efforts.

0119-0206

FISH HABITAT INVENTORY AND ESEE ANALYSIS

Inventory, Location, Quantity and Quality:

The inventory of the fish resource is contained in Table 2. Table 3 identifies the minimum stream flows necessary for fish in the Deschutes River Basin.

The Deschutes County/City of Bend River Study has been incorporated by amendment into this portion of the Resource Element (Ordinance 86-019). Chapter 5 of the River Study contains a detailed inventory of the fish habitat resource.

The Oregon Department of Fish and Wildlife has applied for instream water rights for the benefit of fish on the Deschutes River, Fall River, Indian Ford Creek, Squaw Creek, and Tumalo Creek. Table 4 describes the specific location of the instream water rights.

Conflicting Uses:

The major conflicts with the fish resource are removal of riparian vegetation, fill and removal activities within the bed and banks of streams or wetlands, hydroelectric facilities, rural residential development and water regulation.

The Deschutes County/City of Bend River Study identifies development of hydroelectric facilities as a potential conflict with fish habitat. Dredging, or fill and removal within the bed and banks of rivers and streams, removal of riparian vegetation and some types of stream bank protection cause loss of fish habitat. The major fish production loss is related to the water flow manipulation associated with the Deschutes River irrigation system. The fluctuation of water levels results in dewatered spawning areas, reduced rearing habitat, high turbidity, increased sediments in spawning gravels, decreased fish food production, stranding losses and elimination of several cover components including large wood, undercut banks, and riparian vegetation. Lack of screening on irrigation diversions also causes a loss in population of fish.

Rural residential development adjacent to streams and wetlands can cause conflict by increasing the impermeable surfaces, increasing sewage runoff, disruption of natural



hydroelectric patterns, depletion of the water table and increasing erosion.

**Economic, Social, Environmental and Energy Consequences of conserving significant fish habitat**

For an analysis of the ESEE consequences see the following documents which are hereby incorporated by reference:

- a. Deschutes County/City of Bend River Study, April 1986, Chapter 3, pages 3-1 through 3-33; Chapter 4, pages 4-1 through 4-50; Chapter 5, pages 5-1 through 5-23; Chapter 7, pages 7-1 through 7-30; and Chapter 13, pages 13-1 through 13-42.
- b. River Study Staff Report, May 1986.

**Conclusion:** Based on the ESEE analysis, the county finds that the identified fish habitat and the conflicting uses are important relative to each other. Therefore, the county determines that conflicting uses should be specifically limited and the resource should be protected through a "3C" designation.

**Program to Achieve the Goal (Conserve Fish Habitat)**

The Deschutes County City of Bend River Study was completed in April 1986. The Board of Commissioners has adopted amendments to the comprehensive plan and the following ordinances to implement the River Study and provide protection for fish habitat.

Ordinance No. 86-018 amended Ordinance No. PL-15 to prohibit hydroelectric facilities in designated stretches of the Deschutes River and its tributaries, and to allow hydroelectric facilities in designated stretches of the Deschutes River and its tributaries, and to allow hydroelectric facilities as conditional uses in designated zones and stretches of the Deschutes River. (Title 18.96 and 18.116.130 and 18.128.040(W), Deschutes County Code).

Ordinance No. 86-056 amended Ordinance No. PL-15 to require a conditional use permit for any fill and removal, including removal of vegetation, within the bed and banks of any stream or wetland. The bed and banks of a stream is defined to include 10 feet on either side of the container of the waters of a stream. (Title 18.128.040(W), Deschutes County Code).

Ordinance No. 86-054 amended Ordinance No. PL-15 to require conservation easements as a condition of

approval for land use actions on property adjacent to certain rivers and streams. (Title 18.116.310, Deschutes County Code).

0119-0208

Ordinance No. 86-053 amended PL-15 requirements for rimrock setbacks. (Title 18, all zones).

Ordinance 89-030 amended the Deschutes County Comprehensive Plan for Flood Hazard zones.

Ordinance 88-031 amended PL-15 to establish a new Flood Plain zone and use restrictions. (Title 18.96, Deschutes County Code)

Ordinance 89-009 established specific restrictions for boat docks, slips, piers or houses in the Flood Plain zone. (Title 18.96 and 18.116.070, Deschutes County Code).

All zones in Title 18 have a stream setback provision to protect fish and wildlife areas. The setback requirement is 100 feet from the ordinary high water mark along all streams or lakes. The provision applies to all structures and sewage disposal installations.

These ordinances along with the Landscape Management Zone, the Oregon State Scenic Waterway and the Federal Wild and Scenic designations on segments of the certain rivers and streams are the implementing measures to protect the fish habitat Deschutes River, its tributaries and inventoried lakes. The county notifies the Department of Oregon Department of Fish and Wildlife of all requests for fill and removal or development proposals in the flood plain zone, Wildlife Area Combining Zone, or along any designated river or stream.

TABLE 2 - FISH SPECIES DISTRIBUTION IN DESCHUTES COUNTY

	Atlantic Salmon	Coho Salmon	Rainbow Trout	Brown Trout	Cutthroat Trout	Brook Trout	Lake Trout	Dolly Varden Trout	Kokanee	Mountain Whitefish	Largemouth Bass	Bluegill	Brown Bullhead	Bridgellip Sucker	Tui Chub	Gayling	Crayfish
Tyee Creek						2											
Hell Creek						2											
Spring River				2		2				1					2		1
Tumalo Creek			1			2											
Bridge Creek						2											
Fall Creek						2											
Satan Creek						2											
Soda Creek						2											
Crater Creek						2											
Goose Creek						2											
Indian Ford Creek			1			2								2			
Trout Creek			1														
Alder Creek			1														
Squaw Creek			1			2											
Pole Creek						2											
Snow Creek			1			2											
Deschutes River		3	*	2		2			3	1					2		1
Little Deschutes River			1	2		2				1			2		2		1
Park Creek						2											
Three Creeks Creek			3			3											
Sink Creek						2											
Deer Creek			1			2											
Quinn River			*			2			2	1					2		1
Quinn Creek	3					2											
Cultus Creek			*			2											
Cultus Lake, Big			3			2	2			1					2		1
Cultus Lake, Little			2			3											
Cultus River						2			2	1							
Moore Creek						2											
Charlton Creek						2											
Long Prairie Slough													2				2
Browns Creek			2	2		2			#	1							1
Fall River			*	2		2				1					2		1
Paulina Creek			3												2		1
Cache Creek			1														
Crane Prairie Res.			*			#			2	1	2				2		1
Wickiup Reservoir		3	3	#					#	1					2		1
Three Creeks Lake			3			3											
Devil's Lake			3			2											
Hosmer Lake	3					3											1
Irish Lake						3											

0119-0209

- 1 - Native, naturally reproducing
- 2 - Introduced, naturally reproducing
- 3 - Introduced, periodic stocking required to maintain population
- \* - 1 and 3
- # - 2 and 3

TABLE 3  
Recommended Minimum Flows for Fish Life, Deschutes Basin, Deschutes County /1

0119-0210

Stream	J A		P E		M A		A P		M A		J U		J U		A U		S E		O G		N O		D E	
	N.	B.	R.	R.	Y	Y	E	Y	L	G.	T.	T.	V.	C.										
Deschutes River 1	250	250	250	250	250	250	250	250	250	250	250	250	250	250	250	250	250	250	250	250	250	250	250	250
Deschutes River 2	400	400	400	400	400	400	400	400	400	400	400	400	400	400	400	400	400	400	400	400	400	400	400	400
Deschutes River 3	660	660	660	660	660	660	660	660	660	660	660	660	660	660	660	660	660	660	660	660	660	660	660	660
Deschutes River 4	300	300	300	300	300	300	300	300	300	300	300	300	300	300	300	300	300	300	300	300	300	300	300	300
Deschutes River 5	80	80	80	80	80	80	80	80	80	80	80	80	80	80	80	80	80	80	80	80	80	80	80	80
Deschutes River 6	40	40	60	60	60	60	60	60	60	40	40	40	40	60	60	60	60	60	60	60	60	60	60	60
Squaw Creek 7	20	10	10	10	10	10	10	10	10	10	10	10	10	10/20	30	30	20	10	10	10	10	20	20	20
Squaw Creek 8	10	10/20	30	30	30	30	30	30	30	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Indian Ford Creek	4	3	3	3	3	3	3	3	3	3	3	3	3	3/4	6	6	4	4	4	4	4	4	4	4
Tumalo Creek	35	35	47	47	47	47	47	47	47	10	10	10	10	10/35	47	47	35	35	35	35	35	35	35	35
Spring River	300	300	300	300	300	300	300	300	300	300	300	300	300	300	300	300	300	300	300	300	300	300	300	300
Little Deschutes R.	80	80	80	200	200	200	150	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
Fall River	70	70	100	100	100	100	70	50	50	50	50	50	50	50	50	50	50	50	50	50	50	50	50	50
Browns Creek	15	15	25	25	25	25	15	15	15	15	15	15	15	25	25	25	25	25	25	25	25	25	25	25
Quinn River	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20
Cultus Creek	20	20	32	32	32	32	20	5	5	5	5	5	5	5/20	32	32	20	20	20	20	20	20	20	20
Cultus River	50	50	50	50	50	50	50	50	50	50	50	50	50	70	70	70	70	70	70	70	70	70	70	70

TABLE 3 (Continued)  
Recommended Minimum Flows for Fish Life, Deschutes Basin, Deschutes County /1

0119-0211

Stream	J A	F E	M A	A P	M A	J U	J U	A U	S E	O C	N O	D E
	N.	B.	R.	R.	Y	N	L	G.	T.	T.	V.	C.
Low Creek	15	15	30	30	30	20	15	15	15	30	30	20
John Creek	20	20	20	12	12	12	12	12	12/20	35	35	35
Yoda Creek	20	20	20	6	6	6	6	6	6/20	31	31	31
all Creek	35	35	35	20	20	20	20	20	20/35	46	46	46
oose Creek	7	7	7	4	4	4	4	4	4/7	10	10	10
hree Creek	7	7	10	10	10	7	2	2	2/7	10	7	7

1 Flows are expressed in cubic feet per second. The recommended flows should arrive at the point of recommendation and continue to the mouth of the stream or to the next point for which a different flow is recommended. Stream flows recommended in Appendix 1 are designed for game fish production and are not necessarily adequate for wildlife, especially waterfowl and furbearers. Neither would they necessarily be recommended below future impoundments.

- 1 Bend to Round Butte Reservoir
- 2 L. Deschutes R. to Spring River - Supported by Instream Water Right (1990)
- 3 Spring River to Bend - Supported by Instream Water Right (1990)
- 4 Wickiup Dam to Little Deschutes River - Supported by Instream Water Right (1990)
- 5 Crane Prairie Dame to Wickiup Reservoir
- 6 At USGS Gage 14-0500
- 7 Below USGS Gage 14-0750
- 8 Below Camp Polk

TABLE 4

03/11/92

INSTREAM WATER RIGHT PROGRAM  
DATABASE SUMMARY REPORT

0119-0212

BN	STREAM > PARENT STREAM	UPSTREAM LIMIT	DOWNSTREAM LMT	SPECIES	APP NO	CERT #	DATE
** BASIN 05							
05	DESCHUTES R > COLUMBIA R	CRN PRAIRIE RES	WICKIUP RES	RB,BT,BR,CO,K,	070764		10/11/90
05	DESCHUTES R > COLUMBIA R	LITTLE LAVA LK	CRN PRAIRIE RES	RB,BT,K,WF,	070763		10/11/90
05	DESCHUTES R > COLUMBIA R	193.0	190.0		MPS	59777	11/03/83
05	DESCHUTES R > COLUMBIA R	227.0	193.0		MPS	59776	11/03/83
05	DESCHUTES R > COLUMBIA R	190.0	165.0		MPS	59778	11/03/83
05	FALL R > DESCHUTES R	GAGE 14057500	MOUTH	RB,BT,BR,WF,	070762		10/11/90
05	INDIAN FORD CR > SQUAW CR	HEADWATERS	MOUTH	RB,	070760		10/11/90
05	LITTLE DESCHUTES R > DESCHUTES R	CRESCENT CR	MOUTH	RB,BT,BR,WF,	070757		10/11/90
05	METOLIUS R > DESCHUTES R	METOLIUS SPRING	CANYON CR	BUT,K,	070699		09/24/90
05	SNOW CR > DESCHUTES R	NEADWATERS	MOUTH	RB,BT,	070756		10/11/90
05	SQUAW CR > DESCHUTES R	S FK SQUAW CR	INDIAN FORD CR	RB,BT,	070754		10/11/90
05	TUMALO CR > DESCHUTES R	S FK TUMALO CR	MOUTH	RB,BT,BR,	070752		10/11/90

Inventory Information: The deer winter range boundaries are mapped on the Big Game Habitat Area Map.

Location, Quantity and Quality: The Oregon Department of Fish and Wildlife (ODFW) identified the Metolius, Tumalo and North Paulina deer winter ranges during the initial comprehensive planning in the county. The boundaries of these winter ranges are shown on the Big Game Sensitive Area map in the Comprehensive Plan (1978) and have been zoned with the Wildlife Area Combining Zone since 1979.

The Tumalo Winter Range Study, 1977, includes detailed information about the plant communities, physiological needs of deer and use of the habitat area.

ODFW has reviewed the boundaries of the Metolius, Tumalo and North Paulina deer winter ranges and does not recommend any changes to the boundaries at this time. ODFW reports that the deer populations in the county are currently stable. The habitat is important to provide winter feeding areas, thermal and hiding cover and isolation from conflict with human activities. The winter ranges support a population of approximately 15,000 deer.

The deer winter ranges are mostly zoned EFU or Forest with minimum lot sizes ranging from 20 to 80 acres. There is a small amount of land zoned Rural Residential or Multiple Use Agriculture with a 10 acre minimum lot size. The deer winter range is contains Bureau of Land Management, U.S. Forest Service, State, County and private land.

On February 27, 1992, the Ochoco District Office of the Oregon Department of Fish and Wildlife provided information to the planning staff regarding deer winter range in the north east corner of the county, north of the Crooked River, in the Smith Rock State Park area. This area is part of deer winter range that has been identified by ODFW since the late 1970's. It was not identified in the initial comprehensive plan because it is under the jurisdiction of the Ochoco District Office. The area is part of the Grizzly Wildlife Management Unit. The Ochoco District did not participate in Deschutes County's original comprehensive planning process. ODFW recognizes this area as significant deer winter range and recommends that it be included in the Deschutes County inventory and protected with the same measures applied to other deer winter range in the county. The area has been included in the inventory and mapped on the Big Game Habitat Area and Wildlife Area Combining Zone Map.

## Conflicting Uses:

0119-0214

Researchers and the Oregon Department of Fish and Wildlife have identified dwellings, roads and dogs as the major conflicts with wintering deer. Actions which cause deterioration of forage quality and quantity or cover are conflicting uses. Fences that do not allow safe passage of deer are also a conflicting use. Limiting conflicting uses greatly enhances the chances of survival for deer during the winter when they are gathered in the winter range and are competing for forage.

The Department of Fish and Wildlife Land Use Planning Guide (1989) states that destination resorts, because of their intensity and scale of use, can result in direct loss of habitat, interference with migration routes, increase in stress on animals through harassment, increase game caused damage, reduction in overall population levels and curtail recreational hunting opportunities.

### **Economic, Social, Environmental and Energy Consequences of conserving significant deer winter range**

1. **Economic Consequences:** The positive economic consequences of limiting conflicts in deer winter range habitat are the reduction in staff time of ODFW attempting to resolve conflicts between rural residents and wildlife. Deer hunters depend on the survival of healthy deer populations. Deer hunters spend an average of \$46.69 per hunter day; in Deschutes County there are 75,885 deer hunter days per year in the county for a value of \$3,543,100.

The negative economic consequences of applying regulations to limit conflicts in deer winter range are generally borne by individuals prevented from doing an activity such as building a home or road, or dividing land or developing a use which would cause increased traffic or a change in the vegetation which could decrease the quality of the forage or cover.

2. **Social Consequences:** The positive social consequences of limiting development to protect deer winter range are the retention of the stable deer populations for hunters and the public which enjoys viewing wildlife. Negative social consequences are restriction of residential uses and resorts which could provide recreational opportunities. The opportunities to live in rural areas may be somewhat reduced by limiting partitions which would otherwise be allowed by the underlying zoning. Siting standards to protect habitat could result in a property owner not being able to locate a dwelling in the preferred location; however, flexibility can be provided in siting standards to balance the need to protect irrigated farm land and still provide habitat protection.



3. **Environmental Consequences:** Opportunities for big game to flourish in a habitat without repeated interference or disturbance from man would be a positive environmental consequence. Other species of wildlife benefit from large open space environment and a low density of development. Requirements to cluster dwellings or site them near existing roads would limit disturbance of vegetation which provides cover and forage.

4. **Energy Consequences:** The energy consequence from limiting development in deer winter range is a reduction in trip generation associated with development located in rural areas. As a result, development should occur closer to urban areas where services are more available and can be provided with less energy cost.

For additional ESEE consequences see the discussions in the following documents which are hereby incorporated by reference:

- a. The Deschutes County/City of Bend River Study Chapter 6, pages 6-1 through 6-16; Chapter 7, pages 7-1 through 7-30.
- b. River Study Staff Report, May 1986, pages 21-26.
- c. ODFW Central Region Administrative Report No. 86-2 and 92-1.
- d. Tumalo Winter Range Study, 1977.

5. **Conclusion:** Based on the ESEE analysis, the county finds that the identified deer winter range habitat and residential and other conflicting uses within the deer winter range are important relative to each other, and that the conflicts should be balanced by restricting or regulating certain uses and prohibiting others. Therefore, the county determines that conflicting uses should be specifically limited and the resource should be protected through a "3C" designation.

6. **Program to Achieve the Goal (Conserve Deer Winter Range):**

The Wildlife Combining Zone, Title 18.88, (WA) is applied to all areas designated as deer winter range on the Big Game Habitat Wildlife Area Combining Zone Map. The WA zone requires a 40 acre minimum lot size for all new land divisions, prohibits certain conflicting uses (i.e. golf courses, churches, schools etc.), establishes siting and fencing standards, and requires that all land divisions in the Rural Residential (RR-10) or Multiple Use Agriculture (MUA-10) Zone be cluster or planned developments.

The underlying zoning in most of the deer winter range is resource zoning: EFU-20, EFU-40, EFU-80, Forest (F-1, F-2), Flood Plain. These resource zones provide for large lot sizes

and limit uses that are not compatible with farm or forest uses. Because of the low density of development in these zones and the limitations on uses, the resource zones themselves provide considerable protection to wildlife habitat.

The Oregon Department of Fish and Wildlife is notified of any land use action in the WA zone and provides comments on development proposals. The requests of ODFW are usually incorporated into the conditions of approval.

Destination Resorts have been identified as a conflicting use with significant big game habitat. The Board of County Commissioners has adopted a policy (Ordinance 92-040) to prohibit siting of destination resorts in the Wildlife Area Combining Zone pending completion of the Goal 8 mapping process which shall be accomplished by December 31, 1992.

**Inventory Information:** The Bend/La Pine migration corridor was identified in the original comprehensive plan resource element and mapped on the Big Game Sensitive Area map included in the Fish and Wildlife Chapter of the Resource Element of the Deschutes County Year 2000 Comprehensive Plan. Based on on going inventory and study of the corridor by the Oregon Department of Fish and Wildlife which is reported in ODFW Central Region Reports 86-2 and 92-1 the location is more accurately mapped and the rate of use of the corridor has been more accurately identified. The County has mapped the Bend/La Pine deer migration corridor Big Game Habitat Area - Wildlife Area Combining Zone Map.

**Location, Quantity and Quality:** The Oregon Department of Fish and Wildlife identified the Bend/La Pine deer migration corridor which was mapped on the Big Game Sensitive Area Map in the Resource Element of the Comprehensive Plan. The corridor is approximately 56 miles long and 3 to 4 miles wide and parallels the Deschutes and Little Deschutes Rivers. The corridor is used by deer migrating from summer range in the forest along the east slope of the Cascades to the North Paulina deer winter range in Deschutes County and the Hole-in-the-Ground and Devil's Garden winter ranges in north Klamath County.

ODFW has conducted a survey of deer tracks to determine the level of use in the corridor during the migration period. The results of the study are published in the Oregon Department of Fish and Wildlife Central Region Administrative Reports No. 86-2 and 92-1. The reports identify areas of high, moderate and low frequency of use.

The La Pine Area Wildlife/Subdivision Study, 1977, describes the geology, soil hydrology, vegetation, migration routes and other characteristics and conflicts in the migration corridor area.

The underlying zoning in most of the Bend/La Pine deer migration corridor is Rural Residential 10 (RR-10). Although the zone has a 10 acre minimum lot size, much of the development in the La Pine area occurred prior to zoning in the county. There are extensive areas of preexisting subdivisions with lots ranging in size from less than an acre to 5 acres. Most of the RR-10 zone is made up of lots less than the 10 acre minimum lot size.

The planned community of Sun River is located in the migration corridor. The Mule Deer Track Count Study found that the frequency of deer migration in the Sunriver area was low.

The migration corridor includes some EFU-80, Forest and Flood Plain zoned land. The La Pine State Park is zoned Open Space Conservation. These resource zones provide for large lot sizes and limit uses that are not compatible with farm, forest or open space uses. Because of the low density of development in these zones and the limitations on uses, the resource zones themselves provide considerable protection to the migration corridor.

#### **Conflicting Uses:**

Researchers and the Oregon Department of Fish and Wildlife have identified dwellings, roads and dogs as the major conflicts with migrating deer. The ODFW mule deer track count studies document the conflict between dogs and migrating deer through data indicating that when dog tracks increase deer tracks decrease. Fences that do not allow safe passage of deer are also a conflicting use. The areas which are relatively undeveloped with residential uses are the areas that have the highest frequency of deer passage.

Conflicting uses are documented in the ODFW Central Region Administrative Report No. 86-2 and 92-1 and in the La Pine Area Wildlife/Subdivision Study, 1977. These documents are incorporated herein by reference.

Additionally, the ESEEs for surface mines in the deer migration corridor identify the migration corridor as a conflicting use with the surface mining activity. There are four surface mines in the migration corridor (Sites 342, 426, 427, and 432)

#### **Economic, Social, Environmental and Energy Consequences of conserving significant deer winter range**

1. **Economic Consequences:** A positive economic consequences of limiting conflicts in the deer migration corridor is the reduction in staff time of ODFW attempting to resolve conflicts between rural residents and wildlife. Deer hunters depend on the survival of healthy deer populations. Deer hunters spend an average of \$46.69 per hunter day; in Deschutes County there are 75,885 deer hunter days per year in the county for a value of \$3,543,100.

The negative economic consequences of applying regulations to limit conflicts in deer migration corridors are generally borne by individuals prevented from doing an activity such as building a home or road, or dividing land or developing a use which would cause increased traffic or a change in the vegetation which could decrease the quality of the forage or cover. Limiting surfacemining activity could increase the cost of operation of the surface mine.

2. **Social Consequences:** The the positive social consequence of limiting development to protect deer migration corridors is the retention of the stable deer populations for hunters and the public which enjoys viewing wildlife. Negative social consequences are restriction of residential uses and resorts which could provide recreational opportunities. The opportunities to live in rural areas may be somewhat reduced by limiting partitions which would otherwise be allowed by the underlying zoning. Siting standards could limit the ability of people to site their dwellings in their preferred location.

3. **Environmental Consequences:** Opportunities for big game to travel freely without undue disturbance, obstacles or harassment would be a positive environmental consequence of protecting deer migration corridors. Other species of wildlife benefit from undeveloped habitat and a low density of development. Requirements to cluster dwellings or site them near existing roads would limit disturbance of vegetation and provide more open space. Limiting the area available for extraction of aggregate resources provides more area for the deer to pass through in their migration.

4. **Energy Consequences:** Energy consequences from limiting development in the deer migration corridor winter range will be a reduction in vehicle trip generation associated with development located in rural areas. As a result, development should occur closer to urban areas where services are more available and can be provided with less energy cost.

For additional ESEE consequences see the following documents incorporated herein by reference:

- a. The Deschutes County/City of Bend River Study Chapter 6, pages 6-1 through 6-16; Chapter 7, pages 7-1 through 7-30.
- b. River Study Staff Report, May 1986, pages 21-26.
- c. ODFW Central Region Administrative Report No. 86-2 and 92-1.
- d. La Pine Area Wildlife/Subdivision Study, 1977.

5. **Conclusion:** Based on the ESEE analysis, the county finds that the identified deer migration corridor and residential and other conflicting uses within the corridor are important relative to each other, and that the conflicts should be balanced by restricting or regulating certain uses and prohibiting others. Therefore, the county determines that conflicting uses should be specifically limited and the resource should be protected through a "3C" designation.

6. Program to Achieve the Goal (Protect Deer Migration Corridor)

The Bend/La Pine deer migration corridor has been added to the Wildlife Combining Zone by Ordinance 92-040 which adopts comprehensive plan policies regarding the corridor, by ordinance 92-041 which adopts these ESEE findings as part of the Resource Element of the Deschutes County Year 2000 Comprehensive Plan, and by Ordinance 92-046 which amends the zoning map to include the migration corridor as part of the Wildlife Area Combining Zone.

The Wildlife Area Combining Zone, Title 18.88, (WA) has been amended by Ordinance No. 92-042 to require cluster development for all land divisions in the RR-10 zone in the Bend/La Pine migration corridor. A 20 acre parcel is the minimum size required for a cluster development. Although much of the land is already divided into lots less than 5 acres, the 20 acre minimum lot size and the requirement for cluster developments will retain the much of the limited open space important for the passage of deer. The siting standards and fencing standards in the WA zone apply in the deer migration corridor. The fencing standards are those recommended by ODFW to allow for safe passage of the deer.

The Oregon Department of Fish and Wildlife shall be notified of any land use action in the migration corridor and will have the opportunity to comment on development proposals.

The county has created a map of the migration corridor that shows the parcelization pattern in 5 size categories. Most of the land is already divided into parcels 5 acres or less. The county and ODFW will work together to identify priority areas for land acquisition and work with Federal agencies to assure that land important for migration is retained in federal ownership or protected with conservation easements to retain the limited amount of open space in the corridor.

Ordinance 92-040 amended the Comprehensive Plan add the following policies to the Fish and Wildlife Resources chapter:

14. The county shall maintain an inventory of county owned property in the Bend/La Pine deer migration corridor. Prior to sale or exchange of county owned property in the corridor, the county shall consult the Oregon Department of Fish and Wildlife to determine the value of the land for deer migration.
15. The county shall work with ODFW to identify specific areas where the county and ODFW shall encourage public retention and acquisition of land or seek conservation easements for the protection of the migration corridor.

The conflicting use of surface mining activity is limited by Title 18.52.110(K) which limits the extraction area to five acres, excluding access roads, equipment storage areas, processing equipment sites and stockpiles.

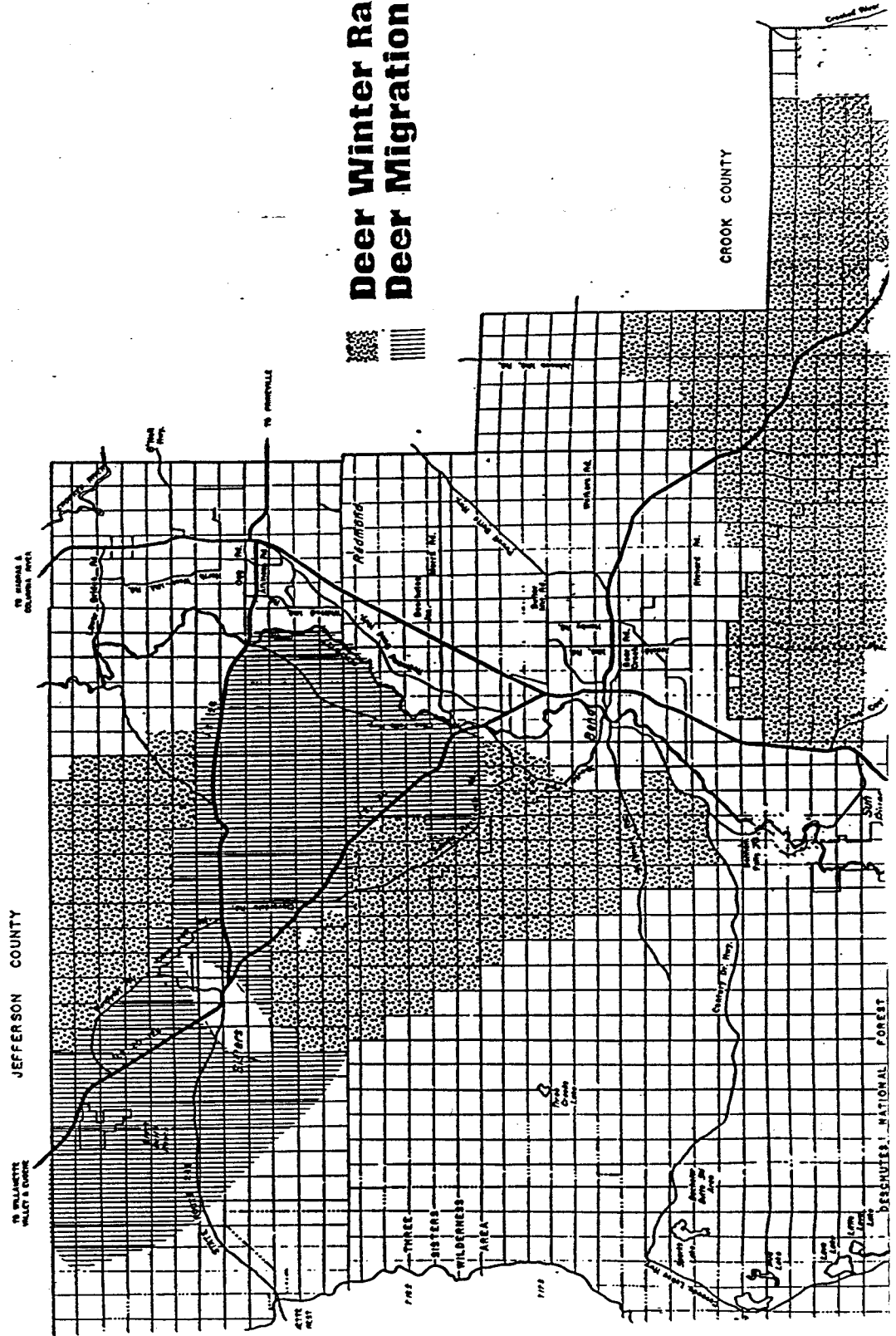
Destination Resorts have been identified as a conflicting use with significant big game habitat. The Board of County Commissions has adopted a policy (Ordinance 92-040) to prohibit siting of destination resorts in the Wildlife Area Combining Zone pending completion of the Goal 8 mapping process which shall be accomplished by December 31, 1992.

#### **Metolius Deer Migration Corridor**

The Oregon Department of Fish and Wildlife has provided the county with a map showing the overall boundary of the migration corridor used by deer to move between the summer range and the Metolius and Tumalo winter ranges and between the two winter ranges. The general corridor boundary is identified on the attached "1B" Deer Migration Corridor Map. However, ODFW is not able at this time to provide the the County with documented evidence of the precise location or quantity of the resource. Migration occurs throughout the identified area, however ODFW does not have specific information on the numbers of animals, or density of use except for Oregon Department of Transportation road kill reports. ODFW may be able to study the migration corridor with the use of radio collars. However, budget constraints may limit the study.

Because there is insufficient information on the location, quality and quantity of the resource for the Metolius deer migration corridor, the County is designating the corridor as a "1B" Goal 5 resource. Ordinance 92-040 adopted Policy 13 which requires the county to review the "1B" Metolius migration corridor during the next periodic review or as additional information on the location, quality and quantity of the resource becomes available.

# "1B" DEER MIGRATION CORRIDOR



0119-0222



ELK HABITAT

0119-0223

Description: Elk habitat significant for calving, summer and winter range.

Inventory, Location, Quality and Quantity: The Land and Resource Management Plan for the Deschutes National Forest identifies 6 key elk habitat areas in Deschutes County. The Oregon Department of Fish and Wildlife also recognizes these areas as critical elk habitat for calving, winter or summer range. Except for the Ryan area, ODFW confirms the boundaries of the habitat areas identified by the Forest Service. In the Ryan area, ODFW has expanded the boundary north to Forest Service Road 4601. The following areas are mapped on the Big Game Habitat Area Map and in maps in the Deschutes National Forest Land and Resource Management Plan Appendix 16.

Tumalo Mountain  
Kiwa  
Ryan  
Fall River  
Crane Prairie  
Clover Meadow

Biologists from the Deschutes National Forest and Oregon Department of Fish and Wildlife have also identified two additional areas which are presently used by elk; however, there is not sufficient information to establish that these areas are significant habitat which require additional protection. The ODFW has not conducted population surveys of these areas to determine the extent of use or the importance of the Goal 5 habitat. Therefore, these two areas will be included in the inventory as 1B habitat areas and will be addressed through the Goal 5 process in the next periodic review, or prior to that time as post acknowledgement plan amendment if sufficient information on the location, quality and quantity is available to complete the Goal 5 review process.

The first 1B area is adjacent to the Fall River habitat area and is located between the Deschutes and Little Deschutes Rivers in townships 21S, 22S, and 23S. The second area is adjacent to the Ryan habitat area and extends north from the Inn of the 7th Mountain and includes the area between the forest boundary and the east boundary of the Tumalo deer winter range. These two areas are identified on the maps entitled La Pine "1B" Elk Habitat Area and Bull Flat "1B" Elk Habitat Area.

**Conflicting Uses:**

Tumalo Mountain, Kiwa and Crane Prairie, and Clover Meadow

are located entirely within the national forest and are managed under the Deschutes National Forest Land and Resource Management Plan to protect their value as elk habitat areas. The zoning on these areas is Forest (F-2 or F-1), Landscape Management Combining Zone - LM, Open Space Conservation - OS&C, or Flood Plain - FP. Ryan and Fall River habitat areas are adjacent to and include some private land; the areas contain F-1, F-2, LM, Surface Mining - SM, and FP zoning. Except for the surface mining site, there are no other identified significant Goal 5 resources which would conflict with elk habitat.

The major conflict is the loss of habitat due to increased residential densities in the habitat areas. Increased human disturbance (i.e. snowmobilers, cross county skiers, dogs, residential development, new roads) can cause conflict with elk. The use of land which necessitates the removal of large amounts of vegetative cover can also alter the quality of elk habitat.

### **Economic, Social, Environmental and Energy Consequences of conserving significant elk habitat**

1. **Economic Consequences:** The positive economic consequences of limiting conflicts with elk habitat are the reduction in staff time of ODFW attempting to resolve conflicts between rural residents and wildlife. Hunters depend on the survival of healthy elk populations. Elk hunters spend an average of \$48.94 per hunter day and in Deschutes County there are 10,108 elk hunter days, per year with a value to the local economy of \$494,690.

The negative economic consequences of applying regulations to limit conflicts in significant elk habitat are generally borne by individuals prevented from doing an activity such as building a home or road, or dividing land, or developing a use which would cause increased traffic or a change in the vegetation which could decrease the quality of the forage or cover. However, since the elk habitat is generally zoned for forest use, the restrictions to protect forest land require relatively large minimum lot sizes and dwellings are not an outright permitted use. Protection of vegetation for habitat and cover could limit the harvest of commercial tree species.

2. **Social Consequences:** The positive social consequences of limiting development to protect elk habitat are the retention of the elk populations for the enjoyment of the public. The negative social consequence is limited to the small amount of private land identified as significant elk habitat. In order to limit the density of development, private land owners may be prohibited

from dividing their land and constructing a dwelling on a new parcel.

0119-0225

3. **Environmental Consequences:** Opportunities for big game to flourish in a habitat without repeated interference or disturbance from man would be a positive environmental consequence. Other species of wildlife benefit from large open space environment and a low density of development.
4. **Energy Consequences:** The energy consequence from limiting development in elk habitat will be a reduction in trip generation associated with development located in rural areas. As a result development should occur closer to urban areas where services are more available and can be provided with less energy cost.

For additional ESEE consequences see the following documents which are hereby incorporated by reference:

- a. The Deschutes County/City of Bend River Study Chapter 6, pages 6-1 through 6-16; Chapter 7, pages 7-1 through 7-30.
  - b. River Study Staff Report, May 1986, pages 21-26.
5. **Conclusion:** Based on the ESEE analysis, the county finds that the identified elk habitat and residential, recreational and other conflicting uses of lands within the habitat are important relative to each other and that the conflicts and the value of the habitat should be balanced by regulating or restricting certain uses and prohibiting others. Therefore, the county determines that conflicting uses should be specifically limited and the resource should be protected through a "3C" designation.
  6. **Program to Achieve the Goal (Conserve Significant Elk Habitat):** The Wildlife Area Combining Zone, Title 18.88 (WA) zone will be applied to all areas identified as significant elk habitat. The county WA Zone has been amended to require a 160 acre minimum lot size for areas identified as significant elk habitat. Certain uses normally allowed in the underlying zones are also prohibited in the WA zone, and siting standards to minimize the conflict of residences with habitat protection are required.

The underlying zoning in the elk habitat areas is either Flood Plain, Forest, or Open Space and Conservation. These resource zones restrict high density residential development and prohibit industrial and commercial uses. Most of the elk habitat is managed by the Deschutes National Forest. The Deschutes National Forest Land and

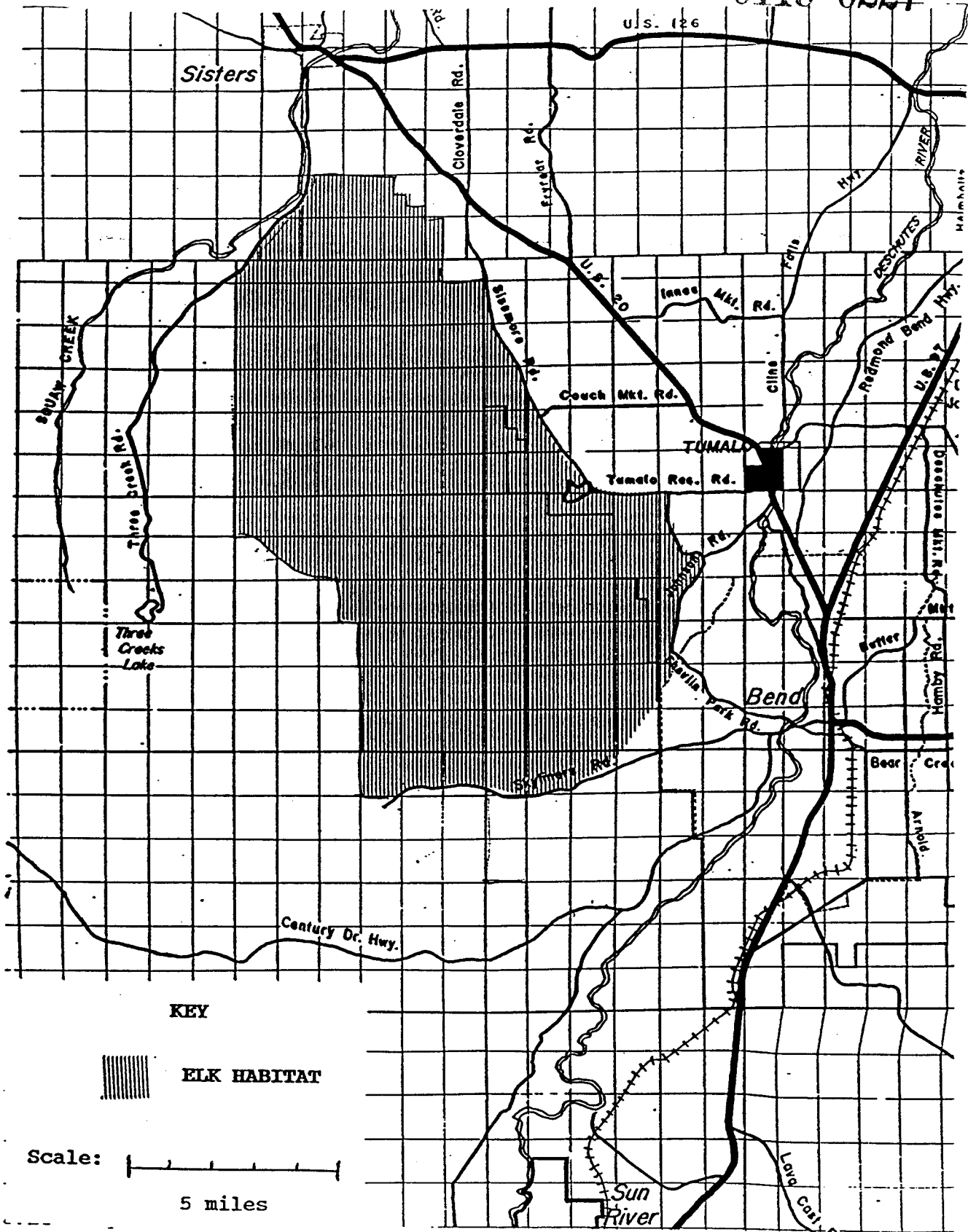
Resource Management Plan establishes specific elk habitat management objectives for each identified area.

A comprehensive plan policy to require review of the two 1B elk habitat areas in the next county periodic review shall be adopted.


Destination Resorts have been identified as a conflicting use with significant big game habitat. The Board of County Commissioners has adopted a policy (Ordinance 92-040) to prohibit siting of destination resorts in the Wildlife Area Combining Zone pending completion of the Goal 8 mapping process which shall be accomplished by December 31, 1992.


# BULL FLAT "1B" ELK HABITAT AREA

0119-0227



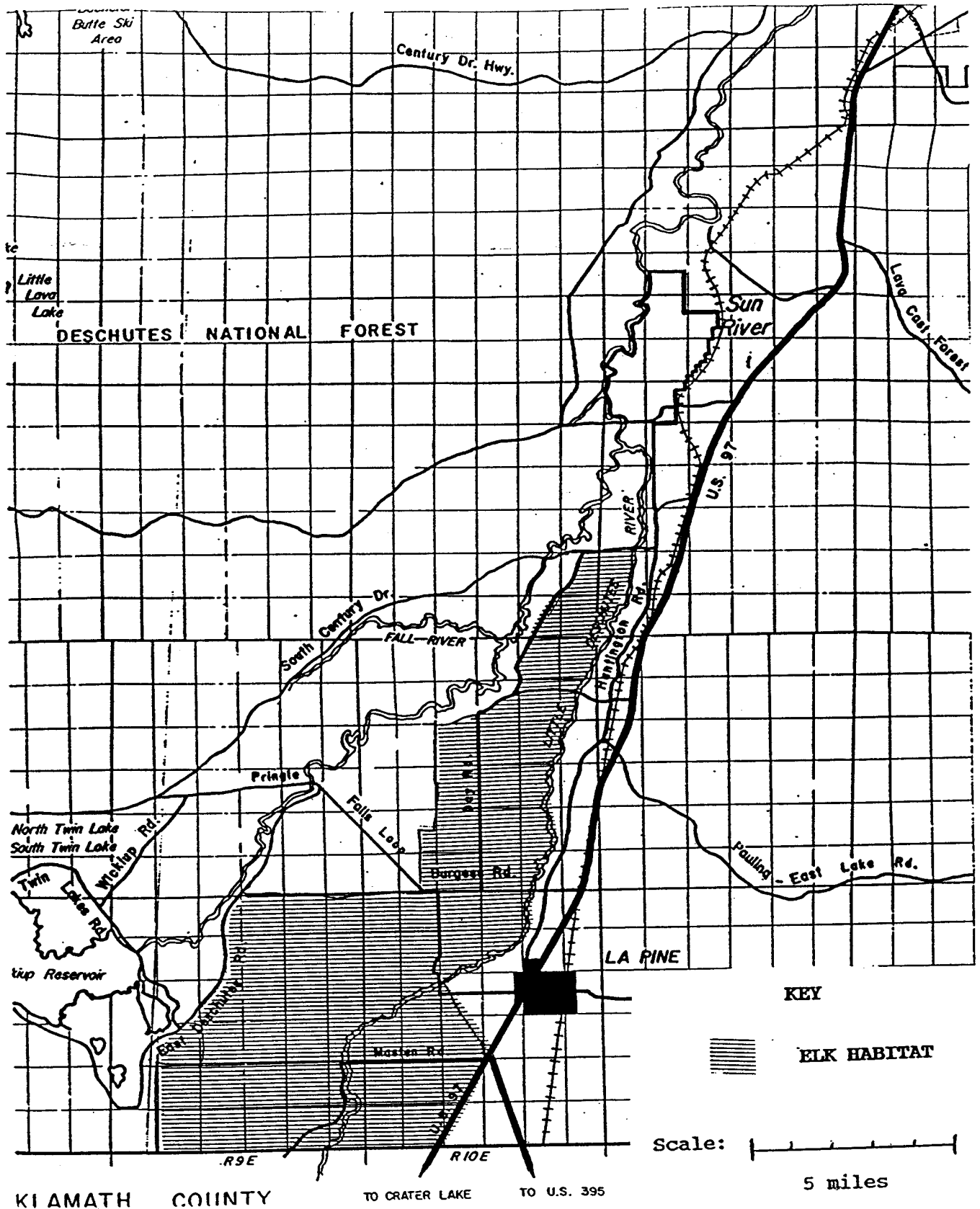
**KEY**

 **ELK HABITAT**

Scale:   
5 miles

# LA PINE "1B" ELK HABITAT AREA

## 0119-0228



KIAMATH COUNTY

TO CRATER LAKE TO U.S. 395

5 miles

Inventory Information: The Bend and Ochoco District offices of the Oregon Department of Fish and Wildlife have provided maps of the antelope range and antelope winter range. The available information is adequate to indicate that the resource is significant. The antelope habitat is mapped on the Big Game Habitat-Wildlife Area Combining Zone Map.

Location, Quantity and Quality:

In 1978 the Oregon Department of Fish and Wildlife identified antelope range in the eastern part of Deschutes County. This area is known as the North Paulina antelope range. The area is mapped on the Big Game Habitat-Wildlife Area Combining Zone Map.

The antelope winter range areas are Millican and Kotzman Basin in the Bend ODFW District and the Hampton/Brothers area in the Ochoco District. These areas are where the antelope typically congregate in herds during the winter months. During the spring, summer and fall the animals are more dispersed throughout the range. These winter ranges are zoned EFU 320.

ODFW has provided new information on expansion of the North Paulina antelope range. The expanded habitat area includes land in T18S, R14E; and T19S, R14E and R15E. The area is predominately Bureau of Land Management (BLM) land. The land is zoned EFU 40.

Most of the antelope range is zoned EFU-320. The area inside of the Deschutes National Forest boundary is zoned Forest (F-1) with an 80 acre minimum lot size.

The communities of Brothers, Millican and Hamilton are located within the antelope range. These communities have limited area zoned Rural Service Center (RSC). Millican also and Hamilton also have approximately 15 acres zoned Rural Service Center - 5 (RSR-5). The area zoned RSC and RSR-5 is less than 40 acres for each center.

The vegetation in the antelope range is sage, juniper and bitterbrush plant community. In the summer antelope require rather open terrain with a good supply of forbs and grasses coupled with some rather thick stands of sage brush for concealment of young. Winter habitat requires extensive flat areas of mainly forbs, low sage and grasses.

Conflicting Uses: Land uses or development activities which would result in the loss of habitat, and animal harassment and disturbance associated with human activity. Except for the rural service centers, the antelope habitat is zoned

EFU-40, EFU-320 or F-1. The uses permitted and conditionally permitted in the EFU and Forest zone are listed in Title 18.16 and 18.36 and 18.40. Agricultural use (grazing) practiced in the area is not a conflicting use according to ODFW. Antelope are currently causing agricultural damage to a pivot irrigated alfalfa operation during the late fall and winter months.

0119-0230

Residential development at a density greater than 1:320 could be a conflicting use. High use recreational facilities, or uses which would cause congregation of people such as churches or schools could be conflicting uses. The ODFW Wildlife Guide for Land Use Planning recommends an acceptable density of development in the antelope winter range of 1:320 acres.

The uses permitted in the RSC and RSR-5 zone are listed in 18.64 and 18.72. Because the extent of the commercial, tourist and residential uses in the RSC and RSR-5 zones are limited to small, compact area of the rural service centers, within the extensive habitat area, they should not be a conflict with the antelope habitat.

There are 19 sites zoned for surface mining in the antelope range. The ESEEs for the surface mining recognize the antelope use in the vicinity of the surface mining. The mines are mostly located along the highway and the rock extraction is of limited duration. According to ODFW, the mining activities will not cause a significant conflict with the antelope.

#### **Economic, Social, Environmental and Energy Consequences of conserving significant antelope habitat**

1. **Economic Consequences:** The positive economic consequence of limiting conflicts with antelope habitat are the reduction in staff time attempting to resolve conflicts between residential uses and wildlife. Antelope hunters contribute to the economy of the county and they depend on the survival of stable antelope populations.

The negative economic consequences of applying regulations to limit conflicts in antelope range are generally borne by individuals prevented from doing an activity such as building a residence or road, or dividing land, or developing a use which would cause increased traffic or a change in the vegetation which could decrease the quality of the forage or cover.

2. **Social Consequences:** The positive social consequences of limiting development to protect antelope populations and habitat are the retention of open space and the populations of antelope for the enjoyment of the public. The negative social consequence is limited to the private land identified



as antelope habitat. In order to limit the density of development private land owners could be prohibited from dividing land and constructing a dwelling on a new parcel.

3. **Environmental Consequences:** Opportunities for antelope to flourish in a habitat without repeated interference or disturbance from man would be a positive environmental consequence. Other species of wildlife, including sage grouse, benefit from a large open space environment and a low density of development.

4. **Energy Consequences:** The positive energy consequences of limiting certain development in the antelope range are the reduction in trip generation associated with residential or other non resource related development in the EFU or forest zones. There are no identified negative energy consequences.

5. **Conclusion:** Based on the ESEE analysis, the county finds that the identified antelope habitat and the conflicting uses are important relative to each other. Therefore, the county determines that conflicting uses should be specifically limited and the resource should be protected through a "3C" designation.

6. **Program to Achieve the Goal (Conserve Antelope Habitat)**

Based on the ESEE analysis the county finds that the uses conflicting with antelope habitat should be specifically limited by the application of the Wildlife Area Combining Zone (Title 18.88). This zone limits specific conflicting uses including schools, golf courses and churches. In the antelope range the minimum lot size is to be 320 acres. The rural service centers of Millican, Hamilton and Brothers shall be excluded from the Wildlife Area Combining Zone. The siting and fencing standards in the Wildlife Area Combining Zone apply in the antelope habitat.

Destination Resorts have been identified as a conflicting use with significant big game habitat. The Board of County Commissioners has adopted a policy (Ordinance 92-040) to prohibit siting of destination resorts in the Wildlife Area Combining Zone pending completion of the Goal 8 mapping process which shall be accomplished by December 31, 1992.

**HABITAT AREAS FOR SENSITIVE BIRDS**

**Description:** Nest sites for for northern bald eagle, osprey, golden eagle, prairie falcon, great grey owl, and great blue heron rookeries.

**Inventory:** The information presented in Tables 5 - 20 has been provided by the Oregon Department of Fish and Wildlife, the Oregon Department of Forestry, Oregon State University Cooperative Wildlife Research Unit and the Oregon Natural Heritage Data Base. The inventory is divided into three categories for each species: 1) sites on federal land (U.S. Forest Service or Bureau of Land Management), 2) sites on non-federal land and sites where the sensitive area around the nest site could extend onto non-federal land, 3) "1B" sites where there is insufficient locational information.

The sites located on federal land are not analyzed further in the Goal 5 process as they protected through the management and planning process for federal lands.

**Location, Quality and Quantity:**

The location of the sites is either specifically located and identified on the Sensitive Bird and Mammal Habitat Map as a known location site. If the site is identified only to the nearest quarter section, the site is identified on the Sensitive Bird and Mammal Combining Zone Map as a general location site. When the locational information is available only to the nearest quarter section, ODFW will specifically identify exact habitat site location at the time of a development proposal near the habitat site. Sites which are not located to at least a quarter section are listed as "1B" sites because there is insufficient locational information for the site.

The quality of the habitat sites is good as the sites are currently being used for nesting purposes. However, the Deschutes County/City of Bend River Study (p. 6-9) notes that the number of active nest sites for golden eagles has decreased 75 percent in the 20 year observation period 1965 - 1984. This decrease is attributed to the increase in land development and human activities. The Deschutes County/City of Bend River Study, Chapter 6 provides detailed information on the habitat needs of the sensitive bird species.

The area required for each nest site varies between species. The minimum area required for protection of nest sites has been identified by the Oregon Department of fish and wildlife in their management guidelines for protecting colony nesting birds, osprey, eagles and raptor nests. The area recommended for eagle, osprey and prairie falcon nests is a radius of

1320 feet from the nest site. The recommended radius from a great blue heron rookery is 300 feet and 900 feet from a great gray owl nest site.

**Conflicting Uses Determination and Analysis:**

0119-0233

The nest sites are found in forest, exclusive farm use and Open Space Conservation zones in the county. The uses permitted in these zones that could conflict with the habitat site are surface mining, residential use, recreation facilities including golf courses and destination resorts, roads, logging, air strips. In general, any activity which would disturb the nesting birds, including intensive recreational use or removal of the trees or vegetation that make the site desirable, could conflict with the habitat site.

Chapter 6 of the Deschutes County/City of Bend River Study contains additional information on the location, quality and quantity of the sensitive birds and their habitat and identifies conflicting uses and ESEE consequences.

**Economic, Social, Environmental and Energy Consequences of Conserving sensitive bird sites**

1. **Economic Consequences:** Limiting the extraction of aggregate to protect sensitive bird nest sites could make a potential aggregate resource site unavailable. The economic consequences of protecting sensitive bird nest sites from residential conflicts could prohibit the development of a property for residential use which would lower its value. Regulating or prohibiting conflicting uses associated with intensive recreational use or resort development could restrict the area available for such development.

The positive economic consequences of limiting conflicts are the protection of the birds which are an important amenity for tourists to the area.

2. **Social Consequences:** The negative social consequence of limiting residential or recreational development near sensitive bird nest sites could be the inability to locate a residence or development in the desired location. Limiting recreational opportunities would cause those activities to be channeled to other areas. However, by limiting such conflicting uses bird watchers would have enhanced opportunities.

3. **Environmental Consequences:** The environmental consequences of limiting development near sensitive bird nest sites are positive. Opportunities for birds to nest in a habitat without repeated interference or disturbances from man should be a positive consequence.

119-234  
92-0234

Restricting vegetation removal through a management plan will retain habitat features which are necessary for birds. Limiting residential, recreational and resort development in the vicinity of a nest would limit disturbance which could cause the birds to leave the habitat site.

4. Energy Consequences: There are no significant energy consequences associated with protection of nest sites.
5. Conclusion: Based on the ESEE analysis, the identified consequences should be balanced so as to allow the conflicting uses but in a limited way so as to protect the resource to a desired extent.
6. Program to Achieve the Goal (protect sensitive bird sites)

For supporting Findings, Goals and Policies see the Deschutes County/City of Bend River Study pages 13-17 through 13-20, and the River Study Staff Report page 1 through 99.

Ordinance 86-019 adopted goals and policies to implement the Deschutes County City of Bend River Study to protect wildlife resources.

Ordinance 92-042 adopted the Sensitive Bird and Mammal Combining Zone for the sensitive birds and the Townsend's big-eared bat. The zone requires that a management plan be developed with the Oregon Department of Fish and Wildlife if a development is proposed within the inventoried habitat site. The zone does not regulate forest practices which are regulated by the Forest Practices Act.

Ordinance 92-046 adopted the Sensitive Bird and Mammal Habitat Combining Zone Map.

Ordinance 92-040 amended the Deschutes County Year 2000 Comprehensive Plan to adopt Policy Number 7 in the Fish and Wildlife Chapter to require protection of sensitive bird and mammal species with the Sensitive Bird and Mammal Habitat Combining Zone.

The Deschutes National Forest Land and Resource Management Plan and the Bureau of Land Management Brothers/LaPine Resource Management Plan identify the habitat needs of the sensitive birds and require management to protect the nest sites on federal lands. The Forest Practices Act also has provisions to protect sensitive nesting, roosting and watering sites.

TABLE 5

## BALD EAGLE NEST SITE INVENTORY

NEST SITES ON NON-FEDERAL LAND OR WITH POTENTIAL NON-FEDERAL  
HABITAT AREAS

Township	Range	Section	Quarter	General Location
15S	10E	23	NWNE	Cloverdale NE
15S	10E	23	NENE	Cloverdale SE
17S	11E	26	NW	Shevlin Park
20S	10E	34	NESW	Bates Butte
22S	09E	04	NE	Wickiup Reservoir
22S	09E	04	SW	Haner Park
22S	09E	06	SW	Wickiup Dam

TABLE 6

0119-0236

BALD EAGLE NEST SITE INVENTORY  
NEST SITES ON FEDERAL LAND

Township	Range	Section	Quarter	General Location
18S	08E	32	NE	Elk Lake
18S	08E	33	NE	Hosmer Lake
19S	08E	27	SW	Lava Lakes - W
19S	08E	27	SE	Lava Lakes - E
20S	07E	35	SW	Lemish Butte
20S	07E	35	S 1/2	Lemish Butte
20S	08E	08	SE	Benchmark Bu - W
20S	08E	09	SW	Benchmark Bu - SE
20S	08E	09	SW	Benchmark Bu - NE
20S	08E	33	SE	Crane Pr Res NE-S
20S	08E	33	SE	Crane Pr Res NE-NE
20S	08E	33	SE	Crane Pr Res NE
20S	08E	33	NE	Crane Pr Res NE - NW
21S	07E	01	SE	Crane Pr Res W
21S	07E	01	SW	Crane Pr Res W
21S	07E	01	SE	Crane Pr Res W
21S	07E	01	NW	Quinn River
21S	08E	05	SE	Crane Pr Res E
21S	08E	04	NW	Crane Pr Res E
21S	08E	04	W 1/2	Crane Pr Res E - SE
21S	08E	04	W 1/2	Crane Pr Res E - NW
21S	08E	07	SE	Crane Pr Res S
21S	08E	08	SW	Crane Pr Res S

119-237

Township	Range	Section	Quarter	General Location
21S	08E	08	SW	Crane Pr Res S
21S	08E	20	SE	Browns Mountain
21S	08E	32	NE	Browns Creek - W
21S	08E	32	NE	Browns Creek -E
21S	08E	34	SW	Wickiup Res N
21S	08E	34	SE	Wickiup Res N
21S	08E	34	SE	Wickiup Res N
21S	08E	34	SE	Wickiup Res N
21S	08E	34	SE	Wickiup Res N
21S	08E	34	SE	Wickiup Res N
21S	08E	34	SE	Wickiup Res N
21S	09E	13	NE	Tetherow Mdw
21S	09E	34	NE	Deschutes R Ox
21S	13E	19	SE	East Lake E
21S	13E	19	SW	East Lake SW
21S	13E	19	S 1/2	East Lake SE
22S	07E	26	SW	Davis Lake NW
22E	07E	26	SW	Davis Lake NW
22E	07E	34	SW	Davis Lake W - W
22S	07E	34	SW	Davis Lake W - E
22S	08E	07	NE	Davis Creek - S
22S	08E	06	SE	Davis Creek - N
22S	08E	06	SE	Davis Creek
22S	08E	06	SE	Davis Creek - E
22S	08E	15	SW	Wickiup Res W - W
22S	08E	15	SE	Wickiup Res W - E

Township	Range	Section	Quarter	General Location
22S	08E	23	NE	Wickiup Res S - E
22S	08E	23	N 1/2	Wickiup Res S - S
22S	08E	23	NW	Wickiup Res S - W
22S	08E	23	NW	Wickiup Res S - N
22S	08E	25	NE	Round Swamp - E
22S	08E	24	S 1/2	Round Swamp - NE
22S	08E	25	NE	Round Swamp - S
22S	08E	24	SE	Round Swamp - N
22S	09E	06	SE	Wickiup Dam - E
22S	09E	20	SW	Eaton Butte
22S	09E	20	SW	Eaton Butte
22S	09E	20	SW	Eaton Butte



TABLE 7

0119-0239

GOLDEN EAGLE NEST SITE INVENTORY  
 NEST SITES ON NON-FEDERAL LAND OR WITH  
 POTENTIAL NON-FEDERAL HABITAT AREA

Township	Range	Section	Quarter	General Location
14S	11E	03	NENW	Squaw Creek Rimrock Ranch
14S	11E	23	NWSW	McKenzie Canyon
14S	11E	24	NWSE	Deep Canyon
14S	12E	29/28 line		Buckhorn Canyon
14S	12E	23	SWNW	N. Odin Falls
14S	13E	11	NENE	Smith Rock State Park French Tent Nests
14S	13E	11	NENE	Smith Rock State Park Monument Nests
14S	13E	11	NENW	Smith Rock State Park Little Three Fingered Jack Nest
14S	13E	11	SENW	Smith Rock State Park Misery Ridge Nest
14S	13E	11	NESW	Smith Rock State Park Red Wall
15S	11E	17	SENW	Fryear Road - 1
15S	11E	16	SWSW	Fryear Road - 2

TABLE 8

GOLDEN EAGLE NEST SITE INVENTORY NEST SITES  
 ON FEDERAL LAND

19S	13E	05	Center	Coyote Butte
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TABLE 9

0119-0240

PRAIRIE FALCON NEST SITE INVENTORY  
 NEST SITES ON NON-FEDERAL LAND  
 OR WITH POTENTIAL NON-FEDERAL HABITAT AREA

Township	Range	Section	Quarter	General Location
14S	13E	11	NENE	Smith Rock State Park French Tent Nests
14S	13E	11	NWSW	Smith Rock State Park Monkey Face
14S	13E	11	SWSW	Smith Rock State Park Asterisk Pass

TABLE 10

0119-0241

OSPREY NEST SITE INVENTORY  
NEST SITES ON NON-FEDERAL LANDS OR  
WITH NON-FEDERAL HABITAT AREA

Township	Range	Section	Quarter	General Location
20	11	07	NENW	Sunriver/Meadowland

TABLE 11

## OSPREY - NEST SITE INVENTORY

0119-0242

## NEST SITES ON FEDERAL LAND

Township	Range	Section	Quarter	General Location
	18S	11E	04	Desch Ri/Dillon Fall
	18S	11E	34	Desch Ri .2 mi W
	18S	11E	35	Desch Ri 1.2 mi W
	19S	08E	09	Lava Lake .5 mi S
	19S	08E	14	Lava lake 1.1 mi SW
	19S	08E	23	Lt Lava Lake .2 mi W
	19S	08E	27	Lt Lava Lake .2 mi N
	19S	08E	33	Lt Lave Lake 2.2 mi N
	19S	09E	15	Lava Lake .3 mi SW
	19S	10E	18	Desch River
	19S	11E	09	Desch Ri/Benham Fall
2	19S	11E	09	Desch River
	19S	11E	10	Desch Ri 1.1 mi W
	19S	11E	16	Desch River
	19S	11E	19	Desch River
	20S	08E	03	Lt Lava Lake 2.3 mi N
	20S	08E	08	Crane Pra Lake 4.6 MS
	20S	08E	14	Crane Pra Lake 3.1 MS
	20S	08E	23	Crane Pra Lake 3.1 MS
3	20S	08E	27	Crane Pra Lake
2	20S	08E	28	Crane Pra Lake
3	20S	08E	29	Crane Pra Lake

Township	Range	Section	Quarter	General Location
5	20S	08E	31	Crane Pra Lake
4	20S	08E	32	Crane Pra Lake
7	20S	08E	33	Crane Pra Lake
3	20S	08E	34	Crane Pra Lake
2	20S	08E	36	Crane Pra Lake
	20S	10E	02	Desch Ri 1.0 mi W
	20S	10E	30	Fall River .6 mi S
3	21S	07E	01	Crane Pra Lake
	21S	07E	02	Crane Pra Lake
2	21S	07E	14	Crane Pra Lake
	21S	07E	25	Crane Pra Lake
4	21S	08E	04	Crane Pra Lake
4	21S	08E	05	Crane Pra Lake
5	21S	08E	08	Crane Pra Lake
3	21S	08E	09	Crane Pra Lake
3	21S	08E	16	Crane Pra Lake
	21S	08E	17	Crane Pra Lake
2	21S	08E	21	Crane Pra Lake
2	21S	09E	01	Fall River
	21S	09E	02	Fall River
	21S	09E	09	Desch Ri 2.1 mi SE
	21S	09E	11	Desch Ri 1.3 mi S
	21S	09E	13	Desch Ri 1.0 mi S
	21S	09E	15	Crane Pra Lake 4 ME
	21S	09E	15	Desch River

Township	Range	Section	Quarter	General Location
3	21s	09e	22	Desch River
2	21S	09E	23	Desch River
2	21S	09E	26	Desch River
	21S	09E	27	Desch River
	21S	09E	28	Desch River
2	21S	09E	33	Desch River
3	21S	09E	34	Desch River
	21S	10E	29	Desch Ri 4.0 mi W
	21S	10E	30	Desch Ri 3.5 mi W
	21S	11E	36	Paulina Lk 3 mi E
	21S	12E	18	Paulina Lk 1.9 mi SE
5	22S	07E	01	Crane Pra Lake 3 MW
	22S	07E	02	Wickiup Lake
3	22S	07E	10	Wickiup Lake
2	22S	07E	11	Wickiup Lake
	22E	07E	12	Crane Pra Lake
	22S	07E	15	Wickiup Lake
3	22S	07E	16	Wickiup Lake
3	22S	07E	22	Wickiup Lake
	22S	07E	23	Wickiup Lake
3	22S	07E	28	Wickiup Lake
	22S	08E	09	Crane Pra Lake
	22S	09E	04	Desch River
2	23S	09E	08	Wickiup Lake

TABLE 12

**HERON ROOKERY SITE INVENTORY  
ROOKERY SITES ON NON-FEDERAL LANDS OR  
WITH NON-FEDERAL HABITAT AREA**

<b>Township</b>	<b>Range</b>	<b>Section</b>	<b>Quarter</b>	<b>General Location</b>
14	09	10	SWNE	Black Butte Ranch

TABLE 13

**HERON ROOKERY SITE INVENTORY  
ROOKERY SITES ON FEDERAL LANDS**

<b>Township</b>	<b>Range</b>	<b>Section</b>	<b>Quarter</b>	<b>General Location</b>
21	08	03	NENW	E. of Crane Prairie Reservior

TABLE 14

**GREAT GRAY OWL SITE INVENTORY  
HABITAT SITES ON NON-FEDERAL LANDS OR  
WITH NON-FEDERAL HABITAT AREA**

<b>Township</b>	<b>Range</b>	<b>Section</b>	<b>Quarter</b>	<b>General Location</b>
22S	09E	36	SESW	Wagon Train North
21S	10E	14	SE	Burgess Road

TABLE 15

**GREAT GREY OWL SITE INVENTORY  
SITES ON FEDERAL LANDS**

<b>Township</b>	<b>Range</b>	<b>Section</b>	<b>Quarter</b>	<b>General Location</b>
22S	09E	09	SESW	Dorrance Meadow



## WATERFOWL HABITAT

0119-0247

**Inventory:** Habitat areas for waterfowl include all of the rivers, streams and lakes in the county as well as the perennial wetlands and ponds identified on the 1990 U.S. Fish and Wildlife Wetland Inventory Maps. The riparian areas associated with these water features are also important habitat for waterfowl. The City of Bend sewage treatment ponds (Hatfield Lake) has also been identified as a significant habitat area for waterfowl.

The map in the original 1979 comprehensive plan entitled "Wildlife Habitat Sensitive Areas" identified the following especially sensitive areas for waterfowl:

1. Benham Falls nesting area
2. Sparks Lake
3. Crane Prairie Reservoir
4. Wickiup Reservoir
5. Davis Lake

These 5 areas are all under federal ownership and management and are protected under the Deschutes National Forest Land and Resource Management Plan. They are included in the inventory as waterfowl habitat but are not subject to the Goal 5 process because they are federally managed.

### **Location Quality and Quantity:**

The significant habitat includes nesting feeding and resting areas with nesting habitat being the most critical need. The Oregon Department of Fish and Wildlife has provided a list of all bird species in the county which identifies the time of year they are present in the county and their relative abundance. Waterfowl are included in this inventory. This information is displayed in Table 1. The ODFW has also provided a list of birds found at the City of Bend sewage treatment ponds.

The Deschutes County/City of Bend River Study, Chapter 6, provides information on waterfowl habitat location, quality and quantity.

### **Conflicting Uses Determination and Analysis:**

Future resort and vacation home development, human activity associated with recreation rivers and lakes, timber-cutting around sensitive habitats, fill and removal of material in wetlands and within the bed and banks of rivers and streams and removal of riparian vegetation are conflicting uses with waterfowl habitat. Fluctuating water levels are also a conflict as they may flood nest sites and/or allow them to be exposed to predators.

### **Economic, Social, Environmental and Energy Consequences of Conserving Waterfowl Habitat areas.**

Ordinance No. 92-041 - Exhibit "A"  
Comprehensive Plan - Fish & Wildlife Chapter

1. **Economic Consequences:** The positive economic consequences of limiting conflicting uses are the protection of habitat which will maintain or increase waterfowl populations and the natural quality of the areas. Abundant waterfowl and other wildlife attract tourists and hunters to the region. The maintenance of riparian and wetland habitat required for waterfowl may increase the value of property because of the aesthetic values often associated with natural areas and wildlife.
2. **Social Consequences:** By limiting residential development or other development or restricting fill and removal, including removal of vegetation, owners of the affected parcels may be negatively restricted from developing their property in the way they desire. However, there are land owners who consider the habitat and presence of waterfowl to be an amenity which increases the value of their property.
3. **Environmental Consequences:** The environmental consequences of limiting development in waterfowl habitat areas are positive. Opportunities for birds to mate, nest and fledge their young in a habitat without repeated interference or disturbances from man is a positive consequence of conservation.
4. **Energy Consequences:** Restricting development of hydro-electric development is a negative energy consequence. This consequence is discussed thoroughly in Chapter 4 of the Deschutes County/City of Bend River Study ESEE findings and conclusions.

Additional information and ESEE analysis is provided in the Deschutes County/City of Bend River Study, Chapter 6 and the River Study Staff Report.

5. **Conclusion:** Based on the ESEE analysis, the identified consequences should be balanced so as to allow the conflicting uses but in a limited way so as to protect the resource to a desired extent.
6. **Program to Achieve the Goal (protect waterfowl habitat)**

The findings of the Deschutes County/City of Bend River Study resulted in the adoption of the Deschutes River Corridor Chapter in the Comprehensive Plan. This chapter was adopted by Ordinance 86-19. The adopted goals and policies protect the water, fish and wildlife, open space, recreation, archaeological, energy, historical and cultural resources of the and resources of the Deschutes River and its tributaries.

The ordinances implementing the River Study goals and policies which either directly or indirectly protect waterfowl habitat are:

Ordinance No. 86-018 amended Ordinance No. PL-15 to prohibit hydroelectric facilities in designated stretches of the Deschutes River and its tributaries, and to allow hydroelectric facilities in designated stretches of the Deschutes River and its tributaries, and to allow hydroelectric facilities as conditional uses in designated zones and stretches of the Deschutes River. (Title 18.96 and 18.116.130 and 18.128.040(W), Deschutes County Code).

Ordinance No. 86-056 amended Ordinance No. PL-15 to require a conditional use permit for any fill and removal, including removal of vegetation, within the bed and banks of any stream or wetland. The bed and banks of a stream is defined to include 10 feet on either side of the container of the waters of a stream. (Title 18.128.040(W), Deschutes County Code).

Ordinance No. 86-054 amended Ordinance No. PL-15 to require conservation easements as a condition of approval for land use actions on property adjacent to certain rivers and streams. (Title 18.116.310, Deschutes County Code).

Ordinance 89-030 amended the Deschutes County Comprehensive Plan for Flood Hazard zones.

Ordinance 88-031 amended PL-15 to establish a new Flood Plain zone and use restrictions. (Title 18.96, Deschutes County Code)

Ordinance 89-009 established specific restrictions for boat docks, slips, piers or houses in the Flood Plain zone. (Title 18.96 and 18.116.070, Deschutes County Code).

All zones in Title 18 have a stream setback provision to protect fish and wildlife areas. The setback requirement is 100 feet from the ordinary high water mark along all streams or lakes. The provision applies to all structures and sewage disposal installations.

Title 18.84, Landscape Management Zone requires retention of existing vegetation to screen development from the river or stream. The retention of vegetation can provide a buffer between development and the nesting and feeding sites of waterfowl.

Ordinance 92-040 added the following policy to the fish and Wildlife policies of the Deschutes County Year 2000 Comprehensive Plan: The county shall work with the ODFW and the Deschutes Basin Resource Committee to review existing protection of riparian and wetland area vegetation and recommend comprehensive plan and ordinance amendments, if necessary, by December 31, 1993.

Ordinance 92-045 adopts the U.S. Fish and Wildlife Service

National Wetlands Inventory maps for Deschutes County as the inventory of wetlands in the county.

0119-0250

Ordinance 92-042 adopts the Sensitive Bird and Mammal Combining Zone, Title 18.90. This zone requires management plan prior to development with in the impact area of great blue herons, and osprey.

These goals, policies, and ordinances along with, the Oregon State Scenic Waterway and the Federal Wild and Scenic designations on segments of the certain rivers and streams are the implementing measures to protect waterfowl habitat on the Deschutes River and its tributaries and perennial wetlands and ponds. The Deschutes National Forest Land and Resource Management plan also contains provisions to protect identified waterfowl habitat.

In addition, the forest and EFU zones require large minimum lot sizes which limits the potential density of development in the areas adjacent many of the rivers, streams, wetlands and ponds used for waterfowl habitat.

The county notifies the Oregon Department of Fish and Wildlife of all requests for fill and removal or development proposals in the flood plain zone, Wildlife Area Combining Zone, or along any designated river or stream or wetland.

For additional supporting Findings, Goals and Policies see the Deschutes County/City of Bend River Study and the River Study Staff Report.

UPLAND GAME BIRD HABITAT**Inventory**

The following upland game birds are found in Deschutes County:

Estimated upland game population in 1980 (ODF&W 1985):

Ring-necked Pheasant	200
Valley Quail	10,000
Mountain Quail	50
Chukar Partridge	300
Turkey	50
Blue Grouse	900
Sage Grouse	1,800
Ruffed Grouse	100
Mourning Dove	8,000

**Location, Quality and Quantity**

The habitat for upland game birds is dispersed throughout the county in the riparian, forest, agricultural and rangeland areas of the county. Valley quail and mourning doves are the most common upland game birds. Pheasants, and to a lesser extent valley quail, are truly products of and dependent upon agriculture for their existence. Ideal habitat includes a varied patchwork of seed-producing crops interspersed with brushy fence rows, ditches, streams and woodlots. This type of land cover pattern provides their basic needs of food, water and cover. These birds are primarily found in the Terrebonne and Alfalfa areas. Since pheasants are products of agriculture, they are generally found on farmlands, with no area being essentially more critical than another. However, in many places, riparian vegetation is the only cover available and these thin strips are considered as sensitive areas.

The Oregon Department of Fish and Wildlife has not identified critical habitat areas for any of the upland game species except for the sage grouse. Sage grouse inhabit the sagebrush-grass areas in the eastern portion of the County. The population of sage grouse has shown considerable fluctuation over the years. Present populations are somewhat below average. Areas of particular concern for the sage grouse are the strutting grounds, known as leks. Strutting grounds are flat areas with vegetation less than six inches high on which the males exhibit a breeding display called strutting to attract the females. The sage grouse range and known strutting grounds are shown on the

Sensitive Bird Habitat Map. The inventory of sage grouse leks is also listed in Tables 12 and 13 in the Sensitive Bird section of this chapter.

Ruffed grouse and turkey are found mostly on the Deschutes National Forest in forested and riparian habitat. Blue grouse are also mostly on the national forest and are frequently found on ridge tops. Chukars live in grass land habitat and in grassy canyons and also rely on riparian habitat.

#### **Conflicting Uses Determination and Analysis:**

Pheasant and quail are affected whenever agricultural land is taken out of production through urban sprawl, road construction, industrial development, and other land clearing activities. Farming practices on existing agricultural lands also have an impact. The trend today is to farm as much land as possible. Brushy fence rows, woodlots, and riparian vegetation are constantly being removed at the expense of upland game bird use. Reduced acres of agricultural land combined with clean farming techniques (burning fence rows and removing brush areas) has significantly reduced the ring-necked pheasant population in Deschutes County.

The Deschutes County/City of Bend River Study identifies conflicting uses with upland game bird habitat (Chapter 6) and is incorporated here by reference.

Sage grouse depend on large areas of undeveloped rangeland habitat. Activities or development which would interfere with the strutting grounds or displace the birds from the areas used for strutting are conflicting uses. These activities could include road construction, surface mining, or any structural development.

#### **Economic, Social, Environmental and Energy Consequences of Conserving riparian and wetland habitat**

1. **Economic Consequences:** The positive economic consequences of limiting conflicting uses are the protection of habitat which will maintain or increase the upland game bird populations in the county. Abundant wildlife and natural areas are a main reason tourists visit the county. The maintenance of riparian and wetland habitat may increase the value of property because of the aesthetic values often associated with natural areas and wildlife.
2. **Social Consequences:** The positive social consequence of limiting conflicting uses is the the protection of habitat which has aesthetic qualities appreciated by

residents of the area and tourists. Limiting conflicting uses could prevent someone from developing their property in a manner they desire. However, the county does not regulate accepted farming practices which could cause destruction of some habitat outside of riparian areas.

3. **Environmental Consequences:** The environmental consequences of limiting conflicts with upland game bird habitat are positive. The habitat would be retained or enhanced which results in stable upland game populations. There are no significant negative environmental consequences.
4. **Energy Consequences:** Except for the possible limits on development of hydroelectric facilities, the energy consequences are not significant. The consequences of hydroelectric development are described in detail in the Deschutes County/City of Bend River Study.

Additional information and ESEE analysis is provided in the Deschutes County/City of Bend River Study, Chapter 6 and the River Study Staff Report which are hereby incorporated by reference.

5. **Conclusion:** Based on the ESEE analysis, consequences should be balanced to allow the conflicting uses but in a limited way in order to protect the resource to the desired extent.
6. **Program to Achieve the Goal (protect upland game birds):**

For all of the upland game birds except sage grouse, the habitat is adequately protected by the existing exclusive farm use and forest zoning and the provisions to protect wetlands and riparian areas. The habitat for upland game birds is in the farm and forest zones which provide for minimum lot sizes greater than 20 acres to limit the density of development and the consequent conversion or deterioration of habitat. Any residential development in either the EFU or forest zone requires a conditional use permit.

Agriculture is a permitted use in the exclusive farm use zone and the county does not regulate ordinary farming practices which could cause some loss of cover habitat.

The county provisions to protect riparian areas and wetlands protect one of the most significant components of upland game habitat. The Oregon Forest Practices Act also contains provisions which regulate forest activities in riparian areas.

Most of the ruffed grouse, blue grouse, and turkey are found on National Forest lands where the habitat is managed under the Deschutes National Forest Land and Management Plan 0119-0254

Conflicts with sage grouse habitat are limited by exclusive farm use zoning with a 320 acre minimum lot size throughout their range. In sage grouse habitat the Oregon Department of Fish and Wildlife is notified of any conditional use permit and provided an opportunity to identify any conflicts. However, because of their sensitivity and importance, the sage grouse leks or strutting grounds need additional protection. Therefore, the leks identified in Table 14 and on the Sensitive Bird and Mammal Habitat Combining Zone Map are included in the Sensitive Bird and Mammal Combining Zone. The combining zone requires a habitat management plan for any activity located within a 1,320 foot radius of the lek which may cause the lek to be abandoned or destroyed.

Because new leks may be established over time, it is possible that mining activities proposed in the future could conflict with a lek not yet established in the sage grouse range. Therefore, prior to expansion or operation of a mining activity, the Goal 5 program to protect surface mining requires consultation with ODFW to develop adequate setback and closure period restrictions to protect any new lek that is not on the inventory. This consultation will assure that the conflicting surface mining activity will not adversely affect the lek.



TABLE 16

0119-0255

**SAGE GROUSE LEK INVENTORY  
SITES ON FEDERAL LANDS**

Township	Range	Section	Quarter	General Location
19E	14E	26	SESE	Millican Borrow Pit
20S	17E	05	NWSW	County Line/ Audobon Site
20S	18E	05	SW	Circle F Reservoir
20S	19E	13-24		Todd Well
21S	15E	12	NENSW	Kotzman Basin
21S	16E	22/24	NESW	Mahogany Butte/ The Gap
21S	17E	18	NE	Whiskey Springs
21S	17E	28	NENE	Moonshine
21S	18E	22	NENE	South Well
21S	18E	24	SWSE	Viewpoint
22S	16E	11	SWSE	Antelope Butte
22E	17E	02	SENW	Spicer Flat
22S	17E	16	NW	The Rock
22S	17E	32	SWSW	Jaynes Well
22S	18E	06	SWNE	Little Mid Lake
22S	18E	11	SENEW	Squaw Lake

TABLE 17

0119-0256

SAGE GROUSE LEK INVENTORY  
LEKS ON NON-FEDERAL LANDS OR  
WITH NON-FEDERAL HABITAT AREA

Township	Range	Section	Quarter	General Location
20S	14E	10	NENW	Evans Well
20S	16E	25	NWSW	Moffit Ranch
20S	16E	26	NWNW	Moffit Ranch Satellite
22S	17E	06	SWSW	4-Corners/Dickerson Well
22S	19E	18	NENE	Nweshal Well

**Inventory**

Estimated furbearer population in Deschutes County (ODF&W 1985):

Beaver	250
Muskrat	1,000
River Otter	100
Mink	500
Marten	300
Fisher	5
Coyote	2,600
Red Fox	50
Bobcat	400
Wolverine	6
Raccoon	430
Skunk	100
Badger	250
Weasel	500
Yellow-Bellied Marmot	200
Ground Squirrels	15,000
Snowshoe Hare	1,000
Blacktailed Jackrabbit	5,000
Cottontail	2,000
Porcupine	750

**Location, Quality and Quantity**

The nongame furbearing animals are broadly distributed throughout the county in various habitats including forest, open rangeland, agricultural land and land that is developed. These habitats are found in most zones in the county especially forest and exclusive farm use zones. However, some of the animals thrive in developed, and even urban areas, where habitat still exists. Riparian habitat is especially important for many of the species including beaver, muskrat, otters and mink. Most of the other species also use riparian habitat to some extent. The Oregon Department of Fish and Wildlife has not identified any specific habitat sites other than riparian and wetland areas that are critical for the listed species.

**Conflicting Uses Determination and Analysis:**

The conflicting uses are those activities or development which would degrade or destroy habitat or disturb the animals causing them to relocate. Conflicts between furbearers and other land uses are minimal in the county. However beavers cut down desired trees, block road culverts, and build dams at the head of irrigation ditches. Other

species can prey on livestock (coyote) or cause damage to forests (porcupine) or agriculture and landscaping (ground squirrels, rabbits).

0119-0258

**Economic, Social, Environmental and Energy Consequences of Conserving riparian and wetland habitat**

1. **Economic Consequences:** The positive economic consequences of limiting conflicting uses are the protection of habitat which will maintain or increase the diversity of nongame wildlife in the county. Abundant wildlife and natural areas are a main reason tourists visit the county. The maintenance of riparian and wetland habitat may increase the value of property because of the aesthetic values often associated with natural areas and wildlife.

The negative economic consequence of protecting the habitat some of the species is the damage that they cause to livestock, agriculture, forests, and landscaping.

2. **Social Consequences:** The positive social consequence of limiting conflicting uses is the the protection of habitat which has aesthetic qualities appreciated by residents of the area and tourists. Limiting conflicting uses could prevent someone from developing their property in a manner they desire. However, the county does not regulate accepted farming practices which could cause destruction of some habitat outside of riparian areas. Some of the furbearing nongame animals, including rabbits, ground squirrels and porcupine can cause damage to forest and agriculture, and residential landscaping and gardens.

3. **Environmental Consequences:** The environmental consequences of limiting conflicts with furbearer habitat are positive. The habitat would be retained or enhanced which results in stable and diverse furbearer populations. There are no significant negative environmental consequences.

4. **Energy Consequences:** There are no significant energy consequences.

Additional information and ESEE analysis is provided in the Deschutes County/City of Bend River Study, Chapter 6 and the River Study Staff Report which are hereby incorporated by reference.

Additional analysis of conflicts is also included in the following documents:

- a. Wildlife Resources of Deschutes County, (ODFW

- 1985).
- b. Oregon Non-Game Wildlife Management Plan, (ODFW 1984) pages III-61 through III-82, and pages IV-1 through VI-3.
5. **Conclusion:** Based on the ESEE analysis, consequences should be balanced to allow the conflicting uses but in a limited way in order to protect the resource to the desired extent.
6. **Program to Achieve the Goal (protect furbearers)**

The furbearer habitat is adequately protected by the existing exclusive farm use and forest zoning and the provisions to protect wetlands and riparian areas. The farm and forest zones require large minimum lot sizes and many uses are permitted only as conditional uses. The large minimum lot size and limited development retains much of the habitat and restricts the density of development which reduces the possibility for harassment from human activity. The measures to protect riparian and wetland habitat are detailed in this plan in the Riparian and Wetland Habitat section.

Agriculture is a permitted use in the exclusive farm use zone and the county does not regulate ordinary farming practices which could cause some loss of cover habitat. The Oregon Forest Practices Act regulates forest management activities on private forest land and also contains provisions which regulate forest activities in riparian areas. The Forest Service and Bureau of Land Management manage furbearer habitat under their land management plans.

For supporting Goals and Policies see the Deschutes County Comprehensive Plan page 114 through 138; Deschutes County/ City of Bend River Study, pages 13-1 through 13-45; Oregon Non-Game Wildlife Management Plan, pages IV-1 through VI-3.

HABITAT AREAS FOR TOWNSEND'S BIG-EARED BATS

**Description:** Caves and other sites used by the Townsend's big-eared bats for hibernating, roosting and nursery.

**Inventory:** The inventory information presented in the following tables has been provided by the Oregon Department of Fish and Wildlife, and the Oregon State University Cooperative Wildlife Research Unit and the Oregon Natural Heritage Data Base. The sites are used by Townsend's big-eared bats as nursery and hibernating habitat.

The inventory separates sites located on federal land from those on private land. The federal sites are not analyzed further in the Goal 5 process as they protected through the management and planning process for federal lands. The sites located on private land are mapped on the Sensitive Bird and Mammal Map. The federal sites are not included on the map unless the impact area around the habitat site extends into private land.

One site is listed as "1B" because there is insufficient information to precisely locate the site.

TABLE 18

**TOWNSEND'S BIG-EARED BAT HABITAT SITES INVENTORY  
PRIVATE LAND SITES**

Township	Range	Section	Quarter	General Location
15S	13E	21	SE	Redmond Cave
19S	13E	13	E 1/2	Stokey Ranch

TABLE 19

**TOWNSEND'S BIG-EARED BAT HABITAT SITES ON FEDERAL LAND**

Township	Range	Section	Quarter	General Location
19S	09E	14	SE 1/2	Edison Ice Cave
19S	11E	26	SE 1/4	Lava River Cave
19S	13E	04	SW 1/4	Skeleton Cave
19S	13E	08	SE 1/4	Boyd Cave

TABLE 19 - Continued

0119-0261

Township	Range	Section	Quarter	General Location
19S	13E	14	SE 1/4	Wind Cave
19S	13E	14	SE 1/4	Pictograph Cave
19S	13E	23	SW 1/4	Charley the Cave
19S	13E	27	NENW	Charcoal Cave
19S	13E	23	W 1/2	DEG Cave
22S	15E	07		Lees Cave
22S	15E	16	SW 1/4	LQM Cave

TABLE 20

**TOWNSEND'S BIG-EARED BAT HABITAT "1B" SITE  
INSUFFICIENT LOCATIONAL INFORMATION**

18	12	21	5 miles SE of Deschutes River
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The Oregon Department of Fish and Wildlife non-game biologist recommends that the impact area around the cave site where Townsend's big-eared bats are found should be a radius of 1,320 feet. The biologist recommends that prior to approval of any development within the radius of the cave that a management plan be developed to protect the habitat needs of the bats. Researchers are currently studying the bats to learn more about the extent of the habitat.

**Location, Quality and Quantity:**

The location of the habitat sites is described above in Tables 1, 2, and 3. Information on the number of bats is available in a report by J. Mark Perkins, Summary of Fort Rock District Use by Bats With Emphasis on Plecotus Townsendii - 1985-1991.

The Townsend's big-eared bat is listed as an Oregon sensitive species with a vulnerable classification. The bat is classified as a Federal Category 2 sensitive species. The Category 2 species need additional information in order to be proposed for federal listing as a threatened or endangered species under the federal Threatened and Endangered Species Act.

**Conflicting Uses Determination and Analysis:**

The Redmond Cave site is zoned Exclusive Farm Use-40. The Stookey Ranch site is zoned Exclusive Farm Use-320. The uses permitted in these zones that could conflict with the habitat site are surface mining, recreation facilities including golf courses and destination resorts, roads, logging, air strips. The report identified above cites recreational conflicts at most of the caves located on federal land. Large numbers of visitors can disturb the bats. The Deschutes National Forest has also identified the removal of nearby riparian vegetation where the bats feed as a conflicting use.

**Economic, Social, Environmental and Energy Consequences of Conserving sensitive bird sites**

1. **Economic Consequences:** Limiting aggregate extraction as a conflicting use does not have an economic consequence at this time because there are not any identified aggregate sites adjacent to the identified bat habitat sites located on non-federal land. There are no identified aggregate sites within the impact area of the identified habitat sites on private land. The economic consequences of protecting sensitive bat habitat sites from residential conflicts could prohibit the development of a property for residential use which would lower its value. However, both of the identified sites are located on large parcels where a residence could be located outside of the habitat site. Regulating or prohibiting conflicting uses associated with intensive recreational use or resort development to protect could restrict the area available for such development.

Caves are visited by tourists who are interested in geology and natural history. By limiting development and vegetation removal around the bat caves, the caves retain their natural characteristics and attraction to some tourists. If tourist use is limited to reduce conflict with the bats, there could be a minor negative economic consequence.

2. **Social Consequences:** The negative social consequence of limiting recreational use in or near an identified significant bat cave would cause those activities to be channeled to other areas. Limiting such recreational use on federal lands is not within the jurisdiction of the county. By limiting conflicting uses people interested in wildlife would have enhanced opportunities for viewing the bats in their natural habitat.
3. **Environmental Consequences:** The environmental consequences of limiting development near sensitive bat



caves are positive. Opportunities for bats to thrive in a habitat without repeated interference or disturbances from man should be a positive consequence. Restricting vegetation removal through a management plan will retain habitat features which are necessary for the foraging bats. Limiting residential, recreational and resort development in the vicinity of a cave would limit disturbance which could cause the bats to leave the habitat site.

4. **Energy Consequences:** There are no significant energy consequences associated with limiting conflicts with bat habitat sites.
5. **Conclusion:** Based on the ESEE analysis, the identified consequences should be balanced so as to allow the conflicting uses but in a limited way so as to protect the resource to a desired extent.
6. **Program to Achieve the Goal (protect sensitive bird sites)**

Ordinance 92-042 adopted the Sensitive Bird and Mammal Combining Zone for the sensitive birds and the Townsend's big-eared bat. The zone requires that a management plan be developed and reviewed by the Oregon Department of Fish and Wildlife if a development is proposed within the 1,320 feet of an inventoried Townsend's big-eared bat habitat site on private land. The zone does not regulate forest practices which are regulated by the Forest Practices Act.

The Deschutes National Forest Land and Resource Management Plan has provisions for cave management which prohibit clear cutting within 250 feet of the entrance of caves with significant bat populations. The plan also requires a 150 to 200 foot wide forested corridor between the entrance of the cave and the nearest foraging area. If the foraging area is a nearby stream, trees will not be harvested for 75 to 100 feet on either side. The Forest Service has a guideline which states that significant and potentially significant caves will be protected and managed in accordance with the Federal Cave Resources Protection Act of 1988.

**WETLANDS AND RIPARIAN AREAS****Inventory**

The 1979 Deschutes County Year 2000 Comprehensive Plan Resource Element identified riparian areas on a map titled Wildlife Habitat Sensitive Areas. However, the mapping is at a such a small scale that it is impossible to determine anything more than the general location of riparian areas along the identified streams. The Deschutes County/City of Bend River Study inventoried the riparian areas associated with the following rivers and streams as significant: Deschutes River, Little Deschutes River, Crooked River, Squaw Creek, Tumalo Creek, Fall River, Spring River, Indian Ford Creek and Paulina Creek. The River Study inventory was adopted by the Board of County Commissioners on June 30, 1986.

The county has not conducted an inventory of riparian areas adjacent to lakes and ponds on private land; however, many of these areas are included in the National Wetland Inventory Maps. Riparian areas adjacent to the many lakes on federal lands are managed and protected under the federal land and resource management plans and are not included in the county inventory.

Ordinance 92-045 adopted all wetlands identified on the U. S. Fish and Wildlife Service National Wetland Inventory Maps as the Deschutes County wetland inventory.

**Location, Quality and Quantity**

The location and description of wetlands is shown on the U.S. Fish and Wildlife Wetland Inventory Maps.

Riparian areas are located adjacent to the rivers and streams listed in the inventory adopted in the Deschutes County/City of Bend River Study. The extent of the riparian area varies depending on the soil, terrain, vegetation and hydrology of the area. The riparian area ranges from a narrow band of vegetation directly adjacent to the stream to an extensive area including a broad flood plain and associated wetlands.

The wetlands and riparian areas are essential habitat for waterfowl and significant habitat for upland game birds including grouse, quail, mourning doves and pheasants. Many non-game species also depend on the riparian habitat. The riparian vegetation is also an important component of fish habitat to stabilize stream banks and provide shade to maintain desirable water temperatures.

Ordinance No. 92-041 - Exhibit "A"  
Comprehensive Plan - Fish & Wildlife Chapter

**Conflicting Uses Determination and Analysis:**

Conflicting uses include fill and removal of material, including vegetation which could cause reduction in the size or quality or function of a wetland or cause destruction or degradation of the riparian habitat and vegetation. Locating structural development in wetlands or riparian areas would reduce the habitat and the use of the structure could cause conflicts such as harassment or disturbance of wildlife dependent on the habitat. Cutting of riparian vegetation can remove important shade for streams, eliminate habitat for various waterfowl, furbearers, and nongame bird species and can also increase the potential for erosion or bank instability in riparian areas. Hydroelectric development could alter or destroy riparian habitat.

**Economic, Social, Environmental and Energy Consequences of Conserving riparian and wetland habitat**

1. **Economic Consequences:** The positive economic consequences of limiting conflicting uses are the protection of habitat which will maintain or increase the fish and wildlife populations and diversity and the natural quality of the areas. Abundant wildlife and natural areas are a main reason tourists visit the county. The maintenance of riparian and wetland habitat may increase the value of property because of the aesthetic values often associated with natural areas and wildlife.
2. **Social Consequences:** The positive social consequence of limiting conflicting uses is the the protection of habitat which has aesthetic qualities appreciated by residents of the area and tourists. Limiting conflicting uses could prevent someone from developing their property in a manner they desire.
3. **Environmental Consequences:** The environmental consequences of limiting conflicts with wetland and riparian habitat are positive. The habitat would be retained or enhanced which results in stable and diverse fish and wildlife populations and high water quality for fish. There are no significant negative environmental consequences.
4. **Energy Consequences:** Limiting hydroelectric development as a conflicting use could reduce the opportunity for hydroelectric energy production and require that power be produced from other sources.

Additional information and ESEE analysis is provided in the

Deschutes County/City of Bend River Study, Chapter 6 and the River Study Staff Report which are incorporated herein by reference.

5. **Conclusion:** Based on the ESEE analysis, consequences should be balanced to allow the conflicting uses but in a limited way in order to protect the resource to the desired extent.
6. **Program to Achieve the Goal (protect riparian and wetland habitat)**

#### **Policies and Goals:**

The Deschutes County/City of Bend River Study resulted in the amendment of the Comprehensive Plan to include a chapter entitled Deschutes River Corridor (Ordinance 86-019). Goals and policies in the Water Resource, Open Space, Recreation, Fish, and Wildlife sections address riparian habitat protection and enhancement.

The public has expressed concern that the County is not adequately protecting riparian vegetation with the existing provisions adopted as a result of the River Study. In order to review the adequacy of riparian area vegetation protection, the County has adopted the following Comprehensive Plan policy in the Fish and Wildlife chapter of the comprehensive plan (Ordinance 92-040):

The county shall work with ODFW and the Deschutes Basin Resource Committee to review existing protection of riparian and wetland area vegetation and recommend comprehensive plan and ordinances amendments, if necessary, by December 31, 1993.

#### **Zoning Ordinance:**

In all zones, the county zoning ordinance requires a 100 foot setback from the ordinary high water mark of all streams or lakes for all sewage disposal installations and structures.

Title 18.96, Flood Plain Zone - protects riparian habitat and wetlands by requiring a conditional use for any development. One of the specific purposes of the zone is to conserve riparian areas and maintain fish and wildlife resources. The Flood Plain zone also regulates docks and piers and requires a finding that the structure will not cause the deterioration or destruction of wildlife habitat.

Title 18.128(W), Fill and Removal - requires a conditional use permit for any fill and removal, including vegetation, in wetlands or within the bed and banks of any streams or river. The bed and bank of a stream includes the container of the

Ordinance No. 92-041 - Exhibit "A"  
Comprehensive Plan - Fish & Wildlife Chapter

stream at bank full stage plus 10 feet.

0119-0267

Title 18.84.080(1), Landscape Management Zone requires retention of vegetation to screen development from the river. The zone includes land within a state scenic waterway or within 660 feet of the other rivers and streams identified as landscape management.

Title 18.84.080.(10), Landscape Management Zone, requires conservation easements for all site plan reviews adjacent to the landscape management rivers and streams. The conservation easements shall not require public access.

Title 18.116.220 requires a conservation easement as a condition of approval for all land use actions adjacent to rivers and streams in order to protect natural resources, natural values and water quality.

Title 18.128(V) requires conditional use permits for development of hydroelectric facilities. This provision resulted from the Deschutes County/City of Bend River Study (Ordinance 86-018). The regulations require river enhancement and maintenance or enhancement of existing fish and wildlife habitats.

**HABITAT AREAS FOR THREATENED AND ENDANGERED SPECIES**

The State of Oregon has listed the northern bald eagle, the northern spotted owl, and the wolverine as threatened and the peregrine falcon as endangered. The inventory, ESEE and program to protect the eagle nest sites is located in the Sensitive Bird Habitat section of this chapter.

The northern spotted owl and wolverine habitat are located exclusively on national forest lands. The Deschutes National Forest has inventoried northern spotted owl nest sites and habitat areas and has developed a program to protect the species in accordance with federal requirements.

The county has not inventoried or mapped habitat areas for northern spotted owl and wolverine because they are protected by Federal regulations and the Deschutes National Forest Land and Resource Management Plan and/or the Oregon Forest Practices Act and are therefore not subject to the Goal 5 process. There are no known spotted owl or wolverine habitat sites on private land in the county.

There are no identified peregrine falcon nest sites in the County.

Therefore, in conformance with OAR 660 Division 16, the county has analyzed the data and determined that the northern spotted owl, wolverine and peregrine falcon should not be included on the plan inventory (1A) at this time. During the next periodic review the county will re-examine the available information on threatened and endangered species to determine if they need to be included in the plan inventory and protected as significant Goal 5 resources.

FINDINGS OF BOARD OF COUNTY COMMISSIONERS  
SUPPORTING ADOPTION OF RESOURCE ELEMENT OF THE COMPREHENSIVE PLAN,  
AMENDMENTS TO TITLE 18.88 OF THE DESCHUTES COUNTY CODE.

Purpose

1. The purpose of these findings is to support the adoption by the Board of County Commissioners (Board) of: 1) a new Fish and Wildlife Chapter to the Resource Element of the Deschutes County Year 2000 Comprehensive Plan including the inventory, conflicts analysis and the analysis of the economic, social, environmental and energy (ESEE) consequences of protecting or not protecting County fish and wildlife resources; 2) amendments to the Goals and Policies in the Fish and Wildlife Chapter of the Deschutes County Year 2000 Comprehensive Plan; 3) amendments to Title 18.88 Wildlife Area Combining Zone of the Deschutes County Code; 4) Title 18.90 Sensitive Bird and Mammal Combining Zone; 5) the National Wetland Inventory Maps for the Wildlife Area Combining Zone and the Sensitive Bird and Mammal Combining Zone.
2. The wildlife inventory, and ESEEs are required to comply with Statewide Planning Goal 5 and its implementing administrative rule OAR 660-16-000. The adoption of the inventories and amendments to the Comprehensive Plan and Title 18 have been conducted pursuant to the periodic review of the County's comprehensive plan and implementing ordinances required by ORS Chapter 197 and OAR 660-19-000.

Procedural Background

3. On November 1, 1979, the Board of County Commissioners adopted its County Comprehensive Plan, including goals and policies for protection of fish and wildlife resources. The Fish and Wildlife chapter of the Resource Element of the Comprehensive Plan contains inventories and discussion of fish and wildlife resources in the county. On November 1, 1979, the Board adopted PL-15 which containing the provisions for the Wildlife Area Combining Zone.
4. On June 30, 1986, the Board adopted the Deschutes County/City of Bend River Study as an amendment to the Deschutes County Year 2000 Comprehensive Plan. The River Study contains inventories of fish and wildlife resources and ESEEs analyzing the uses conflicting with the fish and wildlife resources in the Deschutes River corridor and its tributaries. On the same date, the Board adopted amendments to the Comprehensive Plan regarding fish and wildlife resources in the river corridor and implementing ordinances to implement programs to protect the river corridor and its fish and wildlife resources.

5. The County submitted a draft periodic review order to the Department of Land Conservation and Development (DLCD) in 1989. The draft periodic review order contained fish and wildlife inventories and ESEEs. On August 27, 1990, DLCD submitted comments to the County on the draft periodic review order. The comments identified deficiencies in the ESEE analysis, conclusions and program to implement Goal 5, and also, identified criteria in the Wildlife Area Combining Zone that were not clear and objective as required by OAR 660-16-010(3).
6. The Deschutes County Planning Commission conducted two public hearings on March 11 and April 22, 1992, to take testimony on the draft fish and wildlife element of the Comprehensive Plan and draft amendments to Title 18 and the Deschutes County Zoning map for the Wildlife Area Combining Zone and Sensitive Bird and Mammal Combining Zone. The Planning Commission conducted work sessions on the Goal 5 wildlife amendments on February 12 and March 25, 1992. On May 13, 1992, the Planning Commission recommended approval of the proposed fish and wildlife changes to the Deschutes County Year 2000 Comprehensive Plan and Title 18 to the Board of County Commissioners.
7. The Board of County Commissioners held a public hearing on May 26, 1992, to consider testimony on the recommendation of the Planning Commission on the proposed amendments to the Comprehensive Plan and Title 18.

Compliance with Goal 5.

8. Goal 5 is met through (a) the adoption of Goals and Policies in Ordinance 92-040 reflecting Goal 5 requirements; (b) the adoption of Ordinance 92-041, which pursuant to the Goal 5 rule amends the comprehensive plan to inventory each Goal 5 resource, analyze conflicting uses, and analyze the ESEE consequences of protecting or not protecting inventoried fish and wildlife resources, (c) the adoption of zoning ordinance provisions in Ordinance 92-042, as applied to inventoried sites by the map adopted by Ordinance 92-046, which together constitute the County's program to meet the Goal, and (d) the adoption of specific timelines in Ordinance 92-040 for revisiting resource sites inventoried as so-called "1B" sites under the Goal 5 rule.
9. To comply with the requirements of Goal 5 and OAR 660-16-000, the County worked with the Oregon Department of Fish and Wildlife to obtain the most recent inventory information on fish and wildlife resources in the county and to identify uses conflicting with the fish and wildlife resources. This inventory information was used to update the inventories in the draft periodic review order and amend the draft ESEE



analyses. In addition, ODFW provided information to support zoning ordinance provisions to resolve conflicts between fish and wildlife resource protection and development.

10. The Board finds that the Goal 5 analysis contained in Ordinance 92-041 for each resource is sufficient to meet the Goal 5 requirements without requiring additional findings here.

#### Compliance with Other Goals

11. GOAL 1 - CITIZEN INVOLVEMENT. The Board finds that Goal 1 is complied with by the notice given and public hearings, as detailed in the findings set forth herein, held both before the Commission and before the Board during this Goal 5 process and by the provisions for citizen participation under the County's Development Procedures Ordinance, codified at Title 22 of the Deschutes County Code.
12. GOAL 2 - LAND USE PLANNING. The purpose of Statewide Planning Goal 2 is to establish a land use planning process and to assure an adequate factual base for land use decision-making. The goal is satisfied in this case by: (a) the adoption of an inventory of fish and wildlife resources as part of the County's comprehensive plan; (b) the conflicts and ESEE analysis for each resource; (c) the existence of a zoning ordinance that, as amended, will implement the ESEE decisions through clear and objective standards; (d) by the adoption of maps showing wildlife areas; and (e) by the extensive factual record generated by the inventory and ESEE process and the site specific treatment of each site.
13. GOAL 3 - AGRICULTURAL LANDS. This ordinance does not conflict with Goal 3. It does not promote new non-farm uses on farm lands. Where there have been conflicts identified with farm uses, such as with the fencing standards found in Chapter 18.88 or the siting standards of Chapter 18.88, those conflicts have been recognized and accommodated. It does not preclude continuation of any existing farming practices. Consequently, adoption of the County's historic resources package does not conflict with Goal 3.
14. GOAL 4 - FOREST LANDS. The Goal 4 analysis with respect to forest lands is the same as that set forth under Goal 3 with respect to farm lands.
15. GOAL 6 - AIR, LAND, AND WATER RESOURCES. Preservation of inventoried fish and wildlife resources does not conflict with Goal 6, since protection of such resources does not promote additional development.

16. GOAL 7 - AREAS SUBJECT TO NATURAL DISASTERS AND HAZARDS. Not applicable.
17. GOAL 8 - RECREATION NEEDS. Providing for recreational needs is important to the Deschutes County economy. Enjoyment of fish and wildlife resources is an integral part of outdoor recreational experiences.

With respect to destination resorts, the Board finds that the decision on the siting of destination resorts in the Wildlife Area Combining Zone should be delayed and be considered at the time the Board completes the Goal 8 destination resort mapping for irrigated agricultural lands. Goal 8 prohibits siting of destination resorts in areas identified as "especially sensitive big game habitat". The County has inventoried and mapped significant big game habitat as a Goal 5 resource; and to specifically limit conflicting uses on this identified habitat. Under this package, such inventoried lands are zoned with the Wildlife Area Combining Zone (Title 18.88).

The County inventoried big game habitat is more extensive than the area identified as "especially sensitive big game habitat". Until the Board reconciles the difference between the Goal 8 "especially sensitive big game habitat" and the Goal 5 inventoried significant big game habitat, no applications will be accepted for any part of a destination resort in the Wildlife Area Combining Zone. The Goal 8 requirement precluding siting of destination resorts in the especially sensitive big game habitat is met by this interim bar to applications in all the County's wildlife areas.

18. GOAL 9 - ECONOMY OF THE STATE. Preservation of fish and wildlife resources contributes to Oregon's increasingly important tourism industry. The Board finds that the restrictions set forth in the wildlife provisions in the zoning ordinance will further the preservation of fish and wildlife resources by providing for a review of proposed alterations and demolitions of historic structures. The restrictions on siting of structures does not prevent structures from being built on any lot or parcel.
19. GOAL 10 - HOUSING. This Goal is not implicated by the fish and wildlife policies adopted as part of this package. The Plan to implement the Goal applies wildlife restrictions in designated Wildlife Area overlays. These overlays apply only outside Urban Growth Boundaries. Under the Goals, housing needs are to be addressed chiefly by measures taken inside the urban growth boundary.

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20. GOAL 11 - PUBLIC FACILITIES. Not particularly applicable, as the proposal does not propose new development. The provisions encourage clustering, which can make the delivery of public services more efficient.
21. GOAL 12 - TRANSPORTATION. Not particularly applicable, as the wildlife package does not propose new development. The provisions encourage clustering, which can make for more efficient transportation.
22. GOAL 13 - ENERGY CONSERVATION. Not applicable, as no new development is proposed by the package. The promotion of clustering and siting of development close to existing roads will result in energy conservation.
23. GOALS 14 - 19. Not applicable.

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94-24344

REVIEWED  
Bww  
LEGAL COUNSEL

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

- \*An Ordinance Amending \*
- \*The Deschutes County \*
- \*Comprehensive Plan Resource \*
- \*Element To Adopt ESEE Conflict \*
- \*Analysis and Decisions For \*
- \*Sensitive Bird and Mammal Sites\*
- \*And Declaring An Emergency. \*

94 JUN 16 PM 3:20

MARY SUE PENHOLLOW  
COUNTY CLERK

0135-2267

ORDINANCE NO. 94-004

WHEREAS, the Land Conservation and Development Commission issued a Remand Order 93-RA-883, requiring Deschutes County to amend the County Comprehensive Plan Resource Element, "Fish and Wildlife Inventories Conflict ESEE Analyses" as adopted by Ordinance 92-041 to adopt site specific economic, social, environmental and energy consequence analysis (ESEE) for the inventoried sensitive bird and mammal habitat sites; and

WHEREAS, public hearings have been held in conformance with state law before the Deschutes County Planning Commission and Board of County Commissioners for Deschutes County; and

WHEREAS, the Board of County Commissioners has considered the recommendations of the Planning Commission and the public; now therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS AS FOLLOWS:

Section 1. ADOPTION OF AMENDMENTS TO RESOURCE ELEMENT OF COMPREHENSIVE PLAN - SENSITIVE BIRDS. That the "Habitat Areas For Sensitive Birds" section (p. 41 - 55) of the Fish and Wildlife Element of of the Resource Element of PL-20, the Deschutes County Comprehensive Plan, as adopted by Ordinance 92-041, is repealed and replaced with the inventories and ESEE analyses contained in Exhibit "1".

Section 2. ADOPTION OF AMENDMENTS TO RESOURCE ELEMENT OF COMPREHENSIVE PLAN - TOWNSEND'S BIG-EARED BATS. That the "Habitat Areas For Townsend's Big-eared Bats" section (p. 69 - 72) of the Fish and Wildlife Element of of the Resource Element of PL-20, the Deschutes County Comprehensive Plan, as adopted by Ordinance 92-041 and amended by Ordinance 94-003, is further amended as shown in Exhibit "2".

MICROFILMED  
KEYPUNCHED  
JUN 17 1994  
JUN 17 1994

Section 3. ADOPTION OF ESEEs FOR TOWNSEND'S BIG-EARED BATS. That the "Habitat Areas For Townsend's Big-eared Bats" section of the Fish and Wildlife Element of the Resource Element of PL-20, the Deschutes County Comprehensive Plan, as adopted by Ordinance 92-041 and amended by Ordinance 94-003, is further amended by adding the ESEE analysis and decision for the Stookey Ranch and Skylight Cave Townsend's big-eared bat sites contained in Exhibit "3".

Section 4. ADOPTION OF AMENDMENTS TO RESOURCE ELEMENT OF COMPREHENSIVE PLAN - UPLAND GAME BIRDS AND SAGE GROUSE. That the "Upland Game Bird Habitat" section (p. 60 - 65) of the Fish and Wildlife Element of the Resource Element of PL-20, the Deschutes County Comprehensive Plan, as adopted by Ordinance 92-041 is hereby repealed and replaced with the inventory and ESEE analysis for upland game bird habitat and the inventory and ESEE analyses for sage grouse as shown in Exhibit "4".

Section 5. FINDINGS. The Board of County Commissioners adopts as its findings and conclusions in support of this ordinance the findings attached as Exhibit "5" by this reference incorporated herein.

Section 6. SEVERABILITY. The provisions of this ordinance are severable. If any section, sentence, clause, or phrase of this ordinance or any exhibit thereto is adjudged to be invalid by a court or competent jurisdiction that decision shall not affect the validity of the remaining portions of this ordinance or exhibit thereto.

Section 7. CODIFICATION. County Legal Counsel shall have the authority to format the provisions contained herein in a manner that will integrate them into the County Code consistent with the County Legal Counsel form and style for ordinance codification. Such codification shall include the authority to make format changes, to make changes in numbering systems and to make such numbering changes consistent with interrelated code sections. In addition, as part of codification of these ordinances, County Legal Counsel may insert appropriate legislative history reference. Any legislative history references included herein are not adopted as part of the substance of this ordinance, but are included for administrative convenience and as a reference. They may be changed to correct errors and to conform to proper style without action of the Board of County Commissioners.

Section 8. REPEAL OF ORDINANCES AS AFFECTING EXISTING LIABILITIES. The repeal, express or implied, of any ordinance, ordinance provision, code section, or any map or any line on a map incorporated therein by reference, by this amending ordinance shall not release or extinguish any duty, condition, penalty, forfeiture, or liability previously incurred or that may hereafter be incurred under such ordinance, unless a provision of this amending ordinance

shall so expressly provide, and such ordinance repealed shall be treated as still remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of such duty, condition, penalty, forfeiture, or liability, and for the purpose of authorizing the prosecution, conviction and punishment of the person or persons who previously violated the repealed ordinance.

Section 9. EMERGENCY. This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

DATED this 15 day of June, 1994.

BOARD OF COUNTY COMMISSIONERS OF  
DESCHUTES COUNTY, OREGON

  
NANCY POPE SCHLANGEN, Chair

  
TOM THROOP, Commissioner

ATTEST:

  
Anita Mutchies  
Recording Secretary

  
BARRY H. SLAUGHTER, Commissioner

**HABITAT AREAS FOR SENSITIVE BIRDS****Description:**

The Oregon Department of Fish and Wildlife has identified nest sites for northern bald eagle, osprey, golden eagle, prairie falcon, great grey owl, and great blue heron rookeries as sensitive bird habitat sites.

**Inventory:**

The sensitive bird sites on federal land and sites deleted from the inventory adopted by Ordinance 92-041 are identified by species in Tables 5 - 11. The data has been provided by the Oregon Department of Fish and Wildlife, the Oregon Department of Forestry, Oregon State University Cooperative Wildlife Research Unit and the Oregon Natural Heritage Data Base.

The sensitive bird sites on private land, non-federal land or with sensitive habitat areas that extend on to non-federal are listed on Tables 12 - 17. Site specific ESEE analyses and decisions follow for each of these sites.

The area required around each nest site needed to protect the nest from conflict varies between species. This area is called the "sensitive habitat area." The minimum sensitive habitat area required for protection of nest sites has been identified by the Oregon Department of Fish and Wildlife in their management guidelines for protecting colony nesting birds, osprey, eagles and raptor nests. The sensitive habitat area recommended for eagle, osprey and prairie falcon nests is a radius of 1320 feet from the nest site. The recommended radius from a great blue heron rookery is 300 feet and 900 feet from a great gray owl nest site. The county recognizes these distances to establish the boundaries for a "sensitive habitat area" around inventoried nest or rookery sites.

**Location, Quality and Quantity:**

The location of the sites on federal land is provided on the tables for each species. The location for sites on private land or with sensitive habitat areas that extend onto non-federal land is identified in the site specific ESEE analysis and decision for that site and is also shown on a countywide map titled "Sensitive Bird and Mammal Habitat Combining Zone" (adopted by Ordinance 94-021).

The quality of the habitat sites is good as the sites are currently being used for nesting purposes. However, the

Deschutes County/City of Bend River Study (p. 6-9) notes that the number of active nest sites for golden eagles has decreased 75 percent in the 20 year observation period 1965 - 1984. This decrease is attributed to the increase in land development and human activities. The Deschutes County/City of Bend River Study, Chapter 6 provides detailed information on the habitat needs of the sensitive bird species.

**Program to Achieve Goal 5:**

The sites where the nest and the entire sensitive habitat area are located on federal land are not analyzed further in the Goal 5 process as they protected through the management and planning process for federal lands. The county does not regulate land use on federal land. These federal sites are classified as "2A" Goal 5 resources in accordance with OAR 660-16-005(1) and are managed to preserve their original character by either the Bureau of Land Management or the Deschutes National Forest.

The ESEE analysis and decision to achieve Goal 5 for each sensitive bird site located on Non-Federal land, or with a non-federal land sensitive habitat area follows the inventory tables for the federal sensitive bird sites.



TABLE 5

0135-2272

**BALD EAGLE NEST SITE INVENTORY**  
**NEST SITES ON FEDERAL LAND**  
**"2A" Goal 5 Resource**

Township	Range	Section	Quarter	General Location
18S	08E	32	NE	Elk Lake
18S	08E	33	NE	Hosmer Lake
19S	08E	27	SW	Lava Lakes - W
19S	08E	27	SE	Lava Lakes - E
20S	07E	35	SW	Lemish Butte
20S	07E	35	S 1/2	Lemish Butte
20S	08E	08	SE	Benchmark Bu - W
20S	08E	09	SW	Benchmark Bu - SE
20S	08E	09	SW	Benchmark Bu - NE
20S	08E	33	SE	Crane Pr Res NE-S
20S	08E	33	SE	Crane Pr Res NE-NE
20S	08E	33	SE	Crane Pr Res NE
20S	08E	33	NE	Crane Pr Res NE - NW
21S	07E	01	SE	Crane Pr Res W
21S	07E	01	SW	Crane Pr Res W
21S	07E	01	SE	Crane Pr Res W
21S	07E	01	NW	Quinn River
21S	08E	05	SE	Crane Pr Res E
21S	08E	04	NW	Crane Pr Res E
21S	08E	04	W 1/2	Crane Pr Res E - SE
21S	08E	04	W 1/2	Crane Pr Res E - NW
21S	08E	07	SE	Crane Pr Res S
21S	08E	08	SW	Crane Pr Res S
21S	08E	08	SW	Crane Pr Res S
21S	08E	20	SE	Browns Mountain
21S	08E	32	NE	Browns Creek - W
21S	08E	32	NE	Browns Creek -E
21S	08E	34	SW	Wickiup Res N
21S	08E	34	SE	Wickiup Res N
21S	08E	34	SE	Wickiup Res N
21S	08E	34	SE	Wickiup Res N
21S	08E	34	SE	Wickiup Res N
21S	08E	34	SE	Wickiup Res N
21S	09E	13	NE	Tetherow Mdw
21S	09E	34	NE	Deschutes R Ox
21S	13E	19	SE	East Lake E
21S	13E	19	SW	East Lake SW
21S	13E	19	S 1/2	East Lake SE
22S	07E	26	SW	Davis Lake NW
22E	07E	26	SW	Davis Lake NW
22E	07E	34	SW	Davis Lake W - W
22S	07E	34	SW	Davis Lake W - E
22S	08E	07	NE	Davis Creek - S
22S	08E	06	SE	Davis Creek - N
22S	08E	06	SE	Davis Creek

Township	Range	Section	Quarter	General Location
22S	08E	06	SE	Davis Creek - E
22S	08E	15	SW	Wickiup Res W - W
22S	08E	15	SE	Wickiup Res W - E
22S	08E	23	NE	Wickiup Res S - E
22S	08E	23	N 1/2	Wickiup Res S - S
22S	08E	23	NW	Wickiup Res S - W
22S	08E	23	NW	Wickiup Res S - N
22S	08E	25	NE	Round Swamp - E
22S	08E	24	S 1/2	Round Swamp - NE
22S	08E	25	NE	Round Swamp - S
22S	08E	24	SE	Round Swamp - N
22S	09E	06	SE	Wickiup Dam - E
22S	09E	20	SW	Eaton Butte
22S	09E	20	SW	Eaton Butte
22S	09E	20	SW	Eaton Butte

TABLE 6

**GOLDEN EAGLE NEST SITE INVENTORY  
NEST SITES ON FEDERAL LAND  
"2A" Goal 5 Resource**

ODFW Site #	Township	Range	Section	General Location
DE-0001-00	21S	19E	04	Imperial Valley
DE-0003-00	15S	11E	07	Fryrear Butte Area
DE-0005-00	16S	12E	09	Mid-Deschutes River (Awbry Falls)
DE-0005-01	16S	12E	09	Mid-Deschutes River (Awbry Falls)
DE-0017-00	21S	16E	12	Pine Ridge
DE-0018-00	20S	15E	19	Pine Mountain West
DE-0019-00	20S	15E	25	Pine Mountain East
DE-0020-00	19S	14E	24	Horse Ridge/Dry River Canyon

TABLE 7

0135-2275

OSPREY - NEST SITE INVENTORY  
 NEST SITES ON FEDERAL LAND  
 "2A" Goal 5 Resource

Township	Range	Section	Quarter	General Location
	18S	11E	04	Desch Ri/Dillon Fall
	18S	11E	34	Desch Ri .2 mi W
	18S	11E	35	Desch Ri 1.2 mi W
	19S	08E	09	Lava Lake .5 mi S
	19S	08E	14	Lava lake 1.1 mi SW
	19S	08E	23	Lt Lava Lake .2 mi W
	19S	08E	27	Lt Lava Lake .2 mi N
	19S	08E	33	Lt Lave Lake 2.2 mi N
	19S	09E	15	Lava Lake .3 mi SW
	19S	10E	18	Desch River
	19S	11E	09	Desch Ri/Benham Fall
2	19S	11E	09	Desch River
	19S	11E	10	Desch Ri 1.1 mi W
	19S	11E	16	Desch River
	19S	11E	19	Desch River
	20S	08E	03	Lt Lava Lake 2.3 mi N
	20S	08E	08	Crane Pra Lake 4.6 MS
	20S	08E	14	Crane Pra Lake 3.1 MS
	20S	08E	23	Crane Pra Lake 3.1 MS
3	20S	08E	27	Crane Pra Lake
2	20S	08E	28	Crane Pra Lake
3	20S	08E	29	Crane Pra Lake
5	20S	08E	31	Crane Pra Lake
4	20S	08E	32	Crane Pra Lake
7	20S	08E	33	Crane Pra Lake
3	20S	08E	34	Crane Pra Lake
2	20S	08E	36	Crane Pra Lake
	20S	10E	02	Desch Ri 1.0 mi W
	20S	10E	30	Fall River .6 mi S
3	21S	07E	01	Crane Pra Lake
	21S	07E	02	Crane Pra Lake
2	21S	07E	14	Crane Pra Lake
	21S	07E	25	Crane Pra Lake
4	21S	08E	04	Crane Pra Lake
4	21S	08E	05	Crane Pra Lake
5	21S	08E	08	Crane Pra Lake
3	21S	08E	09	Crane Pra Lake
3	21S	08E	16	Crane Pra Lake
	21S	08E	17	Crane Pra Lake
2	21S	08E	21	Crane Pra Lake
2	21S	09E	01	Fall River
	21S	09E	02	Fall River
	21S	09E	09	Desch Ri 2.1 mi SE
	21S	09E	11	Desch Ri 1.3 mi S

Township	Range	Section	Quarter	General Location
	21S	09E	13	Desch Ri 1.0 mi S
	21S	09E	15	Crane Pra Lake 4 ME
	21S	09E	15	Desch River
3	21s	09e	22	Desch River
2	21S	09E	23	Desch River
2	21S	09E	26	Desch River
	21S	09E	27	Desch River
	21S	09E	28	Desch River
2	21S	09E	33	Desch River
3	21S	09E	34	Desch River
	21S	10E	29	Desch Ri 4.0 mi W
	21S	10E	30	Desch Ri 3.5 mi W
	21S	11E	36	Paulina Lk 3 mi E
	21S	12E	18	Paulina Lk 1.9 mi SE
5	22S	07E	01	Crane Pra Lake 3 MW
	22S	07E	02	Wickiup Lake
3	22S	07E	10	Wickiup Lake
2	22S	07E	11	Wickiup Lake
	22E	07E	12	Crane Pra Lake
	22S	07E	15	Wickiup Lake
3	22S	07E	16	Wickiup Lake
3	22S	07E	22	Wickiup Lake
	22S	07E	23	Wickiup Lake
3	22S	07E	28	Wickiup Lake
	22S	08E	09	Crane Pra Lake
	22S	09E	04	Desch River
2	23S	09E	08	Wickiup Lake

TABLE 8

HERON ROOKERY SITE INVENTORY  
ROOKERY SITE ON FEDERAL LANDS  
"2A" Goal 5 Resource

ODFW Site #	Map & Tax Lot	Quarter Section	General Location
DE 0980-01	14-09-00-100	SENE	Black Butte Ranch
DE 0981-01	21-08-03	NENW	E. of Crane Prairie Reservoir

ESEE FINDINGS AND DECISION  
HERON ROOKERY - Black Butte Ranch

0135-2278

1. Inventory.

The Oregon Department of Fish and Wildlife (ODFW) identified a great blue heron rookery in Township 14S, Range 9E, Section 10 SENE. The county inventoried and adopted this site as a Goal 5 resources in Ordinance 92-041.

2. Site Characteristics.

The rookery is located in aspen and ponderosa pine trees along Indian Ford Creek on the Deschutes National Forest just east of the Black Butte Ranch. The location of the rookery is shown on the map attached as Exhibit "A" The sensitive habitat area includes the area within a three hundred (300) foot radius of the nest site. The rookery and the sensitive habitat area are entirely on National Forest land and subject to the Deschutes National Forest Land and Resource Management Plan.

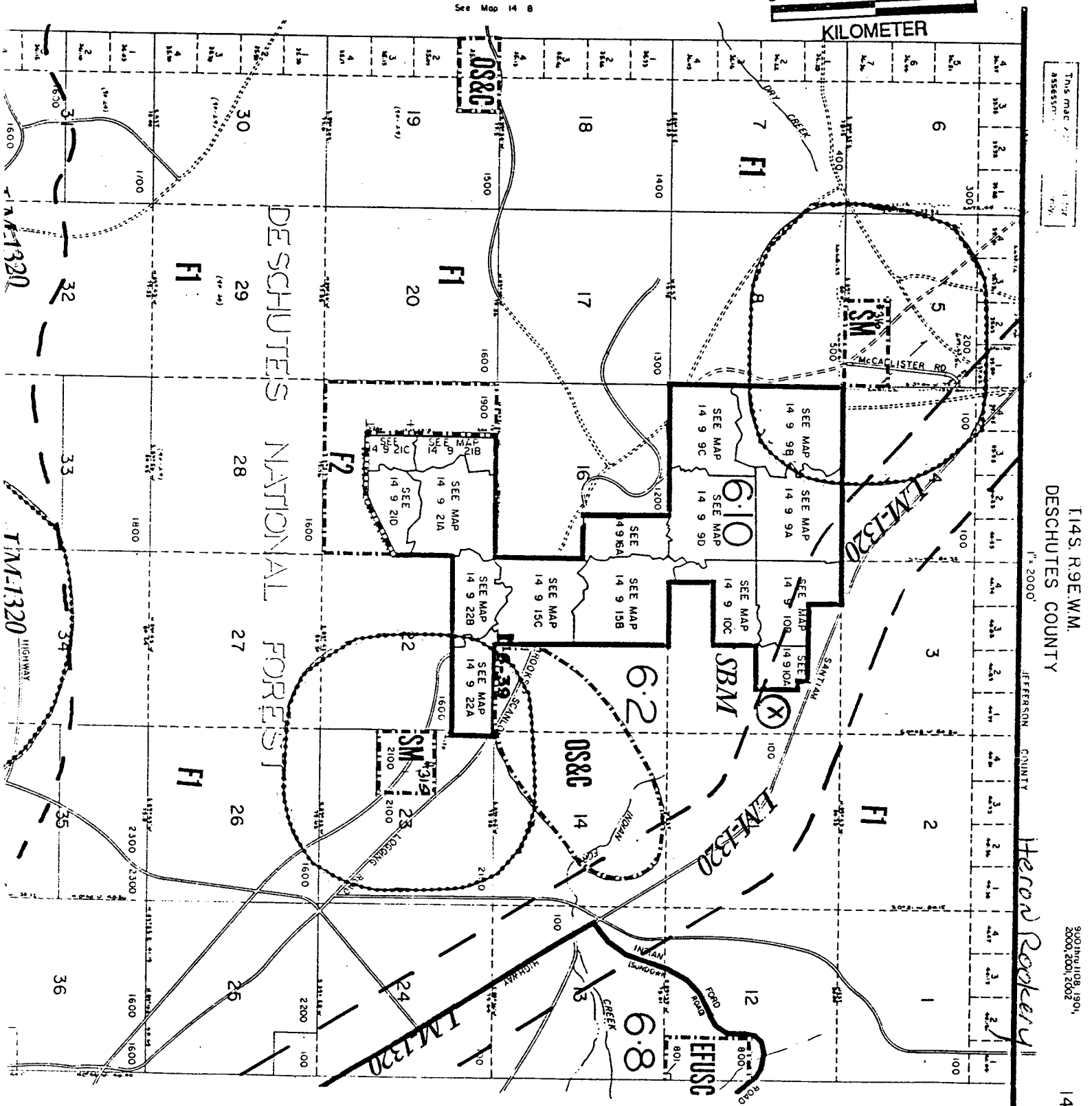
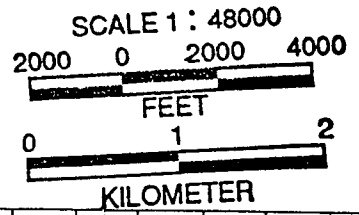
3. Conflicts Identification.

The Deschutes National Forest is managing the site to protect the rookery from conflicting uses. There are no conflicting uses within the sensitive habitat area that are subject to county jurisdiction.

4. Program To Meet Goal 5.

The Board of County Commissioners finds that there are no conflicting uses subject to county jurisdiction. The site and the sensitive habitat area are entirely on federal land and are managed by the Deschutes National Forest Land and Resource Management Plan. Therefore, the county designates the resources as a "2A" Goal 5 resource and relies on the Deschutes National Forest Land and Resource Management Plan to manage the site to preserve its original character. This decision is made in conformance with OAR 660-16-005(1).

0135-2279



This map is for  
ASSESSMENT PURPOSES

114S.R.9E.W.M.  
DESCHUTES COUNTY

1" = 2000'

Heron Rookery

900th 108, 190',  
2000, 2001, 2002

Exhibit "A-1"  
Heron Rookery  
DE-00XX-00  
14-09-10/SENE



TABLE 9

**GREAT GREY OWL NEST SITE INVENTORY  
SITES ON FEDERAL LANDS  
"2A" Goal 5 Resource**

<b>Township</b>	<b>Range</b>	<b>Section</b>	<b>Quarter</b>	<b>General Location</b>
22S	09E	09	SESW	Dorrance Meadow

TABLE 10

**GREAT GREY OWL NEST SITES  
DELETED FROM INVENTORY**

<b>ODFW Site #</b>	<b>Map &amp; Tax Lot</b>	<b>Quarter</b>	<b>General Location</b>
DE-0047-00	22-09-36	SWSW	
DE-0048-00	21-10-14	NWSE	

ESEE FINDINGS AND DECISION  
GREAT GREY OWL #DE0047-00

1. Inventory.

The Oregon Department of Fish and Wildlife identified a great grey owl nest site DE0047-01 (22-09-36-SWSW). The county adopted this site as a Goal 5 resource in Ordinance 92-041. This nest no longer exists. The site was located in a lodgepole pine stand which was killed by mountain pine beetles. The mortality of trees resulted in the destruction of the nest and abandonment of the site by the owls.

The Board finds that this site is not important and designates it as a "1A" Goal 5 resource in accordance with OAR 660-16-000(5)(a). The site is deleted from the County Goal 5 inventory of great grey owl sites on non-federal land by Ordinance 94-004).

ESEE FINDINGS AND DECISION  
GREAT GREY OWL #DE0048-00

0135-2282

1. Inventory.

The Oregon Department of Fish and Wildlife identified a great grey owl nest site DE0048-01 (map number 21-10-00-1401). The county adopted this site as a Goal 5 resource in Ordinance 92-041. This nest no longer exists. The site was located in a lodgepole pine stand which was killed by mountain pine beetles. The mortality of trees resulted in the destruction of the nest and abandonment of the site by the owls.

The Board finds that this site is not important and designates it as a "1A" Goal 5 resource in accordance with OAR 660-16-000(5)(a). The site is deleted from the County Goal 5 inventory of great grey owl sites on non-federal land by Ordinance 94-004).

TABLE 11

PRAIRIE FALCON SITE INVENTORY  
SITES ON FEDERAL LANDS  
"2A" Goal 5 Resource

ODFW Site #	Township	Range	Section	General Location
DE-0463-00	19S	12E	04	Imperial Valley
DE-0007-00	15S	12E	35	Mid-Deschutes River
DE-0010-00	16S	12E	02	Mid-Deschutes River
DE-0021-00	19S	14E	24	Horse Ridge/Dry River Canyon
DE-0031-00	16S	11E	20	Tumalo Dam Natural Area

TABLE 12

BALD EAGLE NEST SITE INVENTORY  
NEST SITES ON NON-FEDERAL LAND OR WITH  
NON-FEDERAL SENSITIVE HABITAT AREAS

ODFW Site #	Map & Tax Lot	Quarter Section	Site Name
DE 0035-00	15-10-00-1400	23/NWNE	Cloverdale NW
DE 0035-01	15-10-00-1400	23/NENE	Cloverdale NE
DE 0039-00	22-09-00-0500	06/SESW	Wickiup Dam
DE-0046-00	20-10-34-3401	34/NWSE	Bates Butte

0135-2285

TABLE 13

BALD EAGLE NEST SITES DELETED FROM INVENTORY

ODFW Site #	Township and Range	Quarter Section	Site Name
DE 0036-00	17-11-	26/NESE	Shevlin Park
DE 0037-00	22-09-	04/SENE	Wickiup Reservoir
DE 0038-00	22-09-	34/NESW	Haner Park

## ESEE FINDINGS AND DECISION

BALD EAGLE HABITAT SITES  
DE0035-00 and DE0035-01

0135-2286

### 1. Inventory.

The Oregon Department of Fish and Wildlife (ODFW) has identified two bald eagle nests in Township 15S, Range 10E, Section 23, Tax Lot 1400. The ODFW identifiers for these sites are DE0035-00 and DE0035-01. The sites are also known as Cloverdale. The sites are described in the Oregon Department of Fish and Wildlife Central Region Administrative Report No. 93-1.

The sensitive habitat area is identified as the area east of Highway 20 that is within a 1/4 mile radius of each nest site. The nest sites and the sensitive habitat area are mapped on Exhibit "A".

### 2. Sensitive Habitat Area Site Characteristics.

The nests are alternate nests sites for a single pair of birds. The nest sites and the sensitive habitat area in section 23 is under U.S. Forest Service jurisdiction. The sensitive habitat area in sections 13, 14, and 24 is located on private land and is the subject of this ESEE analysis. There are portions of three ownerships within the sensitive habitat area:

15-10-00-1400	federal
15-10-14-700	Squaw Creek Irrigation District
15-10-24-200	private

Both nest sites are located in large ponderosa pine trees. A large irrigation pond is located on private land north of the nests and within the sensitive habitat area. The Squaw Creek Irrigation Canal runs through the sensitive habitat area.

The habitat site contains land zoned Exclusive Farm Use (EFUTRB, EFUSC) and Forest (F1). Portions of the sensitive habitat site are also zoned Landscape Management Combining Zone (LM) and Surface Mining Impact Area Combining Zone (SMIA). The combining zones are overlays on the underlying base zones. The uses permitted in base zone are also permitted in the SMIA and LM combining zones. The minimum lot sizes in the EFU zone will maintain a lot size of at least 20 acres for nonfarm lots and require a parcel containing at least 23 acres of irrigation for farm parcels.

3. Conflicts Identification

0135-2287

Potentially Conflicting Uses With Habitat Site.

<u>Zone</u>	<u>Permitted Use</u>	<u>Conditional Use</u>
EFU	-Farm use -Forest use -Exploration for minerals -Farm accessory building -Some road construction	-Single family dwelling -Residential homes -Private park, campground -Personal use airstrip -Home occupation -Process forest products -Solid waste disposal site -Storage, crushing, processing of aggregate -Church or school -Certain road projects -Bed and breakfast
F1	-Same as EFU -Distribution lines -Portable processing forest products	-Parks and campgrounds -Fire station

The nesting season ranges from January 15 through August 1. Conflicting uses occurring during this time period could cause disturbance of the birds leading to nest failure or abandonment of the site.

Disturbance and harassment by the public has been a conflict prior to 1992 when the U.S. Forest Service placed an administrative closure on the Forest Service lands adjacent to the nest sites. Construction or use of buildings if conducted during the nesting season could interfere with nesting. A residence, agricultural building, church or school located within the sensitive habitat area could increase disturbance and cause a loss of solitude. Expansion of the highway could cause disturbances to the nest site. Any of the conditional uses could cause disturbance to the nesting birds if conducted during the nesting period. Although agricultural and or forest practices could alter foraging areas or disturb the birds, these uses are not regulated by the County.

The county has no authority to regulate commercial forest practices. Forest practices are regulated by the Oregon Department of Forestry (ODOF). The State Forest Practices Act establishes a procedure for notification of forest operations which requires a management plan for forest operations within one half mile of eagle nests.

4. Economic, Social, Environmental and Energy Consequences Analysis.

(A) Economic Consequences



The economic consequence of restricting highway expansion or relocation could be an increased public cost for transportation facilities. Construction costs could increase if building activity is restricted during the nesting season.

Limiting the development of parks or campgrounds would have a negligible economic consequence as there are numerous private and public recreational facilities throughout the county.

(B) Social Consequences

The social consequence of allowing unregulated conflicting uses could be the abandonment of the nest site which would be a loss to the segment of society that enjoys viewing wildlife. Restricting development options for individual property owners could have a negative social consequence. However, the two private ownerships with land in the sensitive habitat area already have dwellings on their lots which are outside of the habitat area.

Structural development within the sensitive habitat area could be prohibited with minor economic, or social consequence as owners have the potential to place structures outside of the sensitive habitat area. Farming activity may occur within the sensitive habitat area.

The positive social consequences of limiting conflicting uses would be continuing opportunities for naturalists and bird watchers to study and enjoy the birds.

(C) Environmental Consequences

The environmental consequences of allowing unregulated conflicting uses could be the failure of nesting, abandonment of the nest site, or alteration of foraging area. Highway noise and activity could cause nest abandonment, if the highway is moved or widened closer to the sites. There are no identified negative environmental consequences of prohibiting conflicting uses.

(D) Energy Consequences

There could be an increased energy use if Highway 20 is relocated or redesigned to accommodate the eagle nest sites.

5. Program To Meet Goal 5.

The Board of County Commissioners finds that, based on

ESEE Findings and Decision - Site DE0035-00 and DE0035-01

the ESEE consequences, both the resource site and the conflicting uses are important relative to each other and that the ESEE consequences should be balanced to allow conflicting uses in a limited way (OAR 660-16-010(3)).

In order to protect both the nest site and sensitive habitat area and allow limited conflicting uses, the following restrictions shall apply in the sensitive habitat area:

1. The county shall require site plan review in conformance with the Sensitive Bird and Mammal Habitat Combining zone for all land uses within the sensitive habitat area requiring a land use permit.
2. Structural development within the quarter mile sensitive habitat area shall be prohibited because there are alternate locations for structures outside of the sensitive habitat area.
3. Agricultural and forest practices may occur during the nesting period. The county does not regulate these activities.
4. The U.S. Forest Service has placed an administrative closure restricting public access on the Federal lands within the site.
5. The Oregon Department of Transportation must coordinate with the U.S. Fish and Wildlife Service for any project near the nest site in order to comply with the Federal Endangered Species Act.
6. The State Forest Practices Act establishes a procedure for notification of forest operations. A management plan for forest operations is required for certain forest practices within one half mile of bald eagle nests.

0135-2290

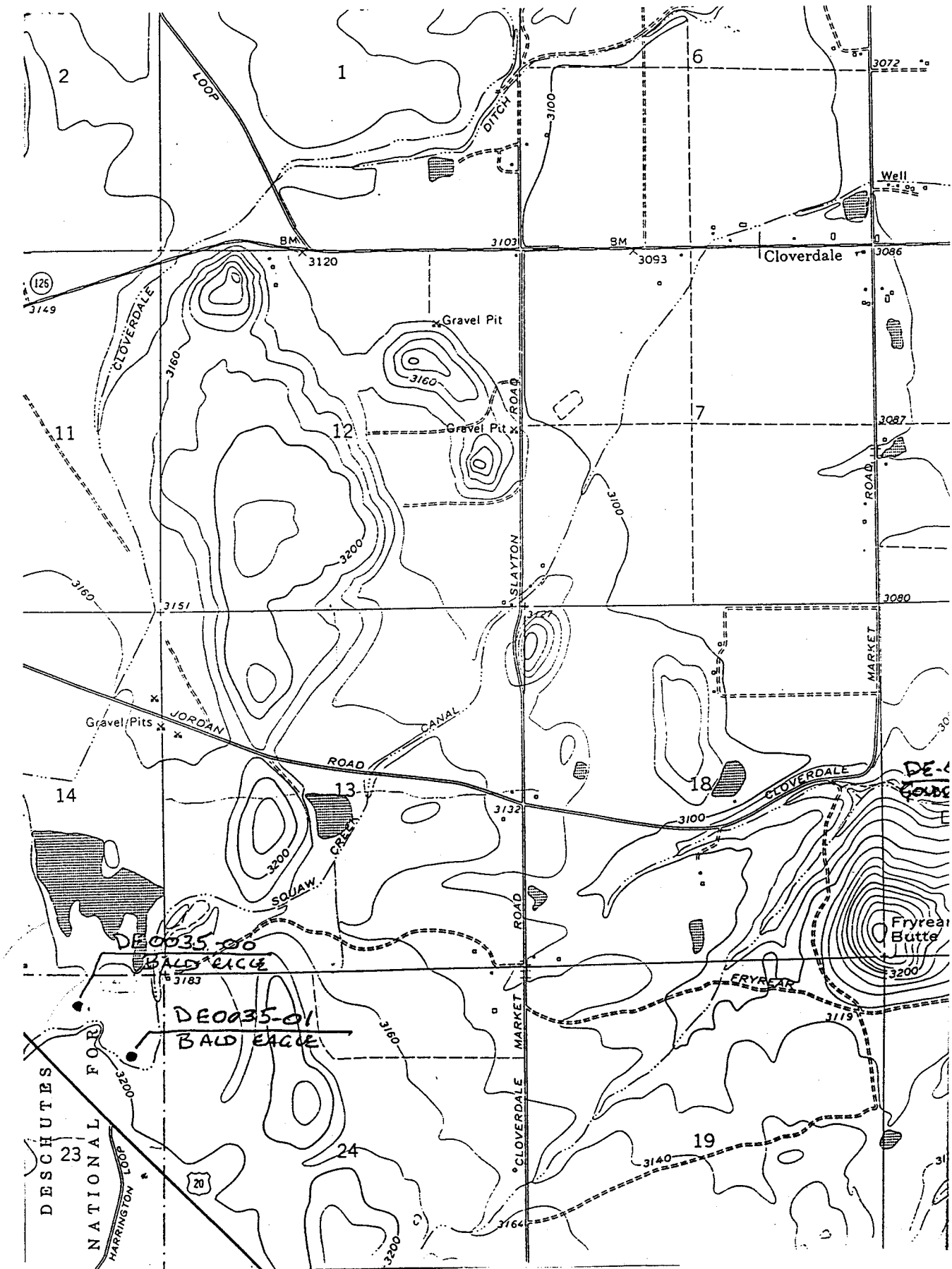


Exhibit "A-1"  
Bald Eagle  
DE-0035-00/DE-0035-01  
15-10-23/NWNE/NENE

305, 302, 301, 304, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

TISS RIOEWM  
DESCHUTES COUNTY  
1:20,000  
See Map 14: 10

NIKI MAP 105C  
WETLAND BENKLE BUTE  
See Map 14: 10

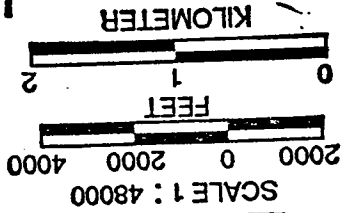
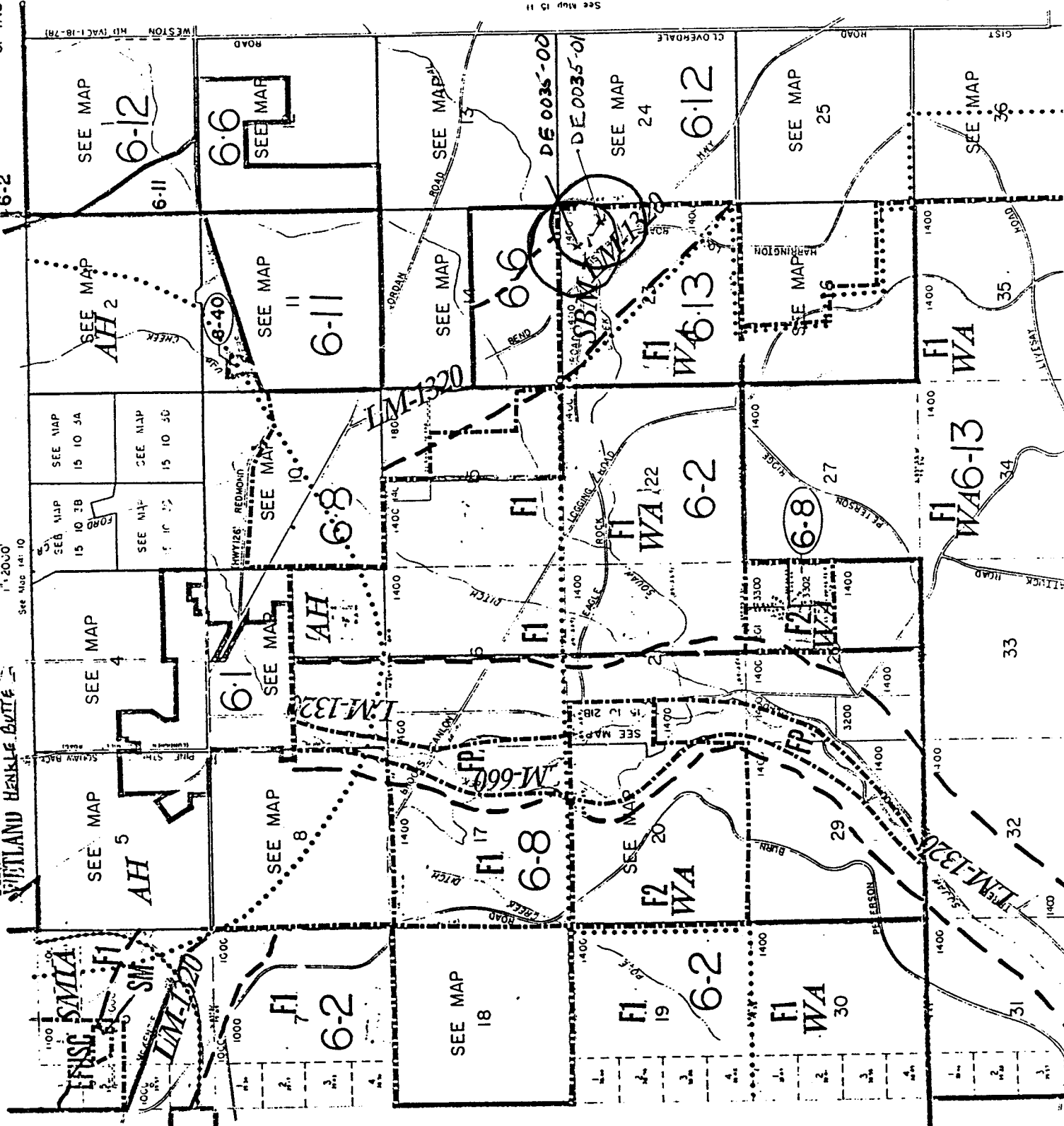


Exhibit "A-2"  
Bald Eagle  
DE-0035-00/DE-0035-01  
15-10-23/NWNE/NENE

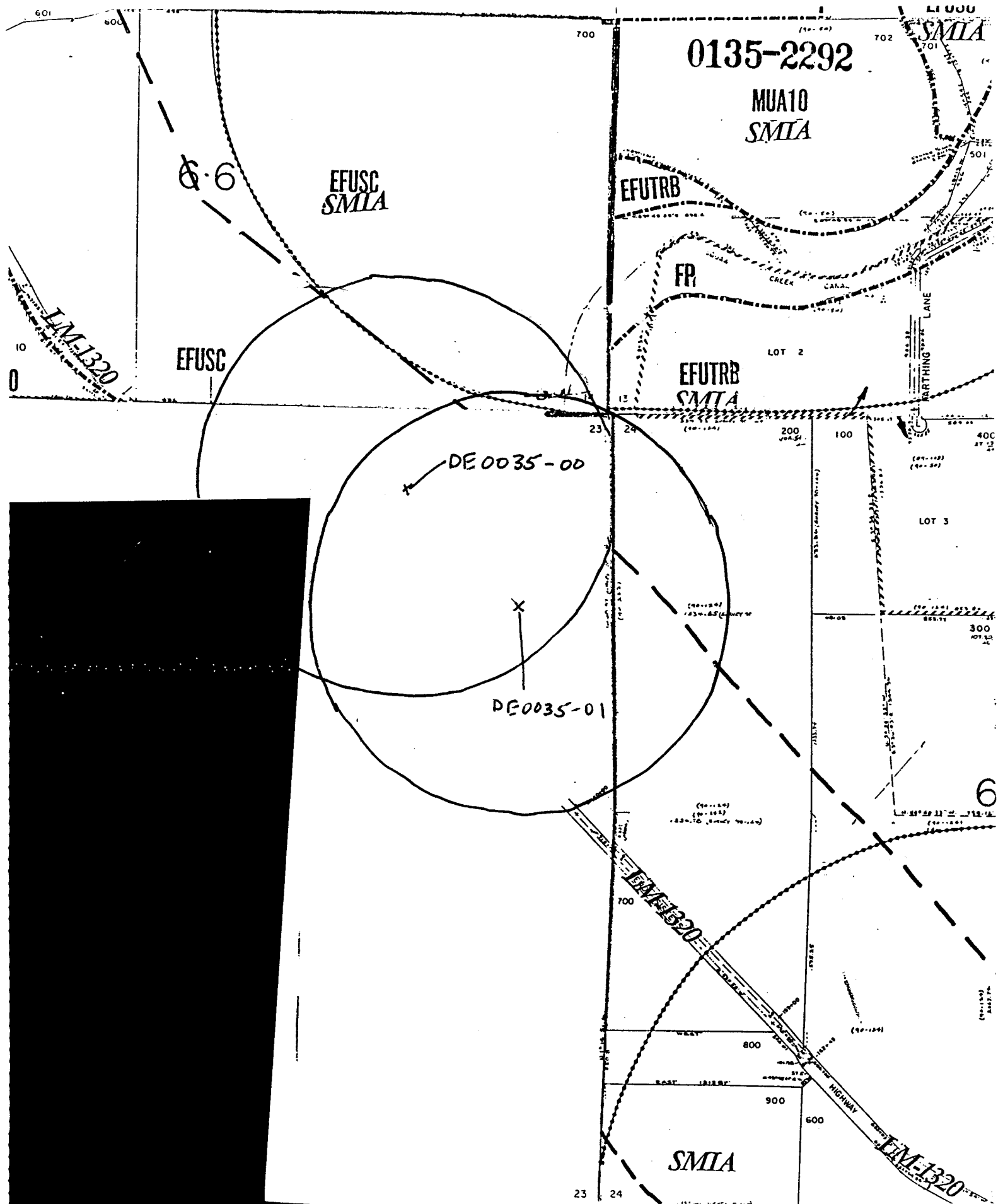


Exhibit "A-3"

Bald Eagle

DE-0035-00/DE-0035-01

15-10-23/NWNE/NENE

ESEE FINDINGS AND DECISION

0135-2293

BALD EAGLE HABITAT SITE  
DE0036-00

1. Inventory

The Oregon Department of Fish and Wildlife (ODFW) has inventoried a former bald eagle nest site in Township 17S, Range 11E, Section 26, Tax Lot 5900. The ODFW identifier for this site is DE0036-00. The site is also known as Shevlin Park. The site is described in the Oregon Department of Fish and Wildlife Central Region Administrative Report No. 93-1.

2. Sensitive Habitat Area Site Characteristics

The nest site is in a large tree located on the west side of Tumalo Creek in Shevlin Park. Shevlin Park is managed by the Bend Metro Park and Recreation District. The area is forested. A recreation trail is close by on an old railroad grade.

The nest was partially blown out of the tree in 1992 and the site is not active at this time. Eagles have been observed in the area, but nesting has not occurred since 1988.

The nest site is zoned Open Space Conservation (OSC). Land within one quarter mile is zoned Forest Use (F1) and Urban Area Reserve (UAR-10). The UAR-10 zoned land is within the city limits of Bend and is therefore outside county jurisdiction.

3. Conflict Identification

The nesting season ranges from January 15 through August 31. Conflicting uses occurring during this time period could cause disturbance of the birds leading to nest failure or abandonment of the site. The potential conflicting uses with this site are recreational uses in Shevlin Park and forest practices on industrial forest land.

The county has no authority to regulate commercial forest practices. Forest practices are regulated by the Oregon Department of Forestry (ODOF). The State Forest Practices Act establishes a procedure for notification of forest operations which requires a management plan for forest operations within one half mile of eagle nests.

The area within Shevlin Park around the nest tree is closed to motor vehicles and is managed to retain natural characteristics. The only recreational activity in the vicinity of the nest site is hiking. According to the Bend Metro Park and Recreation District no intensification of development or use is planned for the area of the park with the nest site. It is unknown if recreational use in the park

caused abandonment of the nest site.

0135-2294

The surface mine located to the north west of the site (site #296) is over one half mile from the nest site. The nest site was not identified as a conflicting use in the ESEE for the surface mine.

4. Program To Meet Goal 5

The Board of County Commissioners finds that because the nest site has not been active since 1988 and the nest has been partially destroyed, the site should be deleted from the inventory of sensitive bird habitat (OAR 660-16-000(5)(a)). The Oregon Department of Fish and Wildlife will continue to monitor the site and if eagles reestablish the nest, then the county will add the site to the inventory and proceed with the Goal 5 process according to OAR 660-16.

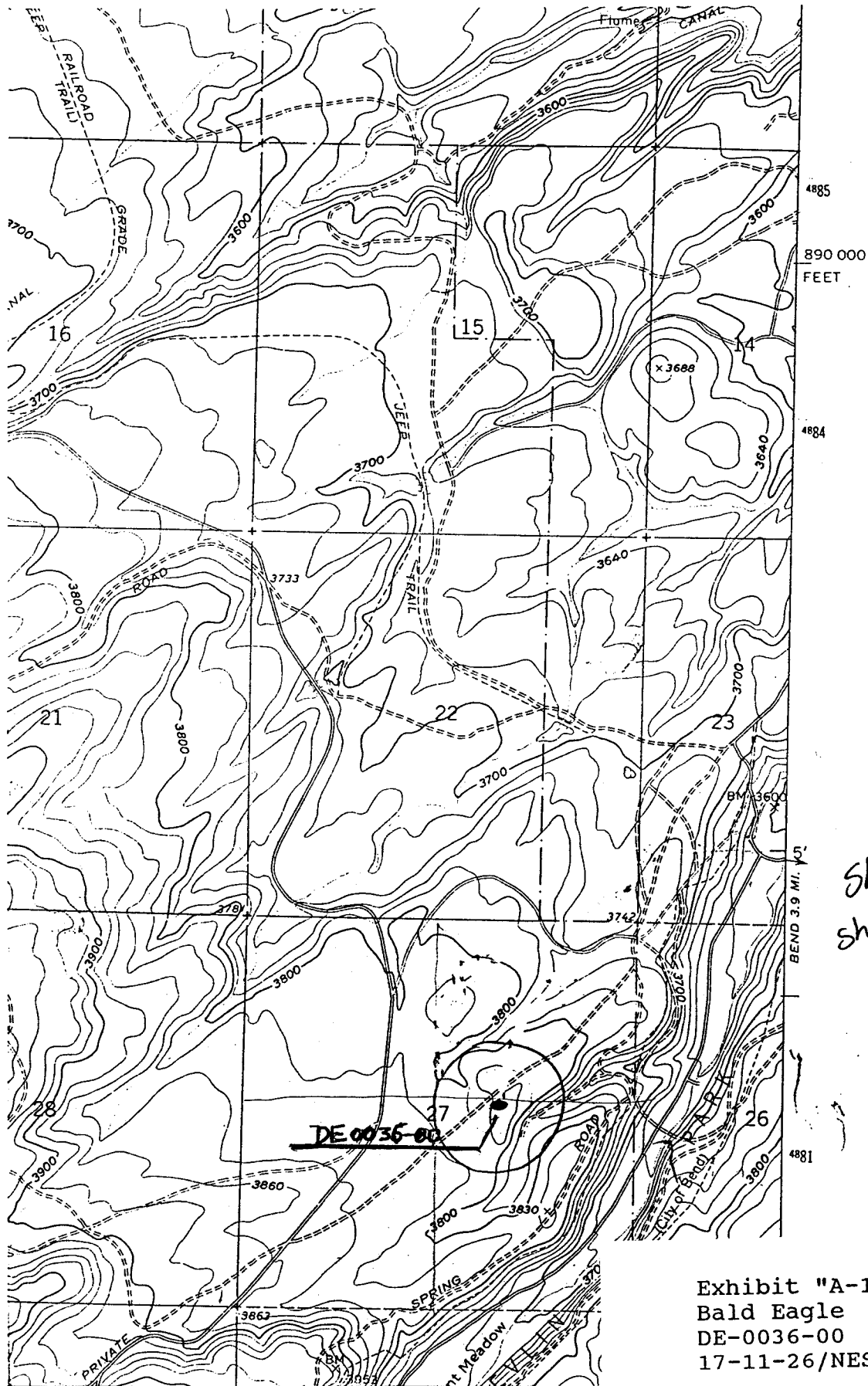


Exhibit "A-1"  
Bald Eagle  
DE-0036-00  
17-11-26/NESE



ESEE FINDINGS AND DECISION  
BALD EAGLE HABITAT SITE  
DE0037-00

0135-2296

1. Inventory.

The Oregon Department of Fish and Wildlife (ODFW) has identified a bald eagle nest in Township 22S, Range 09E, Section 04, Tax Lot 500. The ODFW identifier for this site is DE0037-00, Wickiup Reservoir. The site is described in the Oregon Department of Fish and Wildlife Central Region Administrative Report No. 93-1.

2. Sensitive Habitat Area Site Characteristics.

The site is located on the Deschutes National Forest. The nest site and the sensitive habitat area are mapped on Attachment "A". The sensitive habitat area includes the area within one quarter mile of the nest site and is entirely on federal land. This nest site and alternate nests (DE-0038-00 and DE0039-00) have produced 11 young in a 14 year period. The area is forested and the eagles forage in Wickiup reservoir, the Deschutes River and other lakes in the vicinity.

The sensitive habitat area is zoned Forest Use (F-1) and Open Space Conservation (OCS) with Landscape Management Combining Zone (LM) and Wildlife Management Combining Zone (WA) for deer migration corridor. The minimum lot size in the F1 zone is 80 acres.

3. Conflict Identification.

The nesting season ranges from January 15 through August 31. Conflicting uses occurring during this time period could cause disturbance of the birds leading to nest failure or abandonment of the site. The primary conflicting uses are forest practices and recreation activity which could cause loss of solitude for the birds. This nest site is managed by the Deschutes National Forest in compliance with the Deschutes National Forest Land and Resource Management Plan and the Federal Endangered Species Act.

4. Program To Meet Goal 5.

The Board of County Commissioners finds that because the site and sensitive habitat area are entirely on U.S. Forest Service land, there are no conflicting uses that can be regulated by the county. The site will be classified as "2A" (OAR 660-16-005(1)). Consequently the site shall be deleted from the inventory of sensitive bird habitat sites on non-federal land by Ordinance 94-004.

0135-2297

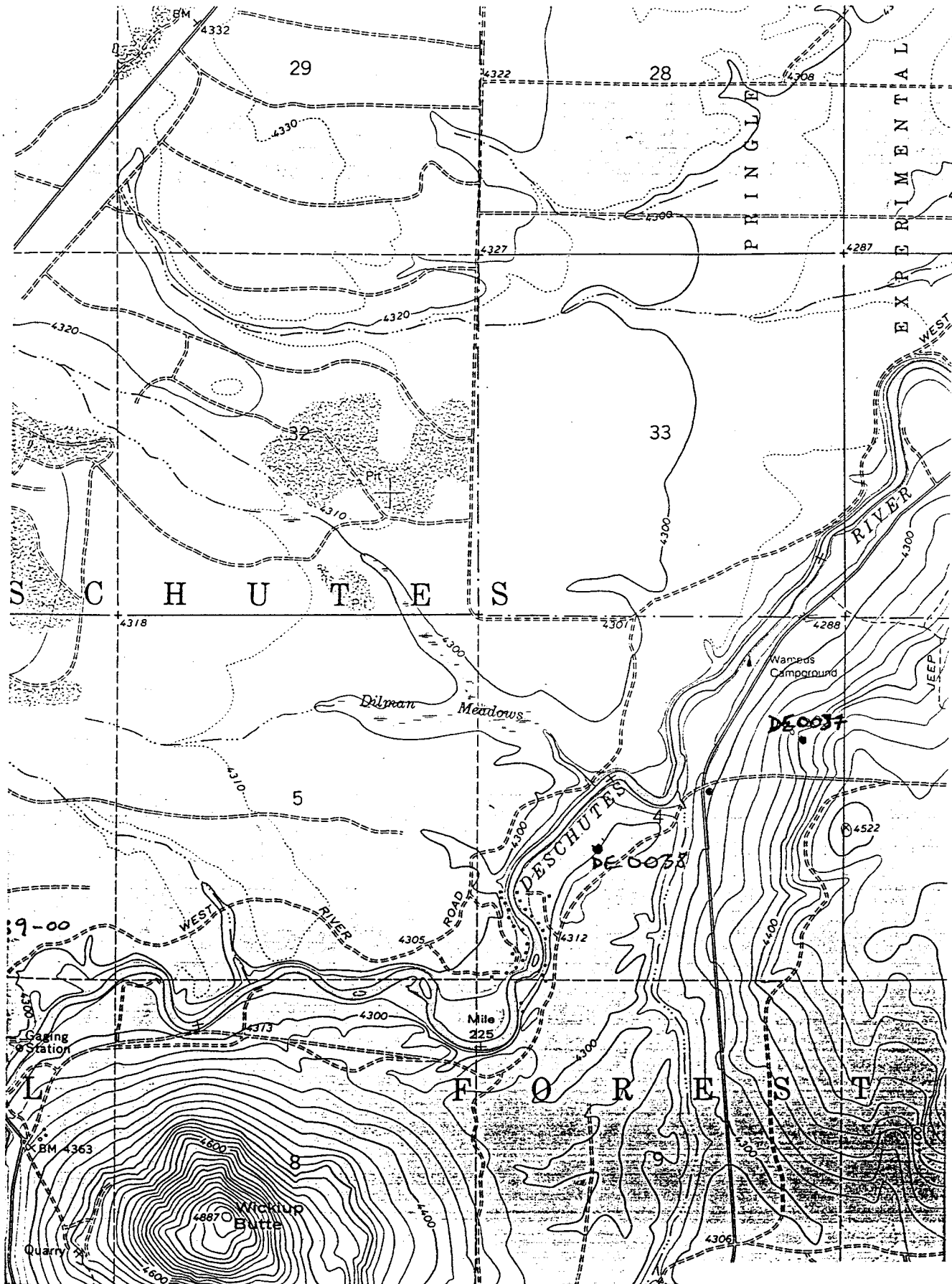


Exhibit "A-1"  
Bald Eagle  
DE-0037-00  
22-09-04 / SENE

## ESEE FINDINGS AND DECISION

BALD EAGLE HABITAT SITE  
DE0038-001. Inventory.

The Oregon Department of Fish and Wildlife (ODFW) has identified a bald eagle nest in Township 22S, Range 09E, Section 34, Tax Lot 500. The ODFW identifier for this site is DE0038-00, Haner Park. The site is described in the Oregon Department of Fish and Wildlife Central Region Administrative Report No. 93-1.

The nest site and the sensitive habitat area are mapped on Exhibit "A". The sensitive habitat area includes the area within one quarter mile of the nest site.

2. Sensitive Habitat Area Site Characteristics.

According to ODFW, the nest was last used in 1983. Subsequently, the nest was blown out of the tree.

The nest tree is located on the Deschutes National Forest on the west side of the Deschutes River north of Haner Park. The sensitive habitat area extends into the Haner Park development. Haner Park is a property owned by the Elks Lodge and is divided into over 150 leased lots on 80 acres. The county assessor's records indicate that there are 18 dwellings within 1320 feet of the nest. Most of the dwellings are seasonal.

The former nest site is on the Deschutes National Forest are zoned Forest Use (F-1) with a Landscape Management Combining zone along the Deschutes River. Haner Park (22-09-04CC) is zoned Forest Use (F-2) and LM. The minimum lot size in the F1 and the F-2 zone is 80 acres.

3. Program To Meet Goal 5.

The Board of County Commissioners finds that the nest site has not been active since 1983 and has been destroyed. Therefore, the site is not an important Goal 5 resource and may be deleted from the inventory of sensitive bird habitat (OAR 660-16-000(5)(a)). The site will be deleted from the inventory of sensitive bird habitat sites by Ordinance 94-004. The Oregon Department of Fish and Wildlife will continue to monitor the site and if eagles reestablish the nest, then the county will add the site to the inventory and proceed with the Goal 5 process according to OAR 660-16.

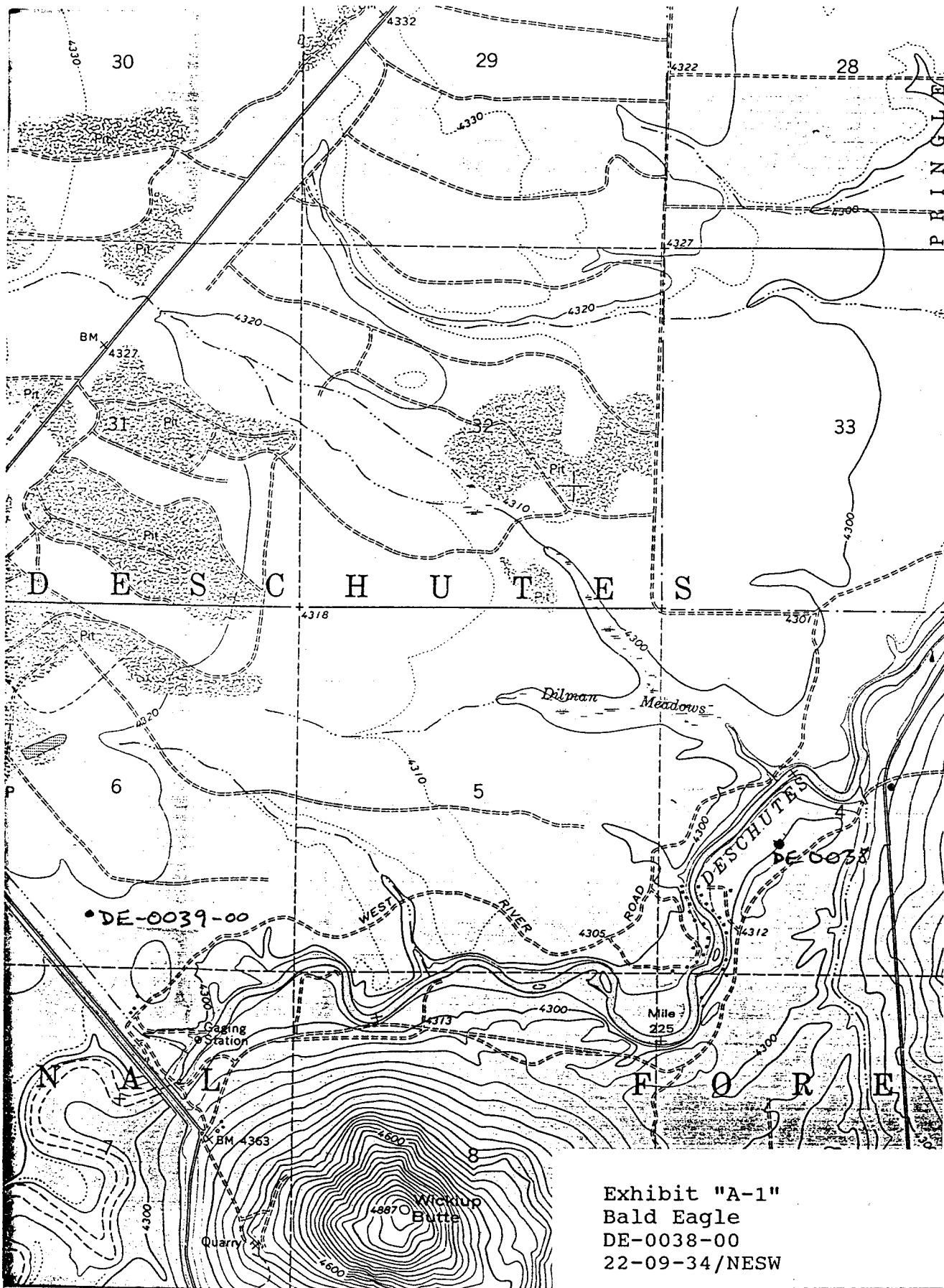


Exhibit "A-1"  
Bald Eagle  
DE-0038-00  
22-09-34/NESW

ESEE FINDINGS AND DECISION

0135-2300

BALD EAGLE HABITAT SITE  
DE0039-00

1. Inventory.

The Oregon Department of Fish and Wildlife (ODFW) has identified a bald eagle nest in Township 22S, Range 09E, Section 06, Tax Lot 500. The ODFW identifier for this site is DE0039-00, Wickiup Dam. The site is described in the Oregon Department of Fish and Wildlife Central Region Administrative Report No. 93-1. The nest site and the sensitive habitat area are mapped on Exhibit "A".

2. Sensitive Habitat Area Site Characteristics.

The site is located on the Deschutes National Forest. The sensitive habitat area includes the area within one quarter mile of the nest site and is entirely on federal land. This nest site and alternate nests (DE-0038-00 and DE0037-00) have produced 11 young in a 14 year period. The area is forested and the eagles forage in Wickiup reservoir, the Deschutes River and other lakes in the vicinity.

The sensitive habitat site is zoned Forest Use (F-1) and Landscape Management Combining Zone (LM). The LM zone is an overlay on the underlying base zone. The uses permitted in base zone are also permitted in the LM zone with some restrictions. The minimum lot size in the F1 zone is 80 acres.

3. Conflicts Identification

Potentially Conflicting Uses With Habitat Site:

<u>Zone</u>	<u>Permitted Use</u>	<u>Conditional Use</u>
F1	-Forest practices -Distribution lines -Portable processing forest products	-Parks and campgrounds -Fire station -Forest management dwelling -Caretaker residences for parks or hatcheries.

The nesting season ranges from January 15 through August 1. Conflicting uses occurring during this time period could cause disturbance of the birds leading to nest failure or abandonment of the site. The primary conflicting uses are forest practices and recreation activity which could cause loss of solitude for the birds. This nest site is managed by the Deschutes National Forest in compliance with the Deschutes National Forest Land and Resource Management Plan and the Federal Endangered Species Act.

0135-2301

5. Program To Meet Goal 5.

The Board of County Commissioners finds that because the site and the area within one quarter mile of the site is entirely on US Forest Service land, that here are no conflicting uses that can be regulated by the county. Therefore, the site will be maintained on the county inventory of sensitive bird sites on federal land. The site will be classified as "2A" (OAR 660-16-005(1)).

0135-2302

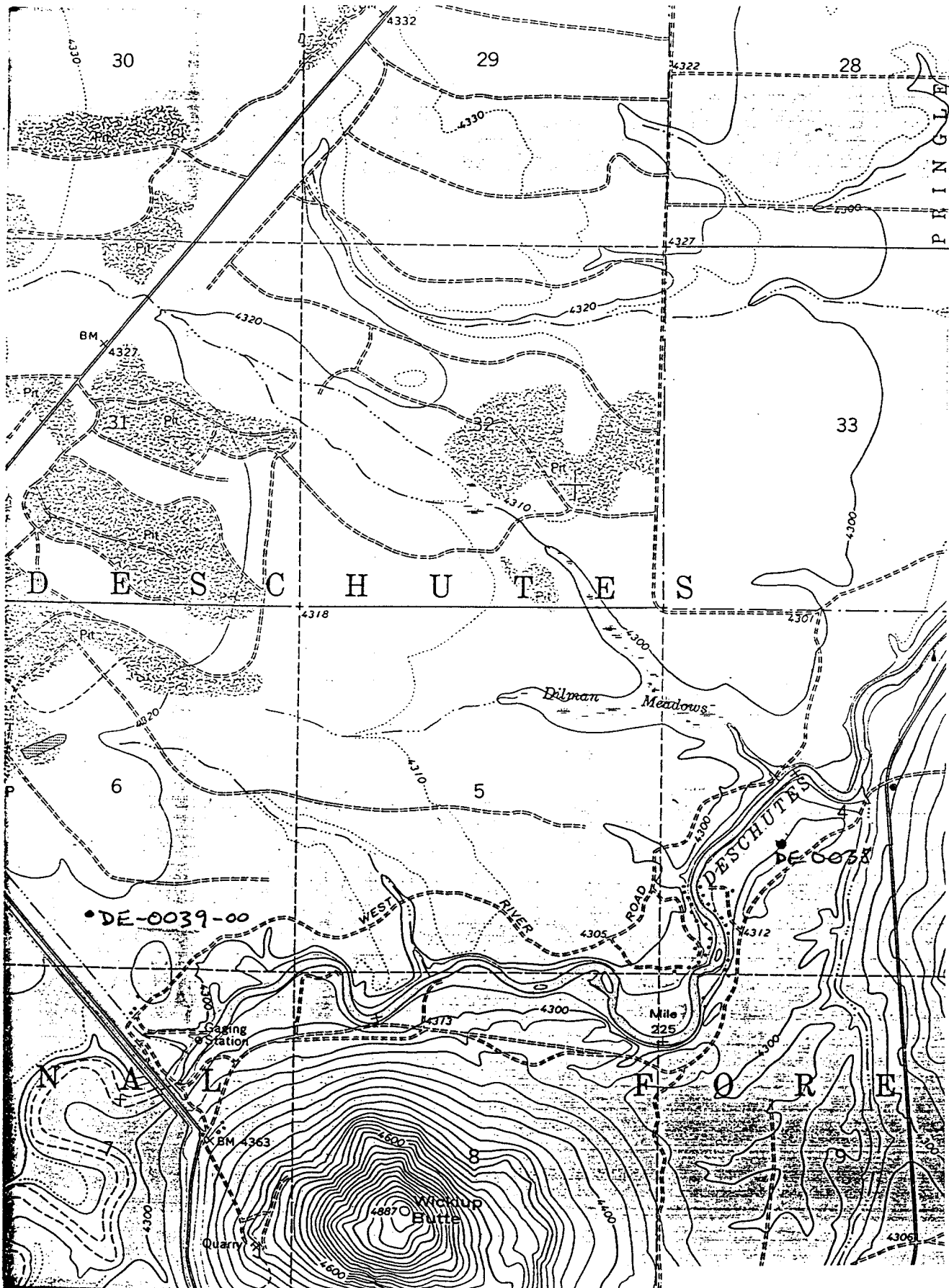


Exhibit "A-1"  
Bald Eagle  
DE-0039-00  
22-09-06/SFSW

ESEE FINDINGS AND DECISION

0135-2303

BALD EAGLE HABITAT SITE  
DE0046-00

1. Inventory.

The Oregon Department of Fish and Wildlife (ODFW) has identified a bald eagle nest in Township 20S, Range 10E, Section 34, Tax Lot 3401. The ODFW identifier for this site is DE0046-00, Bates Butte. The site is described in the Oregon Department of Fish and Wildlife Central Region Administrative Report No. 93-1. The sensitive habitat area includes the area within one quarter mile of the nest site. The nest site and the sensitive habitat area are mapped on Exhibit "A".

2. Sensitive Habitat Area Site Characteristics.

The site is located on land owned by the State of Oregon and the sensitive habitat area extends onto Deschutes National Forest land.

20-10-34-3401 Oregon State Parks  
20-10-34-3400 Federal USFS

The nest is located in a tree on state owned land. The state owned land is part of the La Pine State Recreation Area and is managed by the Oregon State Parks and Recreation Department. The La Pine State Recreation Area Master Plan (1986) does not propose any development within the sensitive habitat area. The state manages the site in its natural condition to limit conflicts with the nesting birds.

The sensitive habitat area on the federal and state land is zoned Forest Use (F-1) with a wildlife combining zone (WA) for a deer migration corridor. The WA zone is an overlay on the underlying base zone. The uses permitted in the base zone are also permitted in the WA zone with some restrictions. The minimum lot size in the F1 zone is 80 acres.

The nest site has produced 27 young over a 20 year period. The birds forage in the Deschutes River, Fall River and nearby lakes.

3. Conflict Identification

Potentially conflicting uses with habitat site:

<u>Zone</u>	<u>Permitted Use</u>	<u>Conditional Use</u>
F1	-Forest practices -Distribution lines -Portable processing	-Parks and campgrounds -Fire station -Forest management dwelling



forest products  
-Exploration for  
minerals

-Caretaker residences for  
parks or hatcheries.

The nesting season ranges from January 15 through August 1. Conflicting uses occurring during this time period could cause disturbance of the birds leading to nest failure or abandonment of the site.

The county has no authority to regulate commercial forest practices. Forest practices are regulated by the Oregon Department of Forestry (ODOF). The State Forest Practices Act establishes a procedure for notification of forest operations which requires a management plan for forest operations within one half mile of bald eagle nests.

Noise from construction activities, machinery operation, vehicles, loud music, voices or human activity within the sensitive habitat area could disturb the birds during the nesting period. Disturbance could interfere with establishment of the nest or cause the adults to temporarily abandon the nest leaving the eggs or young birds vulnerable to cold, heat, or predation.

Developed park facilities including trails near the nest or a campground would create congregations of people during the nesting season which could cause disturbance to the birds.

4. Economic, Social, Environmental and Energy Consequences Analysis.

(A) Economic Consequences

The economic consequence of restricting forest practices could result in a reduction of timber available for harvest. Limiting the construction of developed recreation facilities in the La Pine State Recreation Area would have a negligible economic consequence as the state does not plan to develop recreation facilities within the sensitive habitat area. Prohibiting a caretaker's residence or fire station would have little economic consequence as there are alternate sites on the state land for these uses outside of the sensitive habitat area.

(B) Social Consequences

The social consequence of allowing unregulated conflicting uses could be the abandonment of the nest site which would be a loss to the segment of society that enjoys viewing wildlife.

The positive social consequences of limiting conflicting uses would be continuing opportunities for naturalists

and bird watchers to study and enjoy the birds.

0135-2305

(C) Environmental Consequences

The environmental consequences of allowing unregulated conflicting uses could be the failure of nesting, abandonment of the nest site, or alteration of foraging area. There are no identified negative environmental consequences of prohibiting conflicting uses.

(D) Energy Consequences

There are no identified significant energy consequences from either permitting or limiting conflicting uses.

5. Program To Meet Goal 5.

The Board of County Commissioners finds that, based on the ESEE consequences, that both the resource site and the conflicting uses are important relative to each other and that the ESEE consequences should be balanced to allow conflicting uses in a limited way (OAR 660-16-010(3)).

In order to protect both the nest site and sensitive habitat area and allow limited conflicting uses the following restrictions shall apply to the sensitive habitat area:

1. The county shall require site plan review in conformance with the Sensitive Bird and Mammal Habitat Combining zone for all land uses within the sensitive habitat area requiring a conditional use permit.
2. Structural development within the quarter mile sensitive habitat area shall be prohibited.
3. Developed recreational facilities shall be prohibited within the sensitive habitat area.
4. Forest practices may occur during the nesting period. However, the Oregon Department of Forestry regulates forest practices and is required by the State Forest Practices Act to develop a management plan for forest practices within one half mile of a bald eagle nest.
5. The Deschutes County Comprehensive Plan recognizes the La Pine State Recreation Area Master Plan (1986) as the controlling document for guiding development within the recreation area (Policy Number 13, Recreation Chapter). The master plan does not propose any development within the

sensitive habitat area that would conflict with the site.

0135-2307

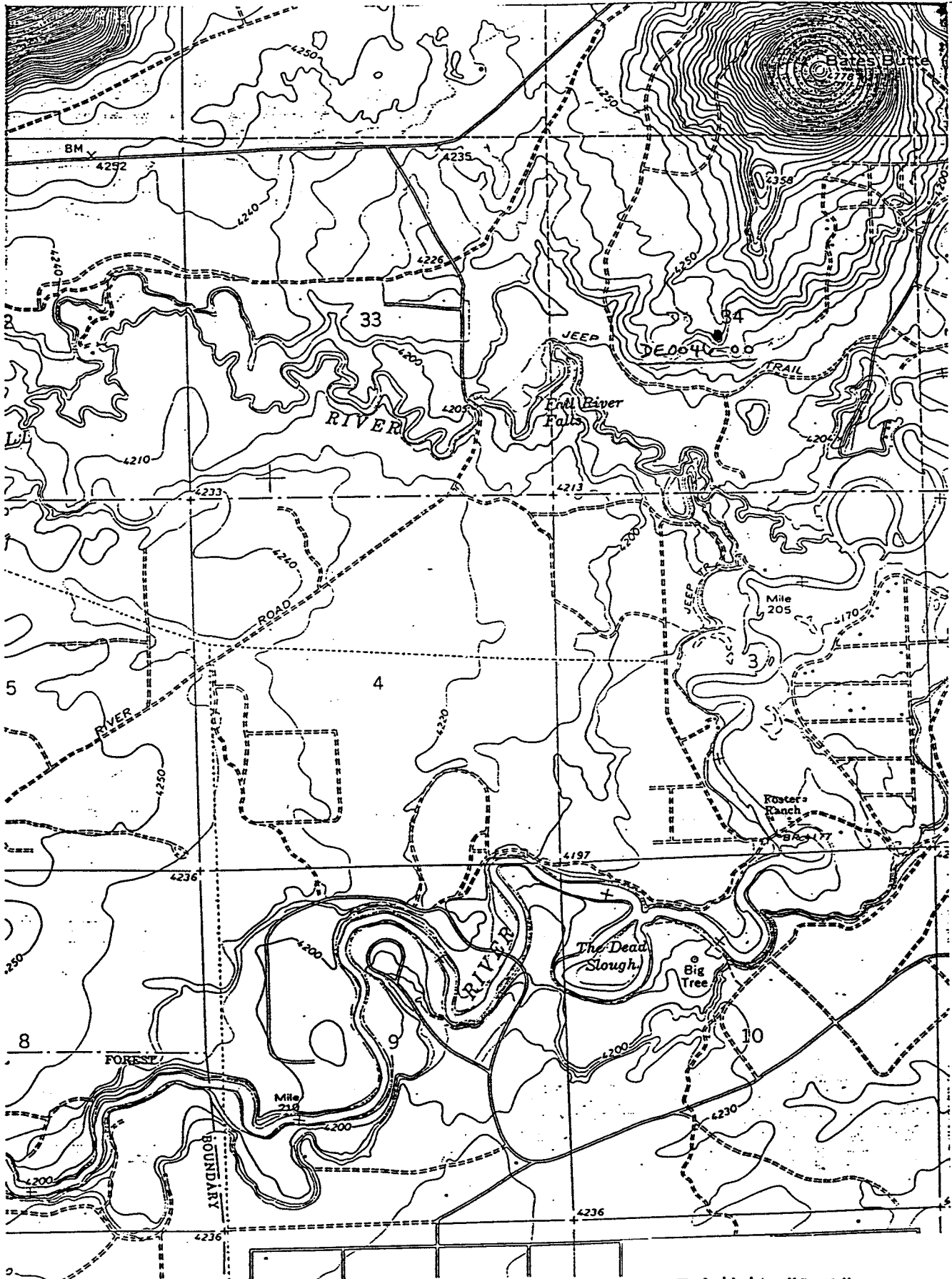


Exhibit "A-1"  
Bald Eagle  
DE-0046-00  
20-10-24 (NCSW)

This map was prepared for assessment purpose only.

FIRM MAP 465  
WETLAND DISTRICT

Section 34 1.205. N.10E.W.10.  
DESCHUTES COUNTY

1" = 400'

3501  
3600

WA

DE0046

0135-2308

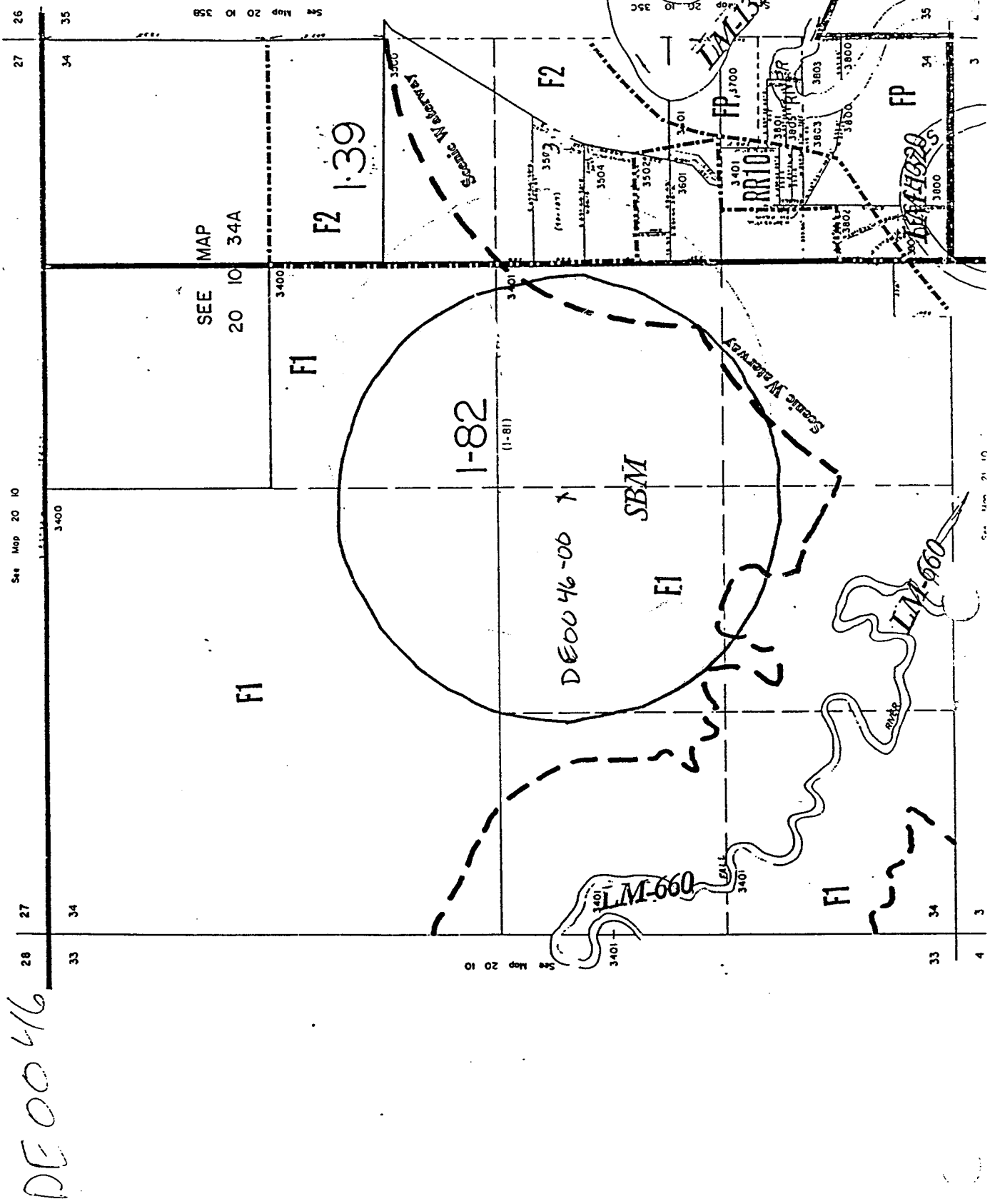


Exhibit "A-2"  
Bald Eagle  
DE-0046-00  
20-10-34/NESW

TABLE 14

**GOLDEN EAGLE NEST SITE INVENTORY  
NEST SITES ON NON-FEDERAL LAND OR WITH  
NON-FEDERAL SENSITIVE HABITAT AREA**

<b>ODFW Site #</b>	<b>Map &amp; Tax Lot</b>	<b>Quarter Section</b>	<b>General Location</b>
DE-0002-00	14-13-11-100	11/SEnw	Smith Rock State Park
DE-0002-01	14-13-11-100	11/SEnw	Smith Rock State Park
DE-0002-02	14-13-11-100	11/SEnw	Smith Rock State Park
DE-0002-03	14-13-11-100	11/NWNE	Smith Rock State Park
DE-0002-04	14-13-11-100	11/NWNE	Smith Rock State Park
DE-0002-05	14-13-11-100	11/NWNE	Smith Rock State Park
DE-0002-06	14-13-11-100	11/NWNE	Smith Rock State Park
DE-0006-00	15-12-00-1502	35/SENE	Mid Deschutes
DE-0006-01	15-12-00-1502	35/SENE	Mid Deschutes
DE-0006-02	15-12-00-1502	35/SENE	Mid Deschutes
DE-0006-04	15-12-00-1502	35/SENE	Mid Deschutes
DE-0006-05	15-12-00-1503	35/NESE	Mid Deshcutes
DE-0009-00	14-12-22D-300	23/NWSW	N. Odin Falls
DE-0011-00	15-12-00-100	1/NWSE	Radio Tower/Deschutes
DE-0011-01	15-12-00-100	1/NESE	Radio Tower/Deschutes
DE-0012-00	15-11-00-800	3/NENE	Upper Deep Canyon
DE-0014-00	16-11-00-7800	29/NWSE	Tumalo Dam
DE 0015-01	14-11-00-400	3/NENW	Squaw Creek
DE 0015-00	14-11-00-400	3/SESW	Rimrock Ranch
DE-0029-00	20-17-00-3801	36/NWSE	Twin Pines
DE-0034-00	15-10-00-1400	15/SEnw	Lazy Z/USFS
DE-0034-01	15-10-00-1400	15/SEnw	Lazy Z/USFS

Exhibit "1" for Ordinance No. 94-004 (06/15/94)

TABLE 15

GOLDEN EAGLE NEST SITES  
DELETED FROM COUNTY INVENTORY  
OF NEST SITES ON NON-FEDERAL LAND OR WITH  
NON-FEDERAL SENSITIVE HABITAT AREA

ODFW Site #	Tnshp/Range/Sec.	Quarter Section	General Location
DE-0003-00	15-11-17	NWSE	Fryrear Road - 1
DE-0003-01	15-11-16	SWSE	Fryrear Road - 2
DE-0013-00	14-12-28	NWNW	Buckhorn Canyon

ESEE FINDINGS AND DECISION  
GOLDEN EAGLE SITES DE0002-00 - DE0002-06  
SMITH ROCK STATE PARK

0135-2311

1. Inventory.

The Oregon State Parks Division has identified seven golden eagle cliff nest sites in Smith Rock State Park. The Oregon Department of Fish and Wildlife (ODFW) identifiers for the nest sites are DE0002-00, DE0002-01, DE0002-02, DE0002-03, DE0002-04, DE0002-05, DE0002-06. The sensitive habitat area includes the area within a 1/4 mile (1320 feet) radius of each nest site. The habitat sites and sensitive habitat areas are designated on maps attached as Exhibit "A".

2. Site Characteristics.

The nests are located in the cliffs of the rock formations in the Smith Rock State Park. The park is zoned Open Space Conservation (OSC). The land within the sensitive habitat area that is outside of the state park is Exclusive Farm Use (EFU-TE). The land within the sensitive habitat area that is within 660 feet of the Crooked River is zoned Landscape Management Combining zone (LM) which protects the scenic values of the Crooked River corridor. The LM zone is an overlay zone. The uses permitted in the underlying zone are also permitted in the LM zone. The land within the sensitive habitat area north of the Crooked River is also zoned Wildlife Area Combining Zone (WA) because it is deer winter range.

The seven golden eagle nest sites are alternate nest sites for a single pair of golden eagles. The golden eagle nests are in the north part of the park. One of the golden eagle nests was active in 1993 but no birds were fledged. The nesting season for golden eagles is from February 1 through August 1.

The sensitive habitat area for three of the golden eagle nests is entirely within the state park. The sensitive habitat area for the other four nests (DE0002-03, DE0002-04, DE0002-05 and DE0002-06) extends outside of the park to the north and east and includes the following tax lots:

14-13-00-500	Private	120 acres
14-13-00-400	Private	40 acres
14-13-00-100	USA	BLM
14-13-11-200	Private	20 acres

3. Conflicts Identification.

Potentially Conflicting Uses With Habitat Site

<u>Zone</u>	<u>Permitted Use</u>	<u>Conditional Use</u>
OSC	-Farm use	-Picnic or campground



- Public museum
  - Wildlife refuge
  - Public park, recreation area
  - Utility facility
  - Golf course
  - Water supply treatment facility
  - Commercial recreation
  - Public camp or resort
  - Rockhound site
  - Fill and removal in stream
- EFU
- Farm use
  - Forest use
  - Exploration for minerals
  - Farm accessory building
  - Some road construction
  - Single family dwelling
  - Residential homes
  - Private park, campground
  - Personal use airstrip
  - Home occupation
  - Process forest products
    - Solid waste disposal site
    - Storage, crushing, processing of aggregate
  - Church or school
  - Certain road projects
  - Bed and breakfast

The most significant conflicting use is recreational hiking and rock climbing in the state park. This activity has the potential to bring humans into close contact with the birds during the nesting season. The park is regulated by a master plan administered by the Oregon State Parks. One of the objectives of the master plan for the park is: "Maximize protection of significant wildlife and vegetation in the siting and construction of all park development projects."

The park manager reports that there is little climbing activity near the golden eagle nest sites. According to the park manager, the birds do not appear to be disturbed by hikers on established trails. The park closes some climbing routes during the nesting season to minimize the conflicts with the falcons.

The potential for conflicting uses permitted in the EFU zone on the private or BLM land within the sensitive habitat area north of the state park is unlikely because of difficult access and the restrictions of the WA and LM zones.

A single farm or nonfarm dwelling within the sensitive habitat area on each of the two private undeveloped ownerships (14-13-10-500 or 14-13-00-400,500 and 14-13-11-200) would probably not be a significant conflicting use if the rest of the lots remained in farm use/open space. However, two new residences would significantly increase the density of residential development within the sensitive habitat area. There is considerably more land in these ownerships outside of the

sensitive habitat area than within.

0135-2313

If nonfarm partitions are permitted within the sensitive habitat area, it could significantly increase the residential density within the sensitive habitat area which would reduce the effectiveness of the open space buffer adjacent to the state park.

A personal use airport or storage and crushing of aggregate could conflict with the birds because of increased noise. A private park or campground, bed and breakfast, church or school could conflict with the birds by introducing a level of human activity in an area that is currently undeveloped.

Forest practices are not a conflicting use because there is no commercial forest land within the sensitive habitat area. Farm use on the private and BLM land is limited to grazing which is not a conflicting use. State statute prevents regulations to restrict farm practices.

Deschutes County has not zoned the area within the sensitive habitat area for destination resorts. Therefore, destination resorts are not addressed as a conflicting use in this ESEE analysis.

4. Economic, Social, Environmental and Energy Consequences Analysis.

(A) Economic Consequences

In 1992 the visitation at Smith Rock State park was 350,000; up from 220,000 in 1987. Fifteen thousand visitors camped at the park in 1992; up from 4,600 in 1987. The park manager reports that there are between 45 and 50 jobs in the county directly related to the rock climbing occurring at the park. These jobs include manufacturing of climbing equipment, climbing walls and guiding. Parking and camping fees generated \$72,000 dollars for the state park in 1993. This level of visitation generates tourism dollars throughout the county.

The management plan for the park regulates some climbing routes during the nesting season to reduce the conflict with nesting eagles and falcons.

Residential or other structural development could be prohibited within the sensitive habitat area on the EFU zoned land north and west of Smith Rock State Park with minor economic consequence. Only a small portion of the one undeveloped private ownership consisting of three tax lots is within the sensitive area. Structural development could occur outside of the sensitive area on the remaining undeveloped ownership. Construction costs

could increase if building activity is restricted during the nesting season.

Maintaining nest sites will help assure that the species does not become a federally threatened and endangered species. Should this happen, the protection criteria would be much more restrictive around the remaining nest sites.

#### (B) Social Consequences

Prohibiting or restricting the location of structural or other development outside of the park could have a minor social consequence if the property owner wanted to build or otherwise develop within the sensitive habitat area. There are places outside of the sensitive habitat area where structural development could occur, as permitted by EFU zone, on the one undeveloped private ownership outside of the state park. However, prohibiting structures within the sensitive habitat area may prevent an owner from locating a structure in a preferred location.

Permitting the managed recreational use in the state park has a positive social consequence because visitors to the park can enjoy the scenery, hiking, rock climbing, bird watching, picnicing and camping. Placing more restrictions on use of the park could limit the recreational opportunities available.

#### (C) Environmental Consequences

Suitable cliff habitat is a scarce resource and could not be replaced. If the recreational use is not managed to reduce the conflict with the birds during nesting season, climbers and hikers could harass the birds and cause nest failure or abandonment. Permitting development which would significantly alter the open space characteristics of the EFU zoned land may alter the foraging patterns of the birds threatening nesting success.

Golden eagles, consume considerable numbers of rabbits, ground squirrels and other small prey. Farmers are constantly trying to control these small mammal populations. Loss of raptors could mean a higher use of chemical pesticides which can affect many other mammals, insects and birds.

There are no identified negative environmental consequences of regulating conflicting recreational uses or prohibiting structural development on the EFU zoned land within the sensitive habitat area.

## (D) Energy Consequences

There are no significant energy consequences resulting from prohibiting or permitting conflicting uses.

5. Program To Meet Goal 5.

The Board of County Commissioners finds that, based on the ESEE consequences, both the resource site and the conflicting uses are important relative to each other and that the ESEE consequences should be balanced to allow conflicting uses in a limited way (OAR 660-16-010(3)).

The Smith Rock State Park Master Plan and management policies for the park reduce the conflict from recreation activities and rock climbing. Each year in March and April the park management, assisted by ODFW or Audubon Society, determines which nests are active. Certain rock climbing routes are closed during the nesting season to protect the active nests. The closure remains in effect until June 30. The climbing route closure program has been in effect for 4 years. The manager of the park reports that the rock climbing community supports the closures.

In order to protect both the nest sites and sensitive habitat area and allow limited conflicting uses, the following requirements shall apply:

1. Site plan review under Section 18.90 of Title 18, Sensitive Bird and Mammal Habitat Combining zone, shall be required for all conditional uses, occurring within the sensitive habitat area as designated on exhibit "A".
2. One farm or non farm dwelling approved under Title 18.16 may be established within the sensitive habitat area on the ownership including the three tax lots described as 14-13-00-500, 14-13-00-400 and 14-13-11-200. The dwelling shall be setback at least 50 feet from the uppermost rimrock of the Crooked River canyon. A restrictive covenant shall be required to protect and maintain existing native vegetation between the residential development and the inventoried nest sites.
3. Construction activities for expansion, maintenance, replacement of existing structures or construction of new structures requiring a building permit from the Deschutes County Community Development Department or septic installation requiring a permit from the Environmental Health Division shall be prohibited during the nesting season from

February 1 through August 1. Maintenance and repair of existing structures not requiring a construction permit, permitted work conducted within a closed structure, or repair of a failing septic system are exempt from this requirement. Construction activity subject to a construction permit from the Community Development Department or a septic installation permit from the Environmental Health Division may occur after May 1, if ODFW determines in writing that the nest site is not active or that the young birds have fledged.

4. Partitions creating a residential building site or campground within the sensitive habitat area shall be prohibited within the sensitive habitat area in Township 14S, Range 13, Section 2 or 11.
5. The Deschutes County Comprehensive Plan recognizes the Smith Rock State Park Master Plan as the controlling document for guiding development within the park (Policy Number 13, Recreation Chapter). The County shall not require site plan review under the Sensitive Bird and Mammal Habitat Combining Zone for development described in the "Objectives" section of the Development Plan for Smith Rock State Park. Campground or other structural development not included in the Development Plan Objectives (1990) shall be subject to site plan review under the Sensitive Bird and Mammal Habitat Combining Zone. Construction activities requiring a building permit shall be subject to the construction period limitations of Number 3 above.

0135-2317

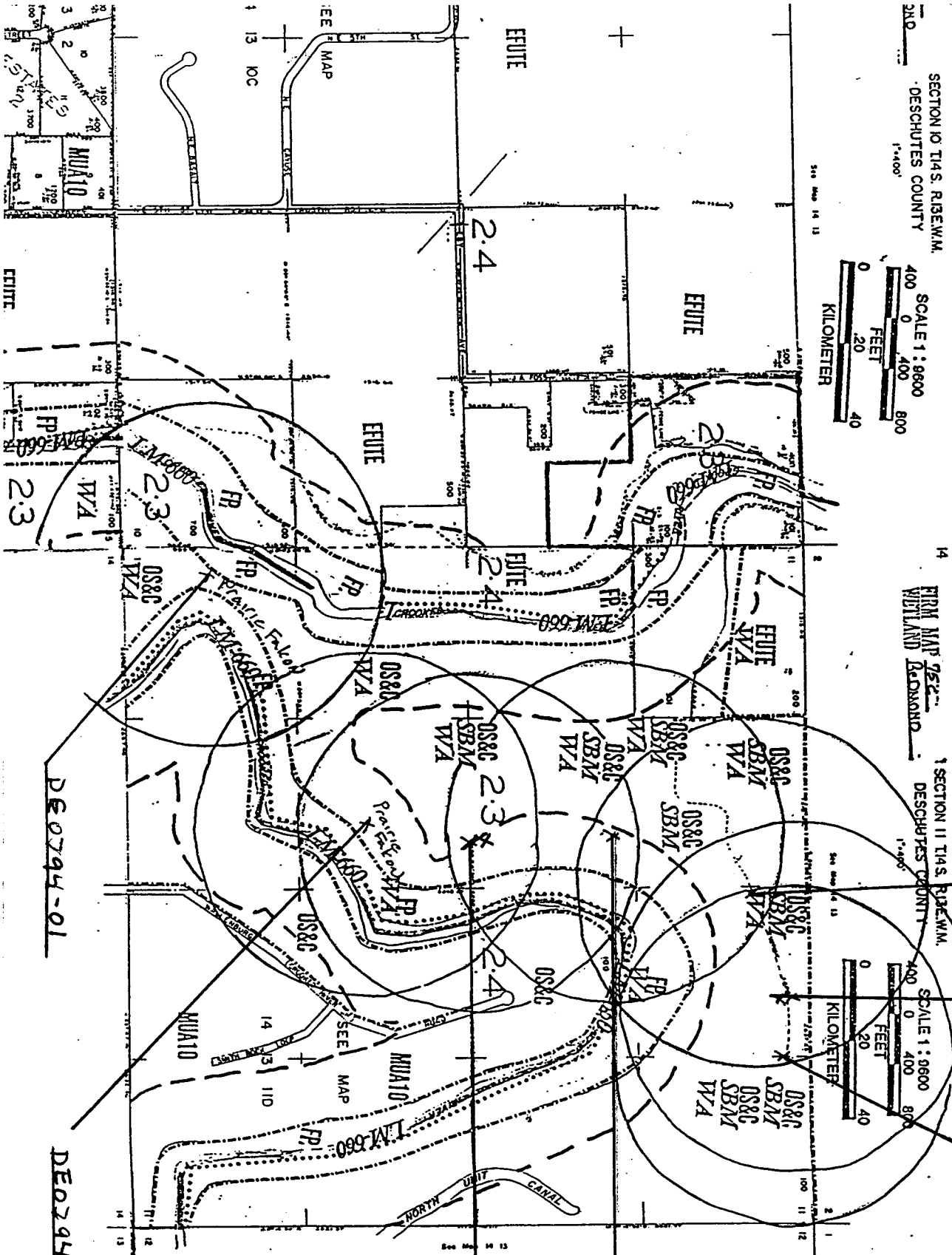
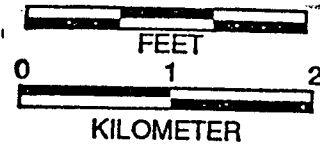
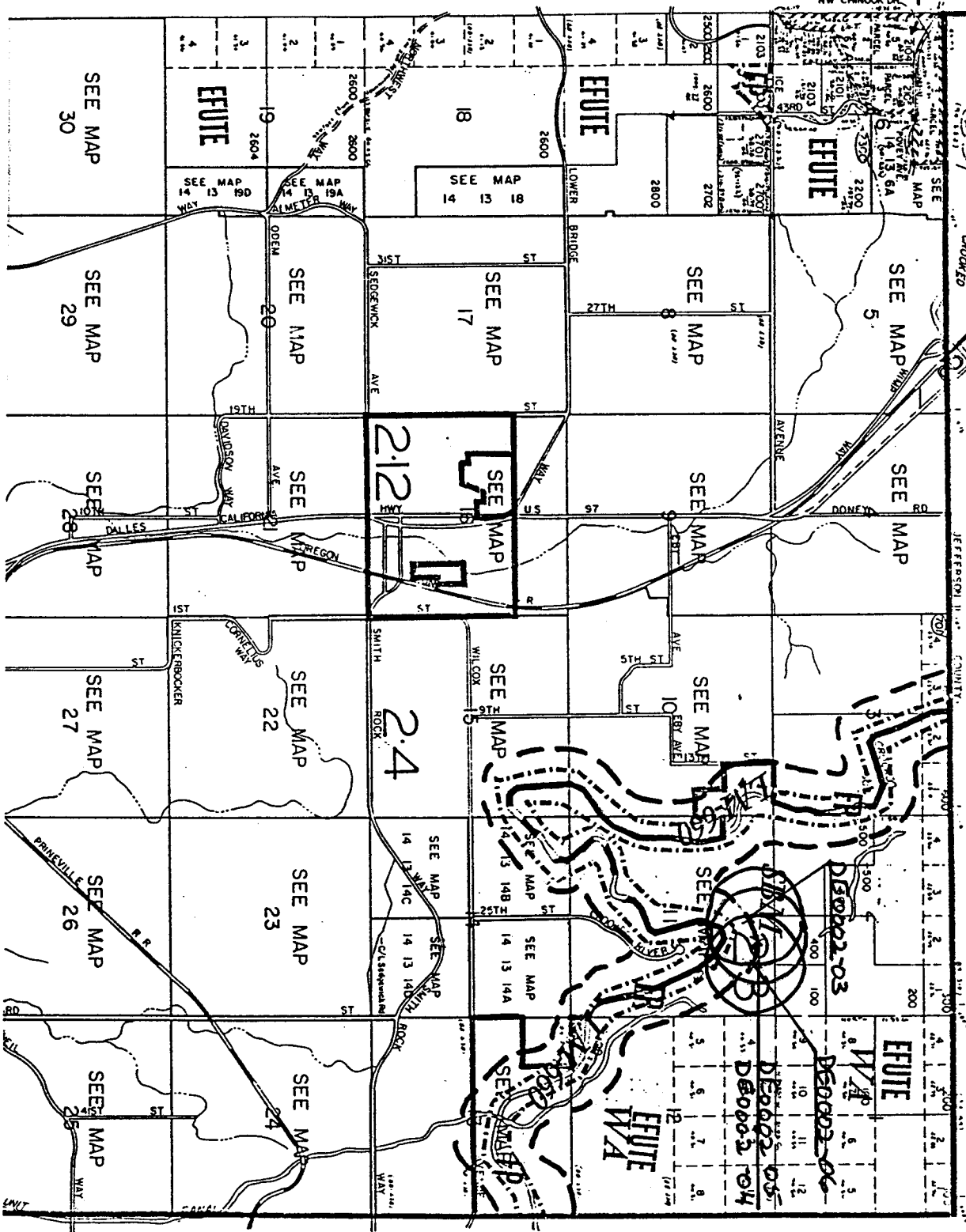


Exhibit "A-1"  
 Golden Eagle  
 DE-0002-00-06  
 14-13-11/SENW  
 14-13-11/NWNE



PARTITION PLAT NO.1991-77

See Map 14 12



This map was prepared for assessment purpose only.

FIRM MAP 75C  
WETLANDS Remand

T14S R13EWM.  
DESCHUTES COUNTY

Dead numbers 101, 401, 800, 900 thru 2100, 2501, 2502, 2503, 2801, 2900 thru 12402

14 15  
8 INDEX

CROOK COUNTY

Exhibit "A-2"  
Golden Eagle  
DE-0002-00-06  
14-13-11/SENW  
14-13-11/NWNE

ESEE FINDINGS AND DECISION  
GOLDEN EAGLE SITE #DE0003-00 and DE0003-01  
Fryrear Road

0135-2319

1. Inventory.

The Oregon Department of Fish and Wildlife (ODFW) has identified two golden eagle nest sites: DE0003-00 (map number 15-11-17-NWSE) and DE0003-01 (map number 15-11-16-SWSE). The sites are also known as Fryrear. The sensitive habitat area includes the area within a 1/4 mile (1320 feet) radius of each nest site. The habitat sites are designated on a map attached as Exhibit "A".

2. Site Characteristics.

Site DE0003-00 is located in a ponderosa pine tree within Deep Canyon. This site has not been used by eagles in at least five years. It is currently being used as a raven nest. The site is located on a county owned parcel zoned for surface mining (site number 274). The sensitive habitat area includes land zoned surface mining and Exclusive Farm Use. A road in the bottom of Deep Canyon is within 200 feet of the nest tree. There are no residences or other development within the sensitive habitat area. ODFW recommends that this nest be deleted from the county inventory because it has not been active for over five years.

Site DE0003-01 is in a ponderosa pine tree and was active in 1993 and 1994. The nest tree and the quarter mile sensitive habitat area are on Bureau of Land Management land. A dirt road is located within 200 feet of the nest and a power line is located within 500 feet of the nest. The site and the sensitive habitat area area zoned Exclusive Farm Use.

3. Conflicts Identification.

The conflicting uses would be any structure or activity which would cause disturbance within 1320 feet of the nest site during the nesting period from February 1 through August 1. Construction activities, off road vehicle use on the roads adjacent to the nests, or shooting could all conflict with the nesting birds.

Surface mining activities on the property zoned Surface Mine (SM) must comply with a site plan approved in compliance with the site specific ESEE for the surface mining site.

4. Program To Meet Goal 5.

The Board of County Commissioners finds that, the county



has no jurisdiction over conflicting uses on Site DE0003-01 because the nest and the sensitive habitat area are located on federal, Bureau of Land Management Land. Therefore the site shall be designated as a "2A" site and be managed by the Bureau of Land Management. This decision is in accordance with OAR 660-16-005(1).

The Board finds that Site DE0003-00 has not been used by golden eagles for over 5 years and therefore shall be deleted from the county inventory. The site is designated as a "1A" site in accordance with OAR 660-16-000(5)(a) If the Oregon Department of Fish and Wildlife finds that the nest has become active, the county shall complete the Goal 5 ESEE analysis and decision prior to the next periodic review.

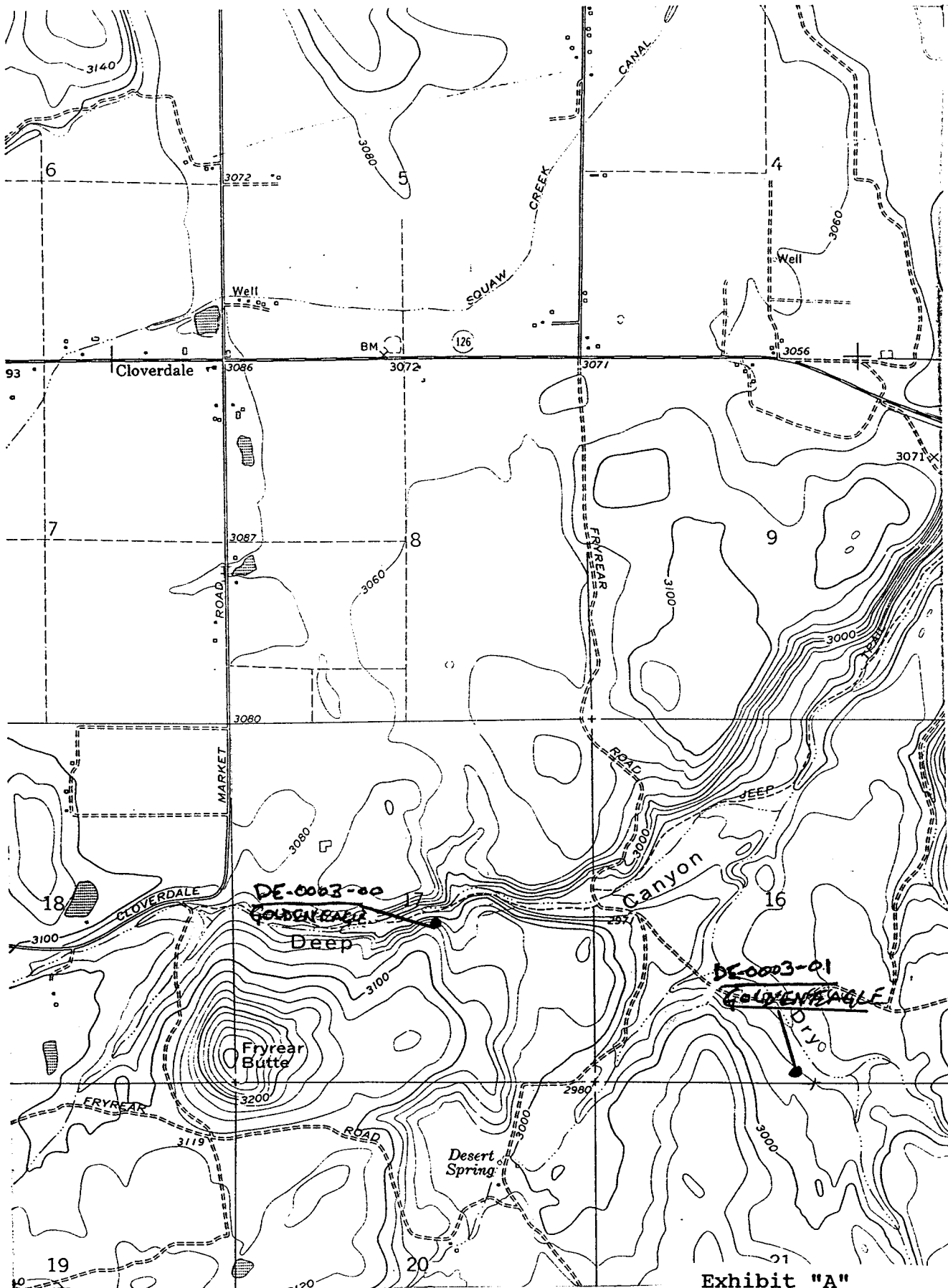


Exhibit "A"  
Golden Eagle  
DE-0003-00/DE-0003-01  
15-11-17/NESW  
15-11-16/SRSW

ESEE FINDINGS AND DECISION  
GOLDEN EAGLE SITES #DE0006-00 - DE0006-05 **0135-2322**

1. Inventory.

The Oregon Department of Fish and Wildlife has identified five golden eagle cliff nest sites in the canyon of the Deschutes River southwest of Redmond: DE0006-00, DE0006-01, DE0006-02, DE0006-03, DE0006-04, and DE0006-05. The sites are also identified as the Mid-Deschutes sites. They are located in Township 15 South, Range 12 East, Sections 35 and 36. The sensitive habitat area includes the area within a 1/4 mile radius of each nest site. The habitat sites and sensitive habitat area are designated on a maps attached as Exhibit "A".

2. Site Characteristics.

These five sites are alternate nest sites for a single pair of golden eagles. The sensitive habitat area extends approximately one half mile along the Deschutes River canyon. The nesting season is from February 1 to August 1.

Site DE0006-03 has not been active since before 1985. The site has been used by Canadian geese since 1985. The Oregon Department of Fish and Wildlife recommends that this site be deleted from the inventory because it has not been used by golden eagles for at least five years.

Twenty-six lots are entirely or partially located within the sensitive habitat area for sites DE0006-00, 01, 02, 04 and 05. Thirteen of the lots abut the Deschutes River or are located on the rim of the canyon. The west side of the canyon is predominately undeveloped Bureau of Land Management (BLM) land. The sensitive habitat area on the east side of the river is zoned either Exclusive Farm Use (EFU) or Multiple Use Agriculture (MUA-10).

All of the land within the sensitive habitat area is also zoned Landscape Management Combining zone (LM) which protects the scenic values of the Deschutes River corridor. This is an overlay zone. The uses permitted in the underlying zone are also permitted in the combining zone.

One of the nests was active in 1993. The nests have been monitored since the 1970's by ODFW.

3. Conflicts Identification.

Potentially Conflicting Uses With Habitat Site

<u>Zone</u>	<u>Permitted Use</u>	<u>Conditional Use</u>
MUA-10	-Single family dwelling	-Public park, playground

- Utility facility
- Farm Use

- Dude ranch
- Home occupation
- Personal use landing strip
- Recreation Facility
- Bed and breakfast inn
- Guest house

0135-2323

EFU

- Farm use
- Forest use
- Exploration for minerals
- Farm accessory building
- Some road construction

- Single family dwelling
- Residential homes
- Private park, campground
- Personal use airstrip
- Home occupation
- Process forest products
  - Solid waste disposal site
  - Storage, crushing, processing of aggregate
- Church or school
- Certain road projects
- Bed and breakfast

Farm use occurs adjacent to the rim on the southern end of the half mile long sensitive habitat area. The farm use is pasture and hay and is probably not a conflict with nesting activity.

The significant conflicting use is residential development along the rim of the Deschutes River canyon. Construction activity or excavation with heavy machinery could produce excessive noise and activity on or near the canyon rim during the nesting season which could disturb the birds.

Noise from construction activities, machinery operation, vehicles, loud music, voices or human activity within the sensitive habitat area could disturb the birds during the nesting period. Disturbance could interfere with establishment of the nest or cause the adults to temporarily abandon the nest leaving the eggs or young birds vulnerable to cold, heat, or predation.

Existing residential development which is located in the quarter mile sensitive habitat area away from the rim of the canyon is apparently not a significant conflict as the birds have continued to nest in the canyon. However, in recent years the birds have nested closer to the BLM land which is not developed rather than in the site DE0006-03 which is closest to the existing development. Construction of a residence on the one undeveloped lot within the sensitive habitat area that is not located on the rim will not be a conflicting use because all of the lots around this lot are developed and it is not located on the rim.

Excluding the federal (BLM) and Deschutes County land, the

following lots are located along the rimrock in the sensitive habitat area, and according to assessor's records, are currently undeveloped and have the potential for a residence. Construction activities during the nesting period on these lots could be a significant conflict because of noise and activity close to the rim and alteration of existing vegetation near the rim that may be providing a buffer between the nest and existing and potential development.

Map and Tax Lot Number	Zone
15-12-36-B0-3800	EFU
15-12-36-B0-3700	EFU
15-12-36-B0-3000	MUA-10
15-12-36-B0-2100	MUA-10

Partition of the EFU zoned land within the sensitive habitat area into smaller nonfarm parcels would increase the number of potential dwellings in the sensitive habitat area and could result in increased road construction, alteration of native vegetation and residences close to the canyon rim where it is currently undeveloped.

Developed recreation sites on public land such as campgrounds, parking areas for trails could increase the number of people on the rim, in the canyon and along the river in the vicinity of the nest. This increased activity could be a conflict to the birds because they are unaccustomed to such activity.

4. Economic, Social, Environmental and Energy Consequences Analysis.

(A) Economic Consequences

Prohibiting residential development on the two undeveloped MUA-10 zoned lots on the rim would have have significant economic impact by reducing the value of the properties. Construction costs could increase if building activity is restricted during the nesting season.

It is unknown if residential development would be possible on the two private EFU zoned lots because a proposed residence would be required to comply with EFU conditional use criteria. Limiting the location of development would not reduce the value of the property to the degree of development prohibition.

Maintaining nest sites will help assure that the species does not become a federally threatened and endangered species. Should this happen, the protection criteria would be much more restrictive around the remaining nest

sites.

Forest practices are not a conflicting use because there is no commercial forest land within the sensitive habitat area.

Limiting the development of parks or campgrounds would have a negligible economic consequence as there are numerous private and public recreational facilities throughout the county.

Some home buyers will pay a higher price for property that has resident wildlife or wildlife such as golden eagles in close proximity to the property.

(B) Social Consequences

Prohibiting or restricting the location of residential development on the two MUA-10 zone lots on the rim of the canyon would have significant social impact as property owners would be unable to develop their property with a use permitted by the zone.

The positive social consequences of limiting conflicting uses would be continuing opportunities for naturalists and bird watchers to study and enjoy the birds.

(C) Environmental Consequences

Golden eagles, consume considerable numbers of rabbits, ground squirrels and other small prey. Farmers are constantly trying to control these small mammal populations. Loss of raptors could mean a higher use of chemical pesticides which can affect many other mammals, insects and birds.

Suitable cliff habitat is a scarce resource and could not be replaced. Development in the sensitive habitat area could cause nest failure and would result in alteration of foraging.

Allowing residential development on the two undeveloped MUA-10 zoned lots on the rim in the Chaparral Estates subdivision would probably not significantly conflict with the nesting of the eagles because lots on both sides of each of the lots are already developed. The natural environment is already altered by residences located along the rim on narrow lots. Two additional dwellings meeting the rimrock setback and landscape management standards to protect native vegetation would not significantly increase the current level of conflict or significantly alter the natural environment in the area.

Construction during the nesting period could create noise that would disturb the birds.

There are no identified negative environmental consequences of prohibiting conflicting uses.

(D) Energy Consequences

The energy consequence of allowing residential development is the increased use of fuels for transportation to a remote development.

5. Program To Meet Goal 5.

The Board of County Commissioners finds that golden eagle nest site DE0006-03 has not been used since 1985 and is therefore not a significant Goal 5 resource. The nest site and sensitive habitat area is designated as a "1A" resource in accordance with OAR 660-16-000(5)(a) and is not included on the inventory of sensitive bird habitat sites.

The Board of County Commissioners finds that, based on the ESEE consequences, both the resource sites DE0006-01, DE0006-02, DE0006-04 and DE0006-05 and the conflicting uses are important relative to each other and that the ESEE consequences should be balanced to allow conflicting uses in a limited way (OAR 660-16-010(3)).

In order to protect both the nest sites and sensitive habitat areas and allow limited conflicting uses, the following requirements shall apply to specific properties within the sensitive habitat area.

For the following properties located along the rim of the Deschutes River Canyon, the conditions below shall apply within the sensitive habitat area:

15-12-00-00-1502  
 15-12-00-00-1503  
 15-12-36-B0-2000  
 15-12-36-B0-2100  
 15-12-36-B0-2300  
 15-12-36-B0-2500  
 15-12-36-B0-2800  
 15-12-36-B0-3000  
 15-12-36-B0-3100  
 15-12-36-B0-3300  
 15-12-36-B0-3400  
 15-12-36-B0-3700  
 15-12-36-B0-3800  
 15-12-35-D0-200  
 15-12-35-D0-500

1. Site plan review under Section 18.90 of Title 18 Sensitive Bird and Mammal Habitat Combining zone, shall be required for all conditional uses occurring within the sensitive habitat area as designated on Exhibit "A".
2. New structural development, shall be setback at least 50 feet from the rimrock of the Deschutes River canyon.
3. Construction activity requiring a building permit from the Deschutes County Community Development Department or septic installation requiring a permit from the Environmental Health Division shall be prohibited during the nesting season from February 1 through August 1. Maintenance and repair of existing structures not requiring a construction permit, permitted work conducted within a closed structure, or repair of a failing septic system are exempt from this requirement. Construction activity subject to a construction permit from the Community Development Department or a septic installation permit from the Environmental Health Division may occur after May 1, if ODFW determines in writing that the nest site is not active or that the young birds have fledged.
4. Heavy machinery operation associated with new development may occur after May 1, if ODFW determines in writing that the nest site is not active or that the young birds have fledged. Otherwise, heavy machinery operation for new road or driveway construction, septic installation or excavation for construction activities shall be prohibited during the nesting season from February 1 through August 1. An exception to this condition may be made for emergency repairs of septic systems with a septic repair permit issued by the County Environmental Health Division.
5. Nonfarm partitions for nonfarm dwellings which would be located within the sensitive habitat area shall be prohibited on the following EFU zoned properties:
  - 15-12-35-D0-200
  - 15-12-35-D0-500
  - 15-12-35-D0-101
  - 15-12-00-00-1502
  - 15-12-36-B0-3700
  - 15-12-36-B0-3800
6. A restrictive covenant shall be granted to



Deschutes County to protect native vegetation prior to issuance of a building permit for any structure within 100 feet of the rimrock. The restrictive covenant shall require retention of native vegetation between the structure and the rimrock.

Map and Tax Lot Number	Zone
15-12-36-B0-3800	EFU
15-12-36-B0-3700	EFU
15-12-36-B0-3000	MUA-10
15-12-36-B0-2100	MUA-10



15-12-36-B

0135-2330

EFUSC

2.3

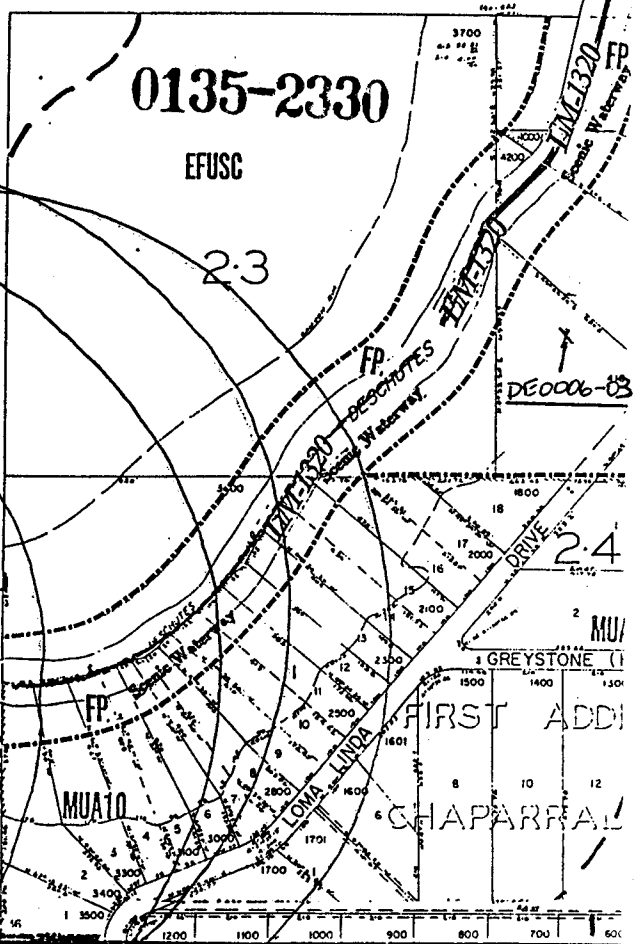
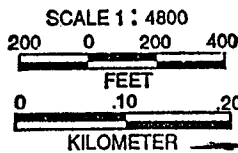
DE0006-03

DE0006-02

DE0006-01

DE0006-04

DE0006-00



15-12-35D

DE 0006-05

15-12-36C

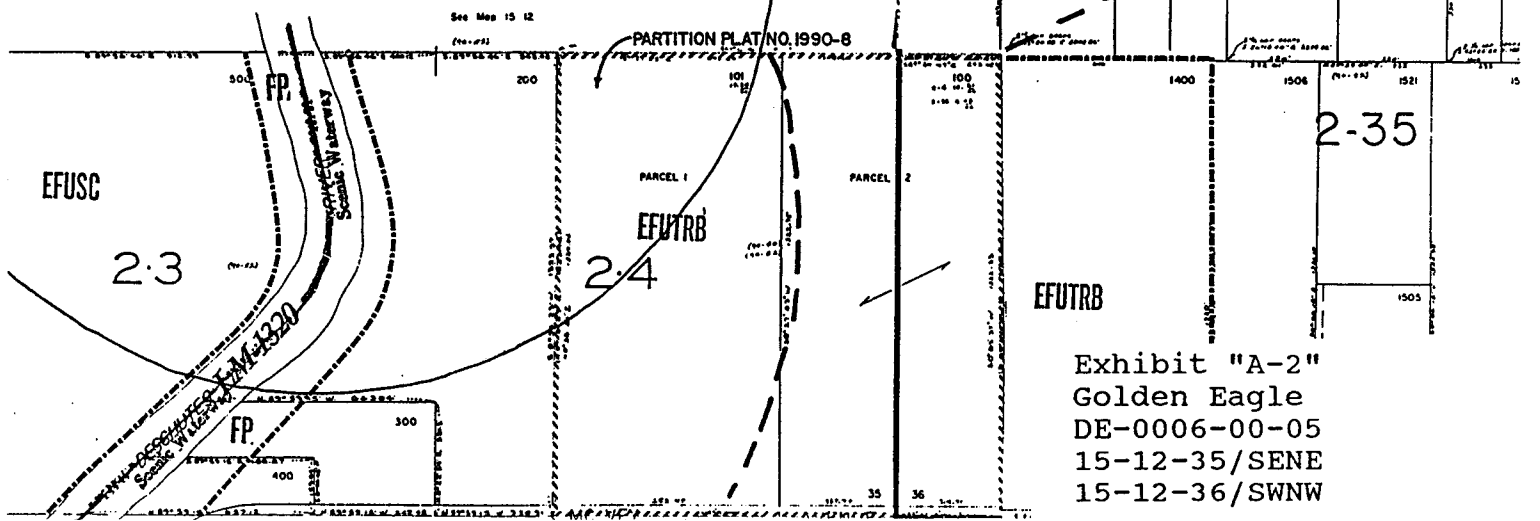


Exhibit "A-2"

Golden Eagle

DE-0006-00-05

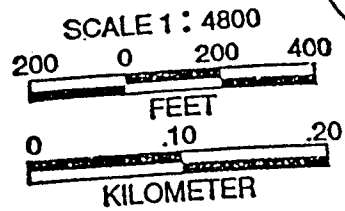
15-12-35/SENE

15-12-36/SWN

0135-2331

FIRM MAP 150C  
WETLAND FORKED HORN BUTTE

SE1/4 SEC. 35 T15S. R12E.W.M.  
DESCHUTES COUNTY  
1"=200'



DE006-05

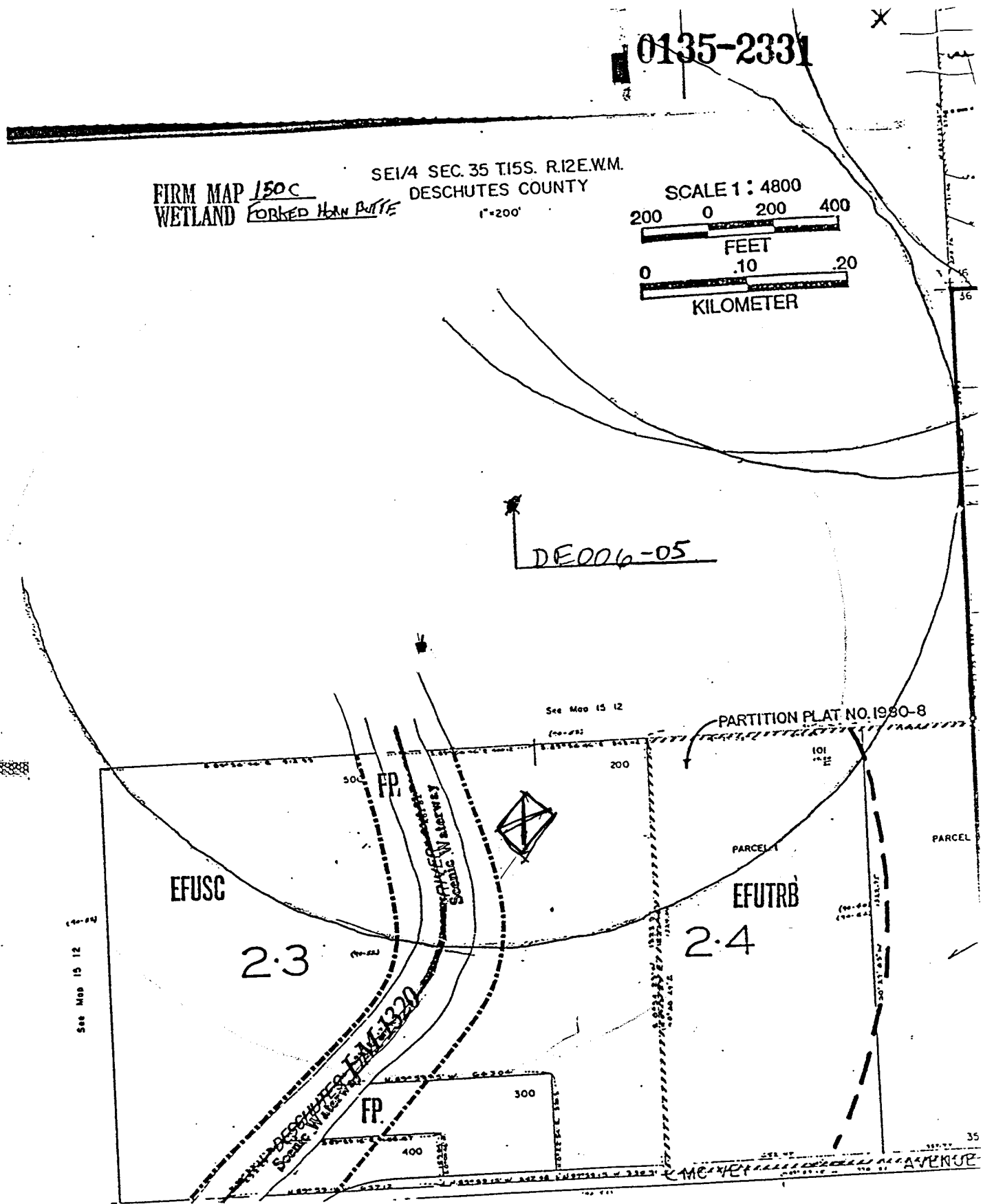


Exhibit "A-3"  
Golden Eagle  
DE-0006-00-05  
15-12-35/SENE  
15-12-36/SWN

**ESEE FINDINGS AND DECISION  
GOLDEN EAGLE SITE #DE0009-00**

1. Inventory.

The Oregon Department of Fish and Wildlife (ODFW) has identified a golden eagle nest as site DE0009-00 (map number 14-12-22D-300.) The site is also identified as the Odin Falls site. The sensitive habitat area includes the area within a one quarter mile (1320 feet) radius of the nest site. The nest site and sensitive habitat area are designated on a map attached as Exhibit "A".

2. Site Characteristics.

Site DE0009-00 is a cliff site located on the west side of the Deschutes River. The nest is on a parcel in the Lower Bridge Estates subdivision. There are two rimrock cliffs on the west side of the river. The nest is on the lower cliff. There is evidence that the eagles use the upper cliff as a roosting site. The nest is active and has been monitored since the 1970's by ODFW. The nesting period ranges from February 1 through August 1.

The land in the sensitive habitat area on the west side of the river is zoned Rural Residential (RR-10) and Exclusive Farm Use (EFUTE). On the east side of the river the parcels in the sensitive habitat area are zoned Multiple Use Agriculture (MUA-10.) All of the property within the sensitive habitat area is also in the Federal Wild and Scenic River corridor and in the County Landscape Management Combining Zone (LM).

The following table lists the parcels entirely or partially within the sensitive habitat area.

Map and Lot #	Zone	Size	Ownership
14-12-22-A0-100	EFUTE	120ac	USA
14-12-22-D0-100	RR-10		private
14-12-22-D0-200	RR-10		private
14-12-22-D0-300	RR-10		private
14-12-22-D0-400	RR-10		private
14-12-22-D0-500	EFUTE	46ac	Outward Bound
14-12-22-D0-600	RR-10		private
14-12-22-D0-700	RR-10		private
14-12-23-B0-1000	RR-10		private
14-12-23-B0-900	RR-10		private
14-12-23-00-600	MUA-10	26ac	private
14-12-23-C0-400	MUA-10	2.50ac	private
14-12-23-C0-500	MUA-10	2.49ac	private
14-12-23-C0-600	MUA-10	2.54ac	private

14-12-23-CO-900	MUA-10	2.24ac	private
14-12-23-CO-1000	MUA-10	2.44ac	private
14-12-23-CO-1100	MUA-10	2.51ac	private
14-12-23-CO-1200	MUA-10	2.24ac	private
14-12-23-CO-1300	MUA-10	2.25ac	private
14-12-23-CO-099	MUA-10	28.97ac	common

Except for the Outward Bound parcel, the parcels in the sensitive habitat area are undeveloped and therefore provide solitude, roosting and foraging areas for the birds. The Outward Bound property is used as a base camp and training center. During the nesting period there is considerable activity on the Outward Bound Property.

There is a low rimrock adjacent to the river on the east side. A broad juniper covered bench is above the rimrock and extends to Grubsteak Way. A 26 acre parcel (14-12-23-00-600) encompasses most of the relatively flat juniper covered bench adjacent to the river across from the nest. The sensitive habitat area also includes four smaller parcels and a portion of a fifth east of the 26 acre parcel and west of Grubsteak Way. One additional parcel and portions of two others are within the sensitive habitat area east of Grubsteak Way.

### 3. Conflicts Identification.

#### Potentially Conflicting Uses With Habitat Site

<u>Zone</u>	<u>Permitted Use</u>	<u>Conditional Use</u>
RR-10	-Single family dwelling -Utility facility -Farm use	-Public park, playground -Dude ranch -Home occupation -Personal use landing strip -Recreation facility -Bed and breakfast inn
MUA-10	-Single family dwelling -Farm use	-same as RR-10 -Guest house
EFU	-Farm use -Forest use -Exploration for minerals -Farm accessory building -Some road construction	-Single family dwelling -Residential homes -Private park, campground -Personal use airstrip -Home occupation -Process forest products -Solid waste disposal site -Storage, crushing, processing of aggregate -Church or school -Certain road projects

-Bed and breakfast

The significant conflicting use would be residential development of the RR-10 and MUA-10 zoned parcels which would reduce the solitude and foraging area for the birds. Even if the residential development is restricted in the sensitive habitat area, if the Lower Bridge Estates and Odin Falls Ranch subdivisions are built-out, the density of development may alter the foraging area and solitude of the birds sufficiently to cause abandonment of the site. The pair of birds using this site are accustomed to an environment with little disturbance because, except for the use of the Outward Bound property, there is little human activity within the sensitive habitat area or nearby.

Development on lots on the east side of the river which are opposite of the nest would be a conflict with the nest because the elevation of the bench is near the elevation of the nest and the homes and residential activities would be visible and audible from the nest.

On the west side, the upper rimrock could provide visual separation from the nest. However, construction near the upper rimrock would encroach severely on the nest site because the birds use the upper rim as a perching area.

Noise from construction activities, lawn mowing, vehicles, loud music or voices could all disturb the birds during the nesting period (February 1 through August 1.) Disturbance could cause the adults to temporarily abandon the nest which would leave the eggs or young birds vulnerable to cold or predation.

Increased recreational use of the river during nesting season could also be a significant conflict. This recreational use is unlikely with the present ownership pattern because there is no public access to the river. However, intensification of recreational or training activities on the Outward Bound property during the nesting period could cause significant conflict with the birds.

Forest practices are not a conflicting use because there is no commercial forest land within the sensitive habitat area.

There is no evidence of farm use within the sensitive habitat area. The county is prohibited by state statute from regulating farm practices.

#### 4. Economic, Social, Environmental and Energy Consequences Analysis.

##### (A) Economic Consequences

Restricting residential development for the sixteen

RR-10 zoned parcels would have significant economic impact by reducing the value of the properties. Limiting the location of development would not reduce the value of the property to the degree of prohibition of development.

The site is not commercial forest land so economic consequences of forest practices is non-existent. Construction costs could increase if building activity is restricted during the nesting season.

Limiting the development of parks or campgrounds would have a negligible economic consequence as there are numerous private and public recreational facilities throughout the county. Limiting expansion of the Outward Bound facility could result in added training costs for the organization.

Maintaining nest sites will help assure that the species does not become a federally threatened and endangered species. Should this happen, the protection criteria would be much more restrictive around the remaining nest sites.

Some home buyers will pay higher prices for property that has resident wildlife or wildlife, such as golden eagles, in close proximity. Property value may decrease if special setbacks or covenants are required that could diminish the view from a home site.

#### (B) Social Consequences

The social consequence of allowing unregulated conflicting uses could be the abandonment of the nest site which would be a loss to the segment of society that enjoys viewing wildlife. The positive social consequence of limiting conflicting uses would be continuing opportunities for naturalists and bird watchers to study and enjoy the birds.

Prohibiting residential development on the parcels within the sensitive habitat area would have significant social impact as property owners would be unable to develop their property. Limiting the location of development would have less social consequence because homes could still be constructed.

#### (C) Environmental Consequences

There is a high probability that the environmental consequence of allowing unregulated residential development in the sensitive habitat area would be abandonment of the nest. Suitable cliff habitat is a scarce resource and could not be replaced.



Development in the sensitive habitat area could cause nest failure and would result in alteration of foraging range. There are no identified negative environmental consequences of prohibiting conflicting uses.

Residential development might include the establishment of lawns which would require removal of native vegetation which could provide screening for the houses from the nest and also provide habitat for other wildlife.

Golden eagles, consume considerable numbers of rabbits, ground squirrels and other small prey. Farmers are constantly trying to control these small mammal populations. Loss of raptors could mean a higher use of chemical pesticides which can affect many other mammals, insects and birds.

(D) Energy Consequences

The energy consequence of allowing residential development are the increased use of fuels for transportation to a remote development and the increased cost of other services such as law enforcement and fire protection.

There are no negative energy consequences from prohibiting development in the sensitive habitat area.

5. Program To Meet Goal 5.

The Board of County Commissioners finds that, based on the ESEE consequences, both the resource site and the conflicting uses are important relative to each other and that the ESEE consequences should be balanced to allow conflicting uses in a limited way (OAR 660-16-010(3)).

1. In order to protect both the nest site and sensitive habitat area and allow limited conflicting uses, single family dwellings within the sensitive habitat area shall be allowed if they meet the special setbacks established below and mapped on "Attachment B"

Map and Lot #	Special Setback
14-12-22-D0-100	50 feet from upper rimrock
14-12-22-D0-200	150 feet from upper rimrock
14-12-22-D0-300	150 feet from upper rimrock
14-12-22-D0-400	150 feet from lower rimrock and south of existing driveway.
14-12-22-D0-500	no additional structural development within sensitive

	habitat area
14-12-22-D0-600	no special setback
14-12-22-D0-700	no special setback
14-12-23-B0-1000	no structural development within sensitive habitat area.
14-12-23-B0-900	no special setback
14-12-23-00-600	no structural development within no build area on Exhibit "A-3"
14-12-23-C0-400	no special setback
14-12-23-C0-500	no special setback
14-12-23-C0-600	no special setback
14-12-23-C0-900	50 feet from rear lot line
14-12-23-C0-1000	50 feet from rear lot line
14-12-23-C0-1100	50 feet from rear lot line
14-12-23-C0-1200	50 feet from rear lot line
14-12-23-C0-1300	50 feet from rear lot line
14-12-23-C0-099	common area - no structural development in sensitive habitat area.

2. On the following lots native vegetation must be maintained on the side(s) of the house or accessory structures facing the nest to provide screening between the development and the nest site. A restrictive covenant for the area between the structures and the river or the rear property line to insure the maintenance of native vegetation shall be granted to the county prior to issuance of a building or septic installation permit. Lawns shall be prohibited within the area subject to the restrictive covenant.

Map and Lot #	Restrictive Covenant
14-12-22-D0-100	Structure(s) to river
14-12-22-D0-200	Structure(s) to river
14-12-22-D0-300	Structure(s) to river
14-12-22-D0-400	Structure(s) to river and to north lot line
14-12-23-B0-1000	Structure(s) to river and to south lot line
14-12-23-00-600	Structure(s) to river and towards nest site
14-12-23-C0-900	Structure(s) to rear (west) lot line
14-12-23-C0-1000	Structure(s) to rear (west) lot line
14-12-23-C0-1100	Structure(s) to rear (west) lot line
14-12-23-C0-1200	Structure(s) to rear (west) lot line
14-12-23-C0-1300	Structure(s) to rear (west) lot line

3. Conditional uses listed in Title 18.60.030 (RR-10) or

Title 18.32.030 (MUA-10) shall not be permitted within the sensitive habitat area.

4. For all lots within the sensitive habitat area, construction activities for expansion, maintenance, replacement of existing structures or construction of new structures requiring a building permit from the Deschutes County Community Development Department or septic installation requiring a permit from the Environmental Health Division shall be prohibited during the nesting season from February 1 through August 1. Maintenance and repair of existing structures not requiring a construction permit, permitted work conducted within a closed structure, or repair of a failing septic system are exempt from this requirement. Construction activity subject to a construction permit from the Community Development Department or a septic installation permit from the Environmental Health Division may occur after May 1, if ODFW determines in writing that the nest site is not active or that the young birds have fledged.
5. Nonfarm partitions to create a parcel for a nonfarm dwelling shall be prohibited within the sensitive habitat area on 14-12-22-D0-500.

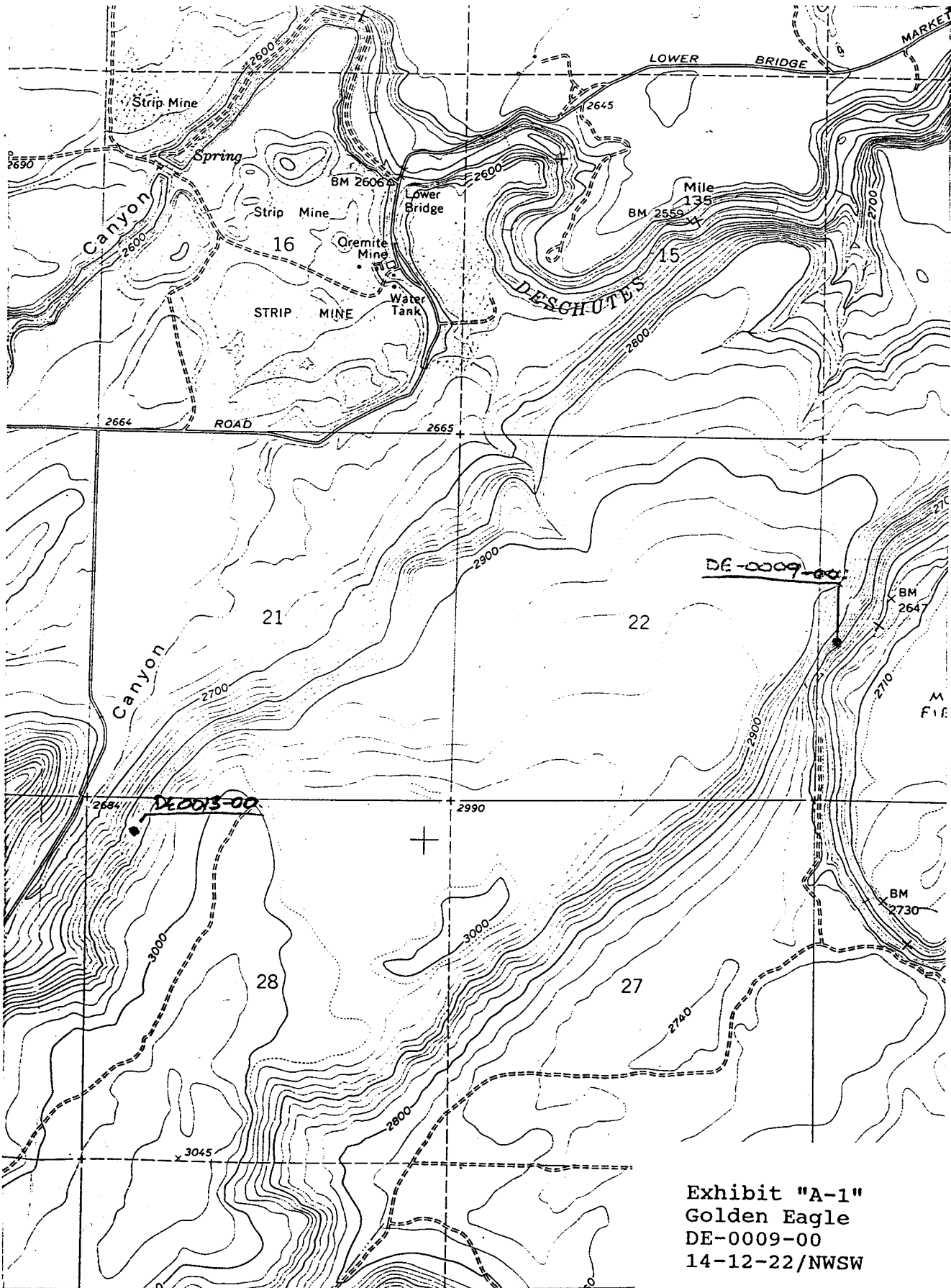


Exhibit "A-1"  
Golden Eagle  
DE-0009-00  
14-12-22/NWSW

DE 009-00

SEC. 23 T.14S. R.12E.W.M.  
DESCHUTES COUNTY  
1"=200'  
cancelled numbers 800,

SE 1/4 SEC. 22 T.14S. R.12E.W.M.  
DESCHUTES COUNTY  
1"=200'

See Map 14 12. 22A

See Map 14 12

See Map 14 12

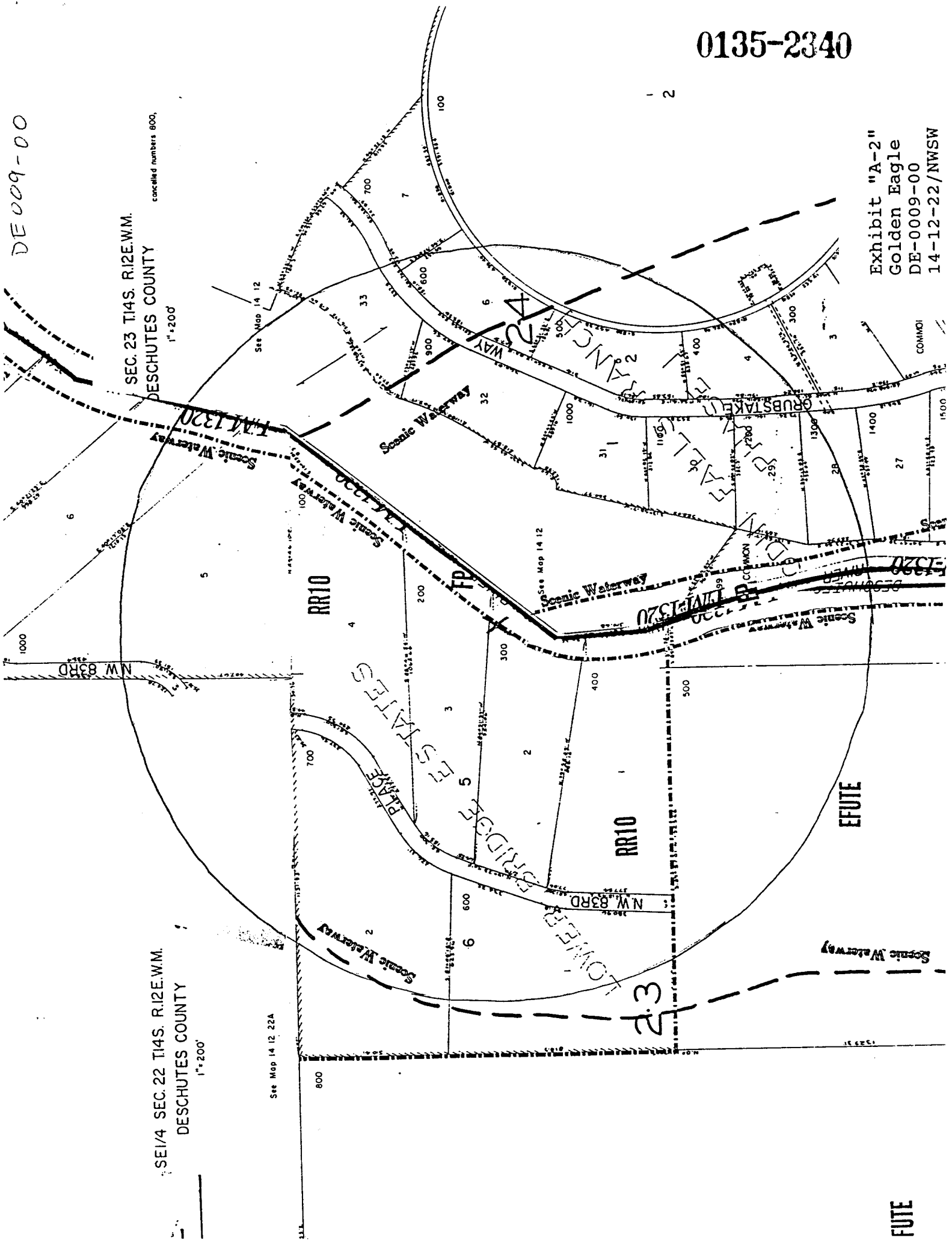


Exhibit "A-2"  
Golden Eagle  
DE-0009-00  
14-12-22/NWSW

FUTE

**LEGEND**

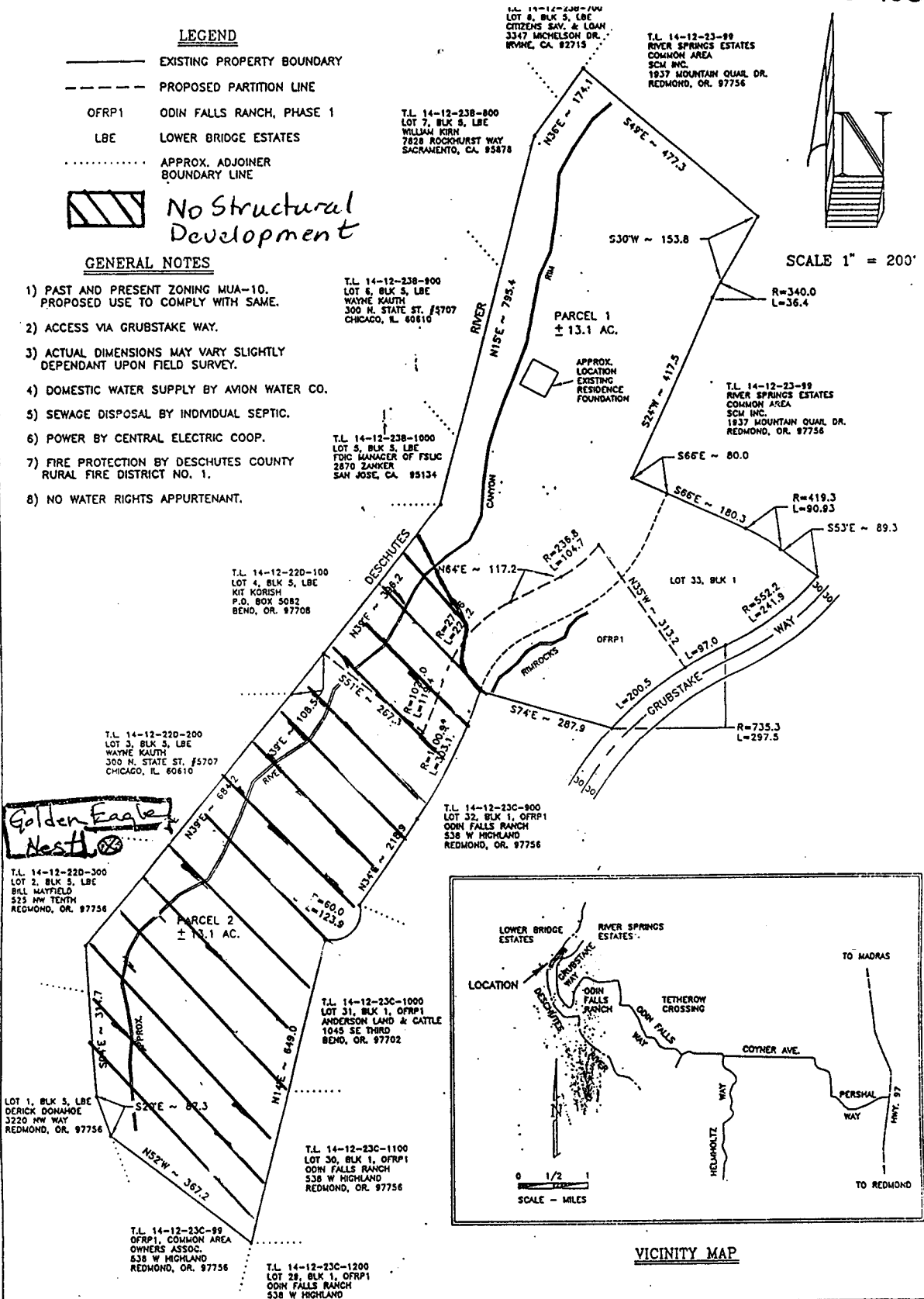
- EXISTING PROPERTY BOUNDARY
- - - PROPOSED PARTITION LINE
- OFRP1 ODIN FALLS RANCH, PHASE 1
- LBE LOWER BRIDGE ESTATES
- ..... APPROX. ADJOINER BOUNDARY LINE



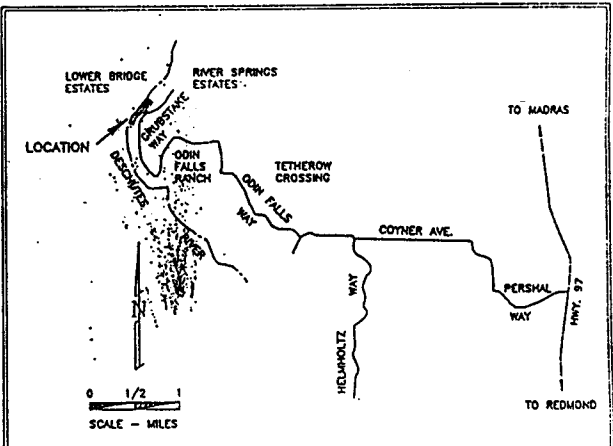
No Structural Development

**GENERAL NOTES**

- 1) PAST AND PRESENT ZONING MUA-10. PROPOSED USE TO COMPLY WITH SAME.
- 2) ACCESS VIA GRUBSTAKE WAY.
- 3) ACTUAL DIMENSIONS MAY VARY SLIGHTLY DEPENDANT UPON FIELD SURVEY.
- 4) DOMESTIC WATER SUPPLY BY AVION WATER CO.
- 5) SEWAGE DISPOSAL BY INDIVIDUAL SEPTIC.
- 6) POWER BY CENTRAL ELECTRIC COOP.
- 7) FIRE PROTECTION BY DESCHUTES COUNTY RURAL FIRE DISTRICT NO. 1.
- 8) NO WATER RIGHTS APPURTENANT.



*Golden Eagle Nest*



**VICINITY MAP**

**TENTATIVE PARTITION PLAN**  
LOCATED IN SECTION 23, T14S, R12E, W.M.

APPLICANT & OWNER:  
RENEE WHITE  
12350 SW MILLVIEW COURT  
MADRAS, OR 97550

Exhibit "A-3"  
Golden Eagle  
DE-0009-00  
14-12-22/NWSW

**ESEE FINDINGS AND DECISION**  
GOLDEN EAGLE SITES #DE0011-00 and DE0011-01

1. Inventory.

The Oregon Department of Fish and Wildlife (ODFW) has identified two golden eagle nest sites as DE0011-00 (map number 15-12-00-100) The sites are known as Radio Tower/Deschutes. The sensitive habitat area includes the area within a 1/4 mile radius of the nest sites. The habitat sites and sensitive habitat area are designated on maps attached as Exhibit "A".

2. Site Characteristics.

The nests are both cliff nests located in the rimrock of the Deschutes River Canyon. Site DE0011-00 is located on the west side of the canyon. Site DE0011-01 is approximately 200 yards downstream on the east side of the canyon. Both sites are on Bureau of Land Management (BLM) land. Site DE0011-00 was active in 1993. The nesting period is from February 1 through August 1.

The sensitive habitat area on the west side of the river is zoned Exclusive Farm Use (EFUTE) and contains BLM land and Deschutes County land. On the east side of the river, there are 13 lots zoned multiple use agriculture (MUA-10) in the sensitive habitat area. Eleven of the MUA-10 zoned lots contain residences. Seven lots, developed with residences, are located along the canyon rimrock. The nests are not in line-of-sight of the existing dwellings. The two undeveloped MUA10 zoned lots are approximately 600 feet from the canyon rim.

3. Conflicts Identification.

Potentially Conflicting Uses With Habitat Site

<u>Zone</u>	<u>Permitted Use</u>	<u>Conditional Use</u>
EFU	<ul style="list-style-type: none"> <li>-Farm use</li> <li>-Forest use</li> <li>-Exploration for minerals</li> <li>-Farm accessory building</li> <li>-Some road construction</li> </ul>	<ul style="list-style-type: none"> <li>-Single family dwelling</li> <li>-Residential homes</li> <li>-Private park, campground</li> <li>-Personal use airstrip</li> <li>-Home occupation</li> <li>-Process forest products</li> <li>-Solid waste disposal site</li> <li>-Storage, crushing, processing of aggregate</li> <li>-Church or school</li> <li>-Certain road projects</li> <li>-Bed and breakfast</li> </ul>

MUA-10

- Single family dwelling
- Utility facility
- Farm use
- Public park, playground
- Dude ranch
- Home occupation
- Personal use landing strip
- Recreation facility
- Bed and breakfast inn
- Destination resort
- Guest house

The conflicting uses would be any structure or activity which would cause disturbance within 1320 feet of the nest site during the nesting period from February 1 through August 1. There are already 11 residences within 1320 feet of nest DE0011-00. The closest residence is approximately 800 feet on the other side of the canyon from the nest site. The land immediately adjacent to the nest is undeveloped and is owned by the BLM or Deschutes County.

Noise from construction activities, machinery operation, vehicles, loud music, voices or human activity within the sensitive habitat area could disturb the birds during the nesting period. Disturbance could interfere with establishment of the nest or cause the adults to temporarily abandon the nest leaving the eggs or young birds vulnerable to cold, heat, or predation.

There is an undeveloped subdivision beyond the western edge of the sensitive habitat area. The undeveloped subdivision, in addition to the adjacent county and BLM land, provides foraging habitat and buffer from conflicting noise and activity. Development of this subdivision may increase the recreational activity along the rim of the canyon and disturb the birds during the nesting season. However, the subdivision is outside of the sensitive habitat area.

Forest practices are not a conflicting use because there is no commercial forest land within the sensitive habitat area. Farm use on the private and BLM land is limited to grazing which is not a conflicting use. State statute prohibits regulation of farm practices.

#### 4. Economic, Social, Environmental and Energy Consequences Analysis.

##### (A) Economic Consequences

Construction costs could increase if building activity is restricted during the nesting season. Restricting



structural development within one quarter mile of the nest site would prevent two owners of MUA-10 zoned lots from constructing residences. This would be a loss of economic value of their land.

Limiting the development of parks or campgrounds would have a negligible economic consequence as there are numerous private and public recreational facilities throughout the county.

Maintaining nest sites will help assure that the species does not become a federally threatened and endangered species. Should this happen, the protection criteria would be much more restrictive around the remaining nest sites.

#### (B) Social Consequences

The social consequence of prohibiting residential development on the two undeveloped MUA-10 lots would be significant, as the owners would be unable to develop their property with uses that are permitted in the zone.

Prohibiting development on the publicly owned land within the sensitive habitat area would provide a positive social consequences by providing continuing opportunities for naturalists and bird watchers to study and enjoy the birds and have public access to the canyon rim and river.

#### (C) Environmental Consequences

The environmental consequences of allowing residential development of the two undeveloped MUA-10 zoned lots in the sensitive habitat area would be minor because the nest site is buffered on the west side by BLM and Deschutes County land which will be managed to protect the habitat. Also, the MUA-10 zoned lots adjacent to the undeveloped lots are already developed and the increase of two houses would not significantly alter the existing condition of the habitat.

Golden eagles, consume considerable numbers of rabbits, ground squirrels and other small prey. Farmers are constantly trying to control these small mammal populations. Loss of raptors could mean a higher use of chemical pesticides which can affect many other mammals, insects and birds.

There are no identified negative environmental consequences of prohibiting conflicting uses.

#### (D) Energy Consequences

There are no identified significant energy consequences from either permitting or limiting conflicting uses.

5. Program To Meet Goal 5.

The Board of County Commissioners finds that, based on the ESEE consequences, both the resource sites and the conflicting uses are important relative to each other and that the ESEE consequences should be balanced to allow conflicting uses in a limited way (OAR 660-16-010(3)).

In order to protect both the nest site and sensitive habitat area and allow limited conflicting uses, the following restrictions shall apply:

1. The County shall require site plan review under the Sensitive Bird and Mammal Habitat Combining zone for all land uses within the sensitive habitat area requiring a land use permit.
2. Partitions creating a residential building site within the sensitive habitat area shall be prohibited.
3. Structural development within the quarter mile sensitive habitat area shall be prohibited on the following lots because they are in public ownership, and there is area outside the sensitive habitat area for structural development:

15-12-01D0-2900	Deschutes County
15-12-01C0-100	Deschutes County
15-12-0000-100	BLM

4. Residential development will be allowed on the following two lots zoned MUA-10:

15-12-01D0-600  
15-12-01D0-900

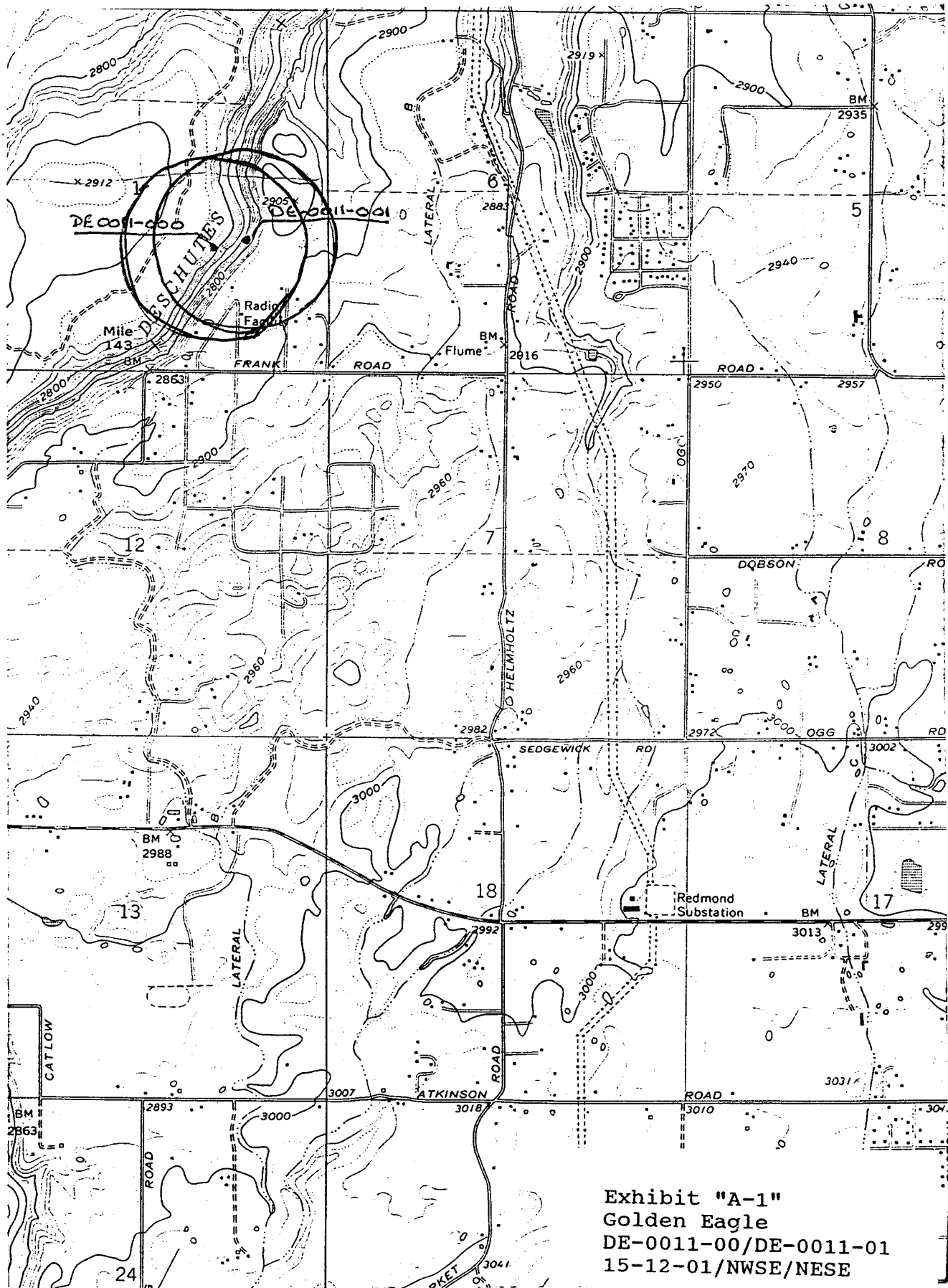
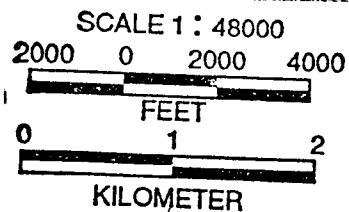
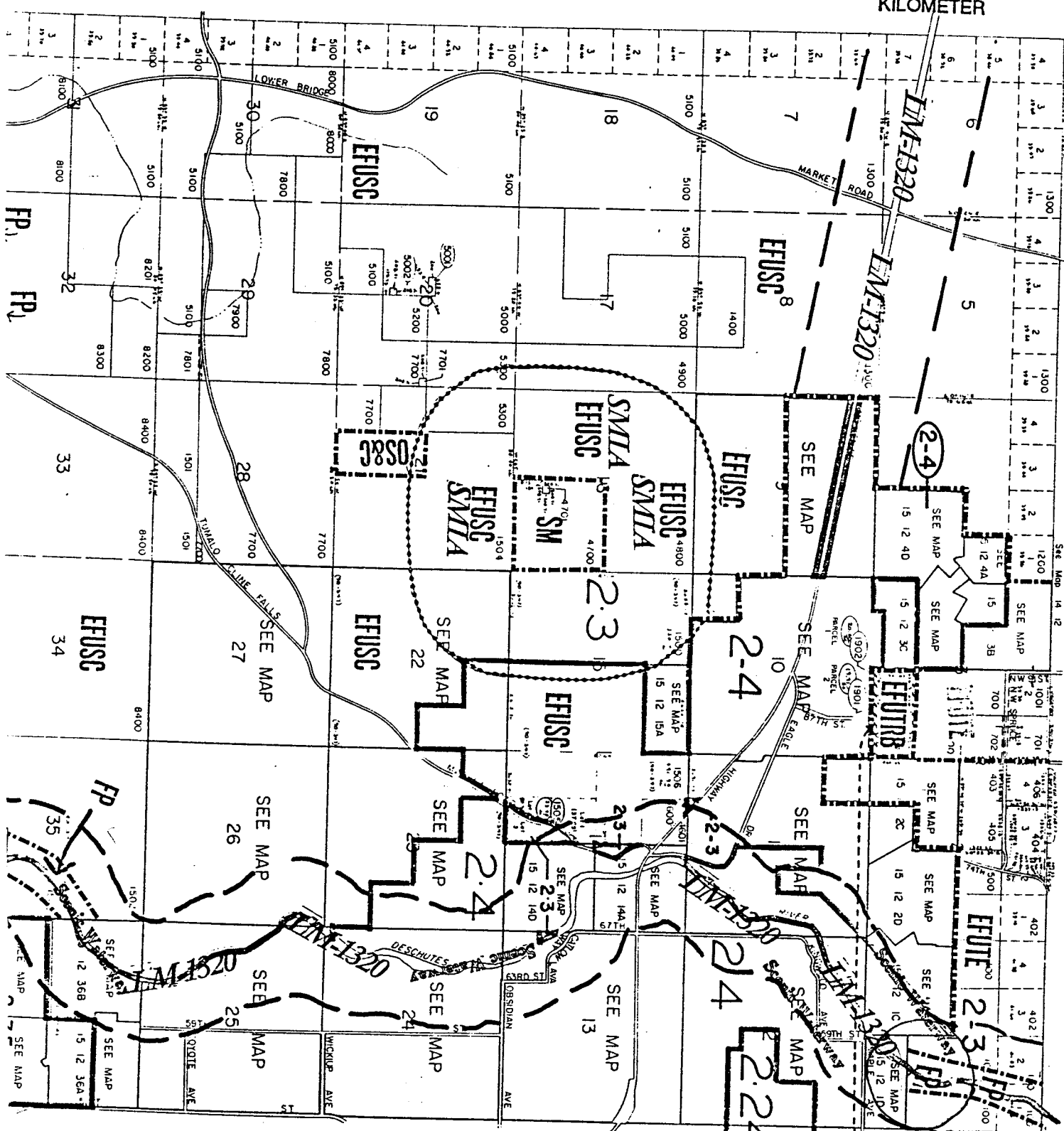


Exhibit "A-1"  
 Golden Eagle  
 DE-0011-00/DE-0011-01  
 15-12-01/NWSE/NESE

0135-2347



See Map 15 11



This map was prepared for assessment purpose only.

FIRM MAP 75C, 150c  
WETLAND REDONDR  
TISS, RIZEW.M.  
DESCHUTES COUNTY  
2000

Cancelled numbers 200 thru 204, 400, 401, 600, 300, 500, 600, 1000, 1100, 1101, 1102, 1500 thru 1504, 2000 thru 2500, 3500 thru 7600, 8500 thru 9300, 9500 thru 9900, 2500 thru 3200, 3200 thru 3200, 3200 thru 3200, 3200 thru 3200

See Map 15 13

PARTITION PLAT NO.1991-43'

Exhibit "A-2"  
Golden Eagle  
DE-0011-00/DE-0011-01  
15-12-01/NWSE/NESE

DE 0011-06  
DE 0011-01

SCALE 1 : 4800  
0 200 400  
15-12-14  
100

FEET

KILOMETER

MAP OF  
WETLAND

DESCHUTES COUNTY

1"=200'

SCALE 1 : 4800  
0 200 400

FEET

KILOMETER

15-12-1D

Exhibit "A-3"  
Golden Eagle  
DE-0011-00/DE-0011-0:  
15-12-01/NWSE/NESE

0185-2848

2-3

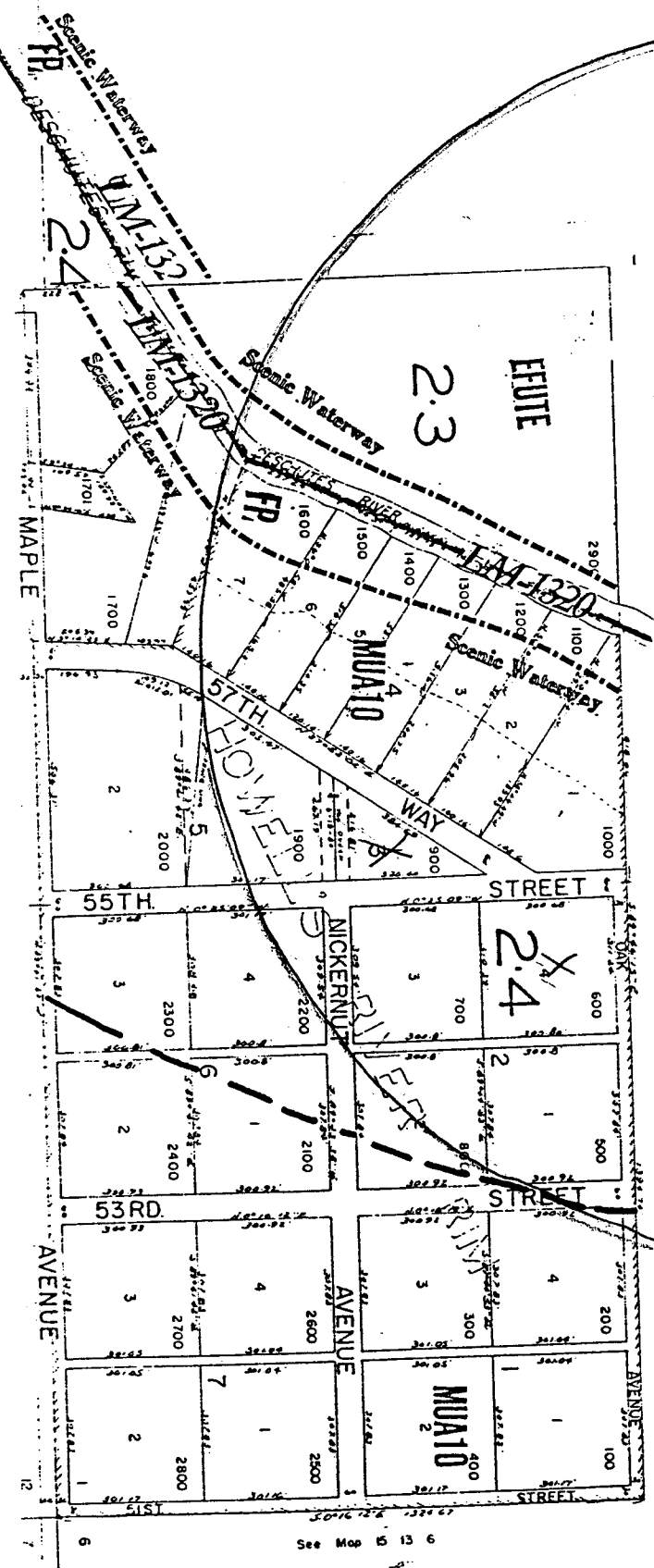
EFUTE

2.3

EFUTE

2.4

MUATO



See Map 15 12

See Map 15 13 6

**ESEE FINDINGS AND DECISION**  
**GOLDEN EAGLE SITE #DE0012-00 and DE0012-01**

1. Inventory.

The Oregon Department of Fish and Wildlife (ODFW) has identified two nest sites: DE0012-00 (map number 15-11-00-800) and DE0012-01 (14-11-00-6200). The sites are located on the rim of in Deep Canyon. The sensitive habitat area includes the area within a 1/4 mile (1320 feet) radius of each nest site. The habitat sites and sensitive habitat area are designated on maps attached as Exhibit "A". Site DE0012-01 and the sensitive habitat area are located on federal land (Bureau of Land Management) and is therefore not subject to this ESEE analysis and decision. The site is included on the inventory of golden eagle sites on federal land.

2. Site Characteristics.

Site DE0012-00 and DE0012-01 are alternate nest sites for a pair of golden eagles.

Site DE0012-00, Upper Deep Canyon, is located in an old growth ponderosa pine tree approximately one quarter mile north of Highway 126. Approximately 10 acres of a 99 acre, privately owned, undeveloped parcel is located within the sensitive habitat area (15-11-00-900). The remainder of the sensitive habitat area is federal land. The sensitive habitat area is zoned Exclusive Farm Use (EFUSC).

3. Conflicts Identification.

**Potentially Conflicting Uses With Habitat Site**

<u>Zone</u>	<u>Permitted Use</u>	<u>Conditional Use</u>
EFU	-Farm use -Forest use -Exploration for minerals -Farm accessory building -Some road construction	-Single family dwelling -Residential homes -Private park, campground -Personal use airstrip -Home occupation -Process forest products -Solid waste disposal site -Storage, crushing, processing of aggregate -Church or school -Certain road projects -Bed and breakfast
RR-10	-Single family dwelling -Utility facility -Farm Use	-Public park, playground -Dude ranch -Home occupation -Personal Use landing strip

-Recreation Facility  
-Bed and breakfast inn

The conflicting uses would be any structure or activity which would cause disturbance, including noise or human activity, within 1320 feet of the nest site during the nesting period from February 1 through August 1. Dwelling location is restricted by the Wildlife Area Combining zone to the area within 300 feet of an existing road.

Noise from construction activities, machinery operation, vehicles, loud music, voices or human activity within the sensitive habitat area could disturb the birds during the nesting period. Disturbance could interfere with establishment of the nest or cause the adults to temporarily abandon the nest leaving the eggs or young birds vulnerable to cold, heat, or predation.

Forest practices are not a conflicting use because there is no commercial forest land within the sensitive habitat area. Farm use in the sensitive habitat area is limited to grazing which is not a conflicting use.

4. Economic, Social, Environmental and Energy Consequences Analysis.

(A) Economic Consequences

Construction costs could increase if building activity is restricted during the nesting season. Restricting structural development within the sensitive habitat area for the privately owned parcel would not preclude development of this parcel and therefore the value of the property would not be significantly reduced.

Maintaining nest sites will help assure that the species does not become a federally threatened and endangered species. Should this happen, the protection criteria would be much more restrictive around the remaining nest sites.

Limiting the development of parks or campgrounds would have a negligible economic consequence as there are numerous private and public recreational facilities throughout the county.

(B) Social Consequences

The social consequence of allowing unregulated conflicting uses could be the abandonment of the nest site which would be a loss to the segment of society that enjoys viewing wildlife. The positive social consequences of limiting conflicting uses would be continuing opportunities for naturalists and bird

watchers to study and enjoy the birds.

Structural development within the sensitive habitat area could be prohibited with little social consequence because only approximately 10 acres of the 93 acre privately owned parcel are within the sensitive habitat area.

(C) Environmental Consequences

Golden eagles, consume considerable numbers of rabbits, ground squirrels and other small prey. Farmers are constantly trying to control these small mammal populations. Loss of raptors could mean a higher use of chemical pesticides which can affect many other mammals, insects and birds.

The environmental consequences of allowing unregulated conflicting uses could be the failure of nesting, abandonment of the nest site, or alteration of foraging area. There are no identified negative environmental consequences of prohibiting conflicting uses.

(D) Energy Consequences

There are no identified significant energy consequences from either permitting or limiting conflicting uses.

5. Program To Meet Goal 5.

The Board of County Commissioners finds that, based on the ESEE consequences, both the resource site and the conflicting uses are important relative to each other and that the ESEE consequences should be balanced to allow conflicting uses in a limited way (OAR 660-16-010(3)).

In order to protect both the nest site and sensitive habitat area and allow limited conflicting uses, the following restrictions shall apply:

1. The county shall require site plan review under the Sensitive Bird and Mammal Habitat Combining zone for all land uses within the sensitive habitat area requiring a land use permit.
2. Partitions creating a residential building site within the sensitive habitat area shall be prohibited.
3. Structural development within the quarter mile sensitive habitat area shall be prohibited on the following properties because they are federal land or there are alternate locations for structures



outside of the sensitive habitat area.

0135-2352

15-11-00-502  
15-11-00-800

15-11-00-900  
15-11-00-6200

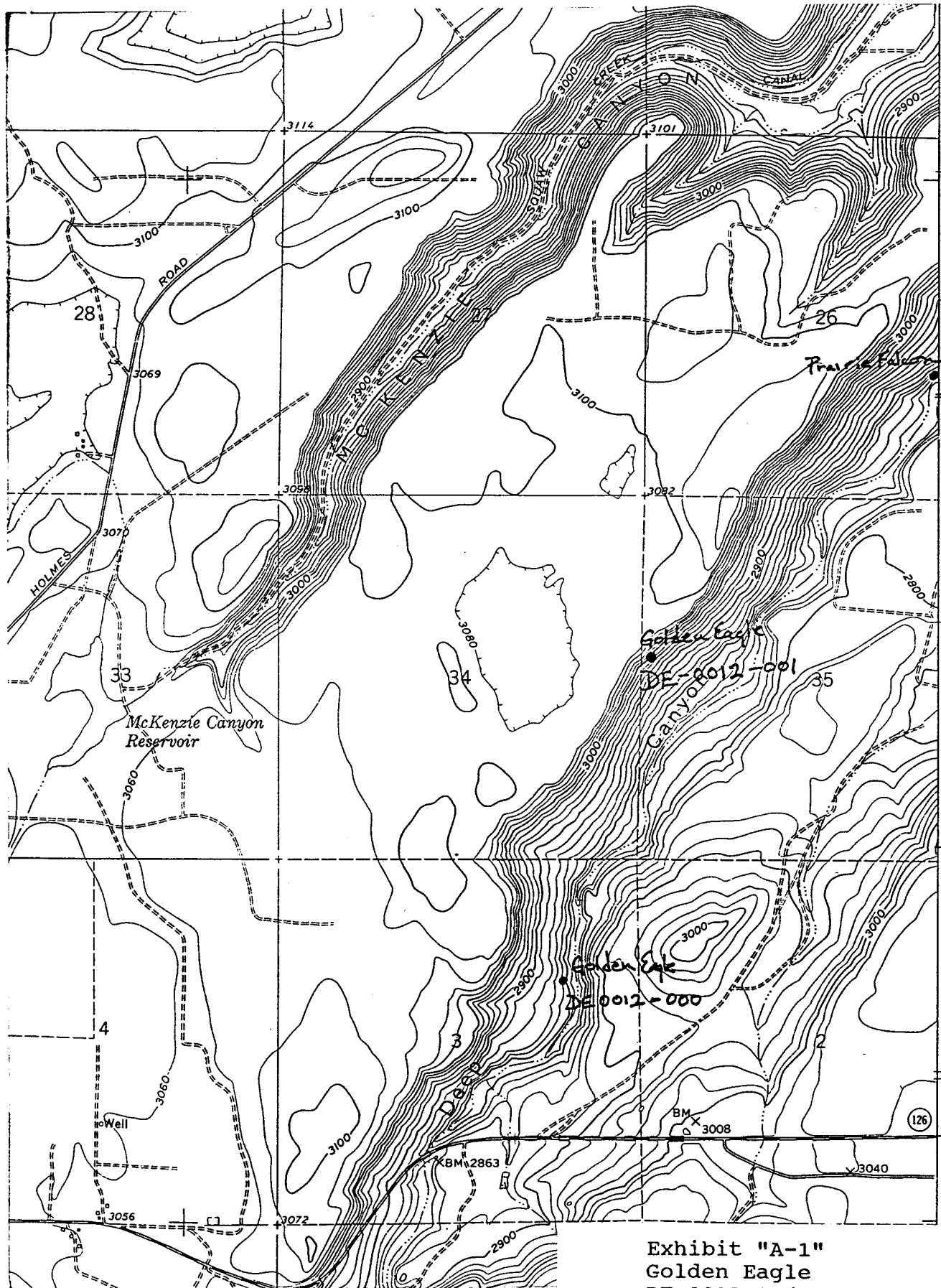


Exhibit "A-1"  
 Golden Eagle  
 DE-0012-00/DE-0012-01  
 15-11-03/NWNE  
 14-11-35/SWNW



ESEE FINDINGS AND DECISION  
GOLDEN EAGLE SITE #DE0013-00

1. Inventory.

The Oregon Department of Fish and Wildlife (ODFW) has identified a golden eagle nest site in Buckhorn Canyon, DE0013-00 (map number 14-12-00-2603). The sensitive habitat area includes the area within a 1/4 mile radius of each nest site. The habitat site is designated on a map attached as Exhibit "A".

2. Site Characteristics.

Site DE0013-00 is located on a privately owned 319 acre parcel zoned Exclusive Farm Use (EFUTE). ODFW reports that the site has been abandoned since the mid 1970s. However, it may be used by other raptors and future nesting eagles.

3. Program To Meet Goal 5.

The Board of County Commissioners finds that because the nest site has been abandoned for approximately 20 years it is not an important Goal 5 resource. The site will be removed from the county inventory in accordance with OAR 660-16-000(5)(a). The Oregon Department of Fish and Wildlife will continue to monitor the site. If ODFW provides the county with information that the site is active, the county shall review the site in accordance with OAR 660-16 to determine its significance as Goal 5 resources.

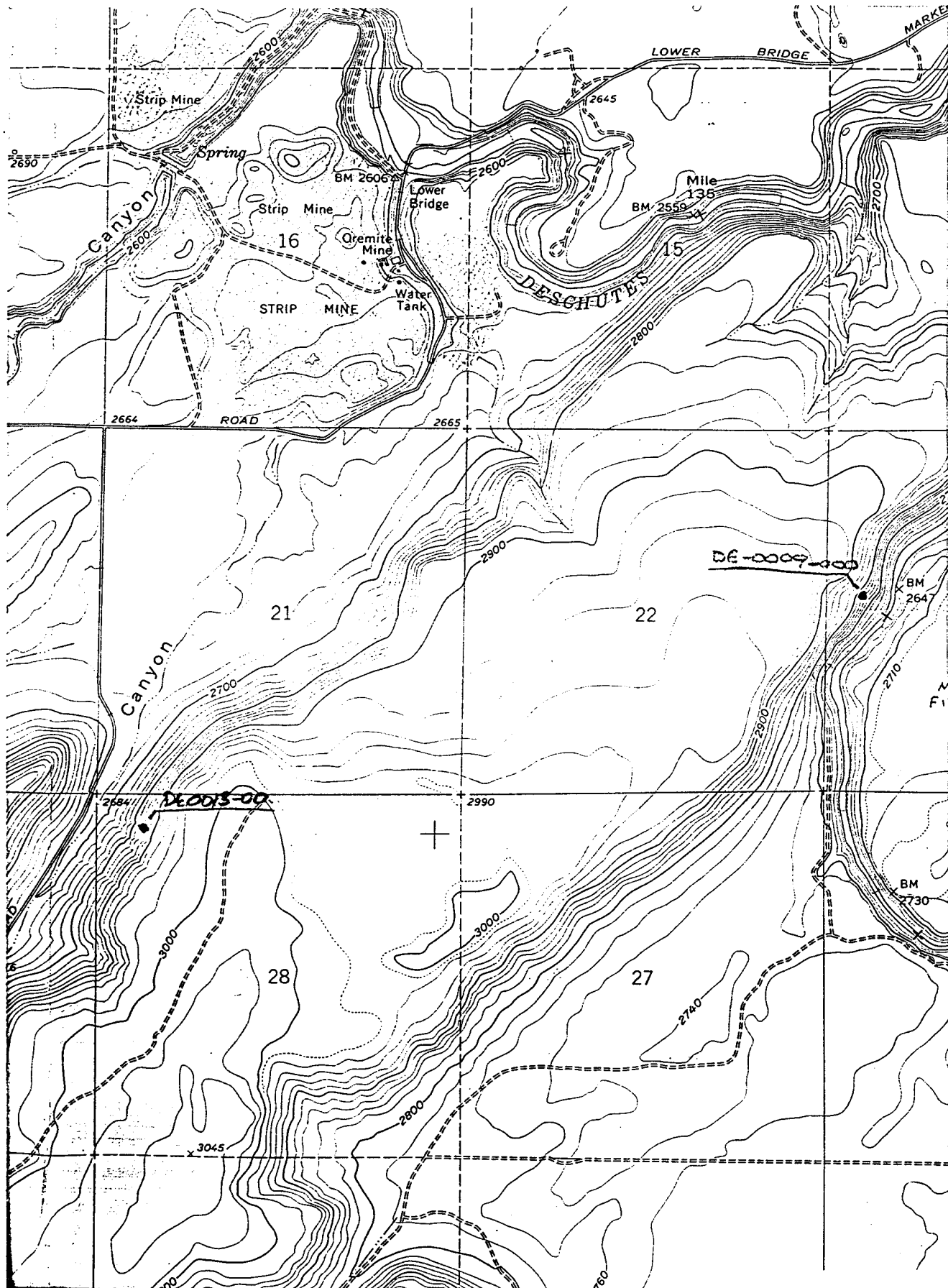


Exhibit "A-1"  
Golden Eagle  
DE-0013-00  
14-12-22 (REV. 7/17)

ESEE FINDINGS AND DECISION  
GOLDEN EAGLE SITE #DE0014-00

0135-2357

1. Inventory.

The Oregon Department of Fish and Wildlife (ODFW) has identified a golden eagle nest site DE0014-00 (map number 16-11-00-00-7800). The site is also known as Tumalo Dam. The sensitive habitat area includes the area within a 1/4 mile (1320 feet) radius of each nest site. The habitat site and sensitive habitat area are designated on maps attached as Exhibit "A".

2. Site Characteristics.

The site is located on Bureau of Land Management (BLM) land in an old growth ponderosa pine tree east of Sisemore Road. The nest has been active off and on for 40 years. It produced two young in 1992. The area around the nest is forested with sparse juniper and ponderosa pine. To the west of the nest is a flat grassy area known as Bull Flat. Tumalo Reservoir is south west of the site. The property within the sensitive habitat area is either BLM or Tumalo Irrigation District land.

The sensitive habitat area is zoned Open Space Conservation (OSC), Flood Plain (FP), Wildlife Habitat Combining Zone (WA), and Landscape Management Combining Zone (LM).

3. Conflicts Identification.

Potentially Conflicting Uses With Habitat Site

<u>Zone</u>	<u>Permitted Use</u>	<u>Conditional Use</u>
OSC	-Farm use -Public park, recreation area	-Picnic or campground -Utility facility -Commercial recreation facility -Rockhound site -Water supply & treatment facility.

<u>Zone</u>	<u>Permitted Use</u>	<u>Conditional Use</u>
FP	-Farm use (no structure) -Forest management -Open space	-Road or bridge -Single family dwelling -Agricultural accessory buildings -Recreation Uses

The conflicting uses would be any structure or activity which would cause disturbance within 1320 feet of the nest site

during the nesting period from February 1 through August 1. Residential development is improbable because of the zoning and the ownership of the land in the sensitive habitat area. Except for grazing, farm use is not likely in the area because of ownership, topography, and soil capability.

The most significant conflict to this site is traffic or road construction work on Sisemore Road during the nesting period. Road construction or maintenance during the nesting period could disturb the birds. Scheduling of these activities is not subject to review under the zoning ordinance. Also increased recreation use could cause disturbance to the birds during the nesting period. There are currently no plans for intensive recreational development in the area.

Noise from construction activities, machinery operation, vehicles, loud music, voices or human activity within the sensitive habitat area could disturb the birds during the nesting period. Disturbance could interfere with establishment of the nest or cause the adults to temporarily abandon the nest leaving the eggs or young birds vulnerable to cold, heat, or predation.

Forest practices are not a conflicting use because there is no commercial forest land within the sensitive habitat area. Farm use in the area is limited to grazing which is not a conflicting use.

4. Economic, Social, Environmental and Energy Consequences Analysis.

(A) Economic Consequences

Construction costs could increase if building activity is restricted during the nesting season. Prohibiting structural development within the sensitive habitat area would have insignificant economic consequences as the types of structures permitted in the OSC and FP zone are limited and could be located in other places on the two properties within the sensitive habitat area.

Maintaining nest sites will help assure that the species does not become a federally threatened and endangered species. Should this happen, the protection criteria would be much more restrictive around the remaining nest sites.

Limiting the development of parks or campgrounds would have a negligible economic consequence as there are numerous private and public recreational facilities throughout the county.

(B) Social Consequences

The social consequence of allowing unregulated conflicting uses could be the abandonment of the nest site which would be a loss to the segment of society that enjoys viewing wildlife. The positive social consequences of limiting conflicting uses would be continuing opportunities for naturalists and bird watchers to study and enjoy the birds.

Structural development within the sensitive habitat area could be prohibited with little social consequence because the current zoning limits the use and type of structure. Recreational development could occur on other portions of the two properties which are partially within the sensitive habitat area.

(C) Environmental Consequences

Golden eagles, consume considerable numbers of rabbits, ground squirrels and other small prey. Farmers are constantly trying to control these small mammal populations. Loss of raptors could mean a higher use of chemical pesticides which can affect many other mammals, insects and birds.

The environmental consequences of allowing unregulated conflicting uses could be the failure of nesting, abandonment of the nest site, or alteration of foraging area. There are no identified negative environmental consequences of prohibiting conflicting uses.

(D) Energy Consequences

There are no identified significant energy consequences from either permitting or limiting conflicting uses.

5. Program To Meet Goal 5.

The Board of County Commissioners finds that, based on the ESEE consequences, uses both the resource site and the conflicting uses are important relative to each other and that the ESEE consequences should be balanced to allow conflicting uses in a limited way (OAR 660-16-010(3)).

In order to protect both the nest site and sensitive habitat area and allow limited conflicting uses, the following restrictions shall apply:

1. Structural development shall be prohibited within the sensitive habitat area.
2. The county shall require site plan review under the Sensitive Bird and Mammal Habitat Combining zone for all land uses within the sensitive habitat area



requiring a land use permit.

3. Partitions creating a residential building site within the sensitive habitat area shall be prohibited.

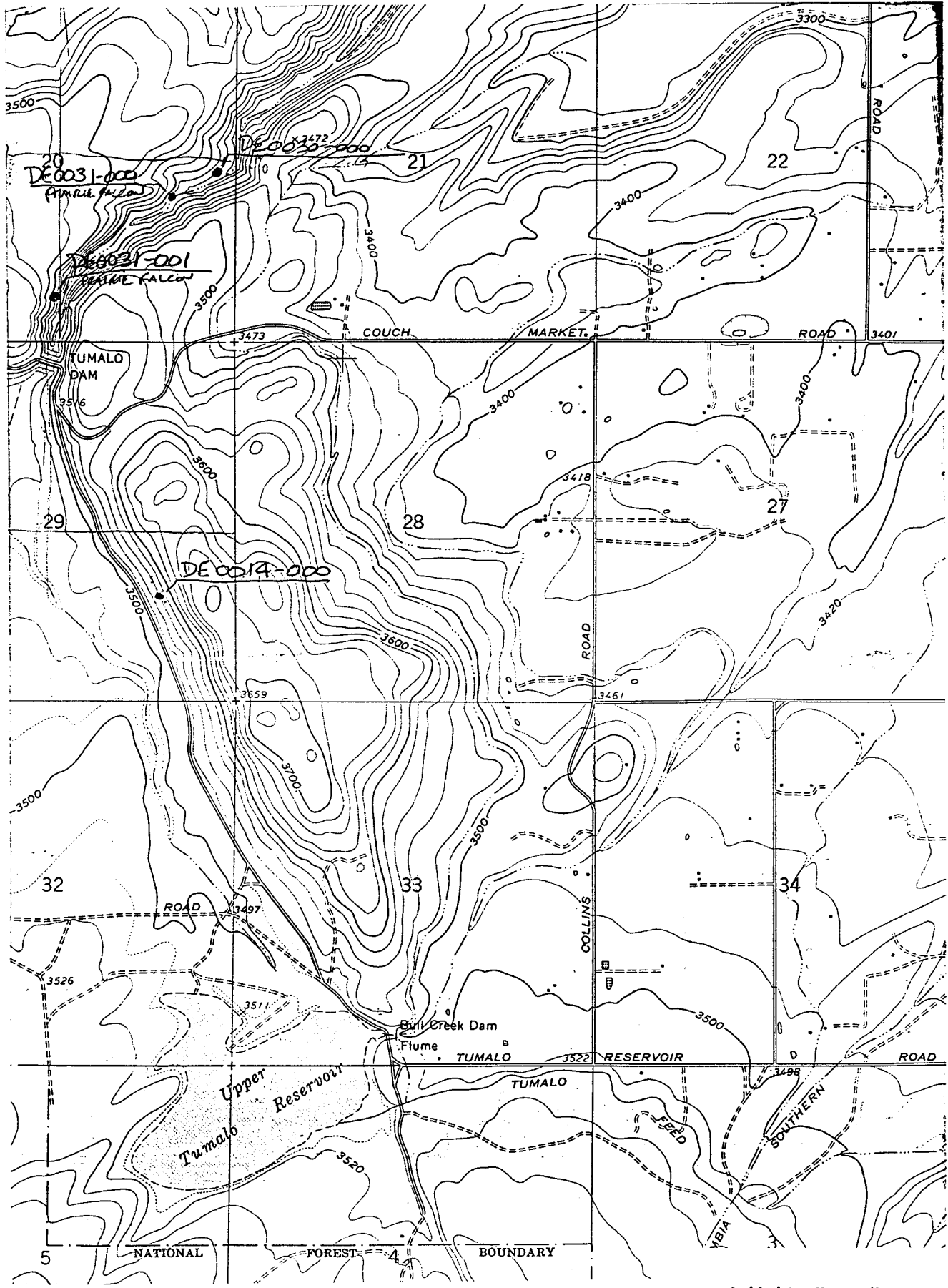


Exhibit "A-1"  
Golden Eagle  
DE-0014-00  
16-11-70 / NWCF

0135-2362

SCALE 1 : 48000

2000 0 2000 4000

FEET

0 1 2

KILOMETER

Exhibit "A"  
Golden Eagle  
DE-0014-00  
16-11-29/NWSE

This map was prepared for  
assessment purposes only.

FIRM MAP O/2-5-C  
WETLAND I/M/ALP/DAW

T16S, R11E, W1E,  
DESCHUTES COUNTY  
1"=2000'

See Map 5 11

DE0014-00

3/20/1997/1/24/2000/1/24/2000/1/24/2000

8 INCH  
16

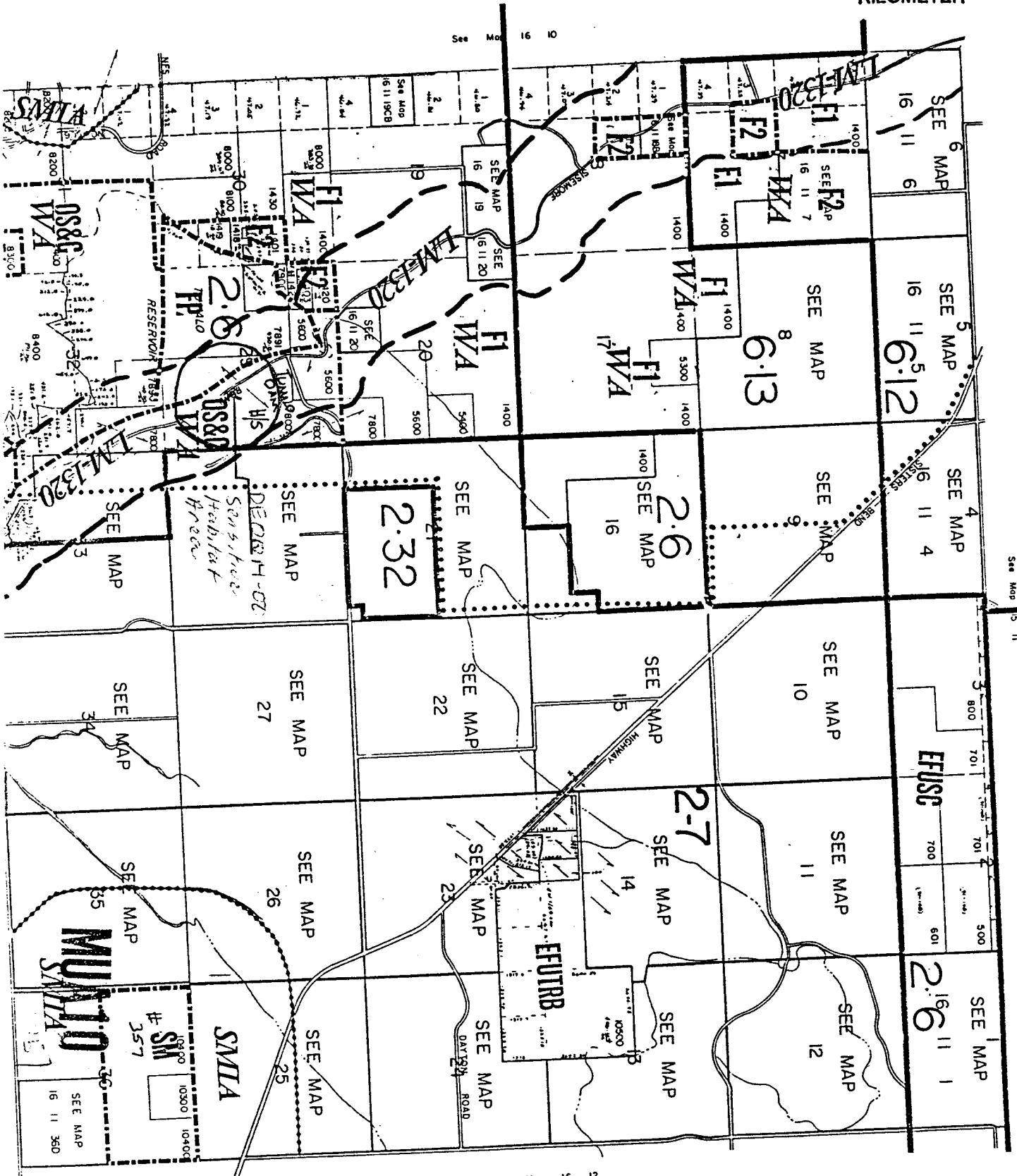


Exhibit "A-2"  
Golden Eagle  
DE-0014-00  
16-11-29/NWSE

**ESEE FINDINGS AND DECISION**  
**GOLDEN EAGLE SITES #DE0015-00 and DE0015-01**

1. Inventory.

The Oregon Department of Fish and Wildlife (ODFW) has identified two golden eagle nest sites in Township 14S, Range 11E, Section 3, Tax Lot 400. The ODFW identifiers for the sites are DE0015-00 and DE0015-01. The sites are known as Squaw Creek/Rimrock. The sensitive habitat area includes the area within a 1/4 mile (1320 feet) radius of the nest sites. The habitat sites and sensitive habitat area are designated on maps attached as Exhibit "A".

2. Site Characteristics.

One nest is located in an old growth ponderosa pine tree on the east side of Squaw Creek. Another nest, which has been active most recently is located on a cliff down stream on the east side of the creek. Access to the sites is limited by locked gates.

The nest sites are located on a private ownership that is approximately 443 acres. The property is zoned Exclusive Farm Use in the Sisters Cloverdale subzone (EFUSC). There are also Flood Plain, Landscape Management Combining (LM) and Wildlife Area Combining (WA, deer winter range) zones on the property. The assessor's records do not show a dwelling on the property.

3. Conflicts Identification.

Potentially Conflicting Uses With Habitat Site

<u>Zone</u>	<u>Permitted Use</u>	<u>Conditional Use</u>
EFU	-Farm use	-Single family dwelling
	-Forest use	-Residential homes
	-Exploration for minerals	-Private park, campground
	-Farm accessory building	-Personal use airstrip
	-Some road construction	-Home occupation
		-Process forest products
		-Solid waste disposal site
		-Storage, crushing, processing of aggregate
		-Church or school
		-Certain road projects
		-Bed and breakfast

The conflicting uses would be any structure or activity which would cause disturbance within 1320 feet of the nest site during the nesting period from February 1 through August 1. Because the property is remote, it is unlikely that a church or school would be sited located within the sensitive habitat area.

Noise from construction activities, machinery operation, vehicles, loud music, voices or human activity within the sensitive habitat area could disturb the birds during the nesting period. Disturbance could interfere with establishment of the nest or cause the adults to temporarily abandon the nest leaving the eggs or young birds vulnerable to cold, heat, or predation.

A farm or nonfarm dwelling, if approved as a conditional use, could be located outside of the sensitive habitat area as the property is over 400 acres in size and the sensitive habitat area is 125 acres. Dwelling location is also restricted by the landscape management zone, wildlife area combining zone and flood plain.

Forest practices are not a conflicting use because there is no commercial forest land within the sensitive habitat area. Farm use on the private BLM land is limited to grazing which is not a conflicting use.

4. Economic, Social, Environmental and Energy Consequences Analysis.

(A) Economic Consequences

The economic consequence of restricting forest practices could result in a reduction of timber available for harvest. Construction costs could increase if building activity is restricted during the nesting season. Restricting structural development within one quarter mile of the nest site would have a negligible economic effect because there is land available outside of the sensitive habitat area for residences or other structural development.

Maintaining nest sites will help assure that the species does not become a federally threatened and endangered species. Should this happen, the protection criteria would be much more restrictive around the remaining nest sites.

Limiting the development of parks or campgrounds would have a negligible economic consequence as there are numerous private and public recreational facilities throughout the county.

## (B) Social Consequences

The social consequence of allowing unregulated conflicting uses could be the abandonment of the nest site which would be a loss to the segment of society that enjoys viewing wildlife. The positive social consequences of limiting conflicting uses would be continuing opportunities for naturalists and bird watchers to study and enjoy the birds. However, because the nest and sensitive habitat area are on private land public access is limited.

Structural development within the sensitive habitat area could be prohibited with little social consequence as owners have the potential to develop their properties outside of the quarter mile sensitive habitat area.

## (C) Environmental Consequences

Golden eagles, consume considerable numbers of rabbits, ground squirrels and other small prey. Farmers are constantly trying to control these small mammal populations. Loss of raptors could mean a higher use of chemical pesticides which can affect many other mammals, insects and birds.

The environmental consequences of allowing unregulated conflicting uses could be the failure of nesting, abandonment of the nest site, or alteration of foraging area. There are no identified negative environmental consequences of prohibiting conflicting uses.

## (D) Energy Consequences

There are no identified significant energy consequences from either permitting or limiting conflicting uses.

5. Program To Meet Goal 5.

The Board of County Commissioners finds that, based on the ESEE consequences, both the resource site and the conflicting uses are important relative to each other and that the ESEE consequences should be balanced to allow conflicting uses in a limited way (OAR 660-16-010(3)).

In order to protect both the nest site and sensitive habitat area and allow limited conflicting uses, the following restrictions shall apply:

1. Structural development shall be prohibited within the sensitive habitat area.
2. The county shall require site plan review under the

Sensitive Bird and Mammal Habitat Combining zone for all land uses within the sensitive habitat area requiring a land use permit.

3. Partitions creating a residential building site within the sensitive habitat area shall be prohibited.
4. Forest practices may occur during the nesting period. However, the Oregon Department of Forestry regulates forest practices and is required by the State Forest Practices Act to develop a management plan for forest practices within one half mile of a sensitive bird nest site.

0135-2367

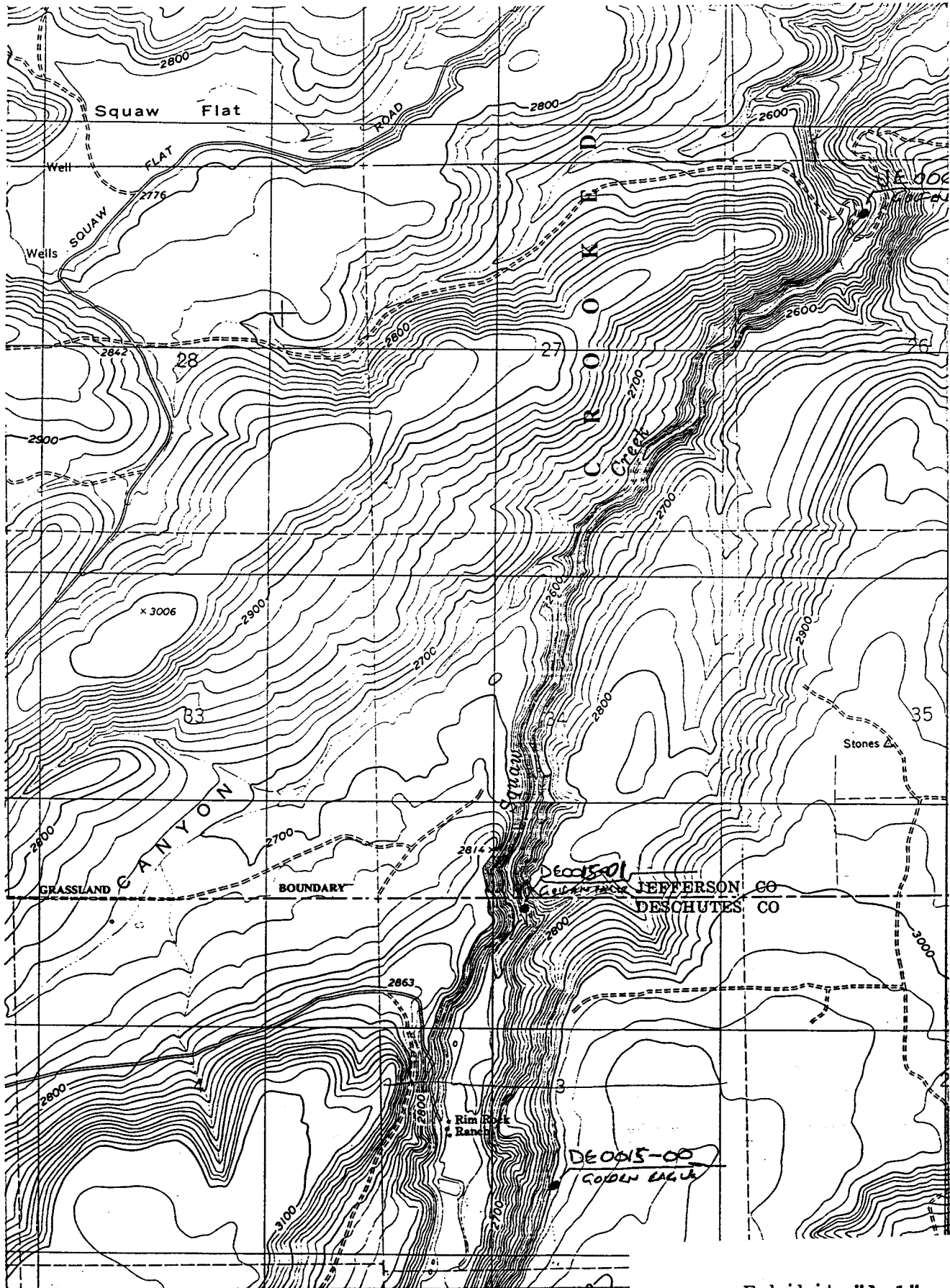


Exhibit "A-1"  
Golden Eagle  
DE-0015-00/DE-0015-01  
14-11-03/NENW/SESW



DEEDS 14 11 03  
14 11 03

FIRM MAP 45c, 25c  
WETLAND HEAVY BATTLE DESCHUTES COUNTY  
T14S R11E W1M.

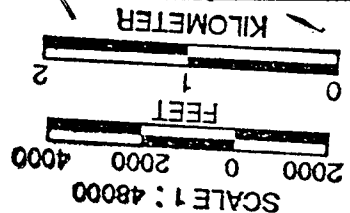
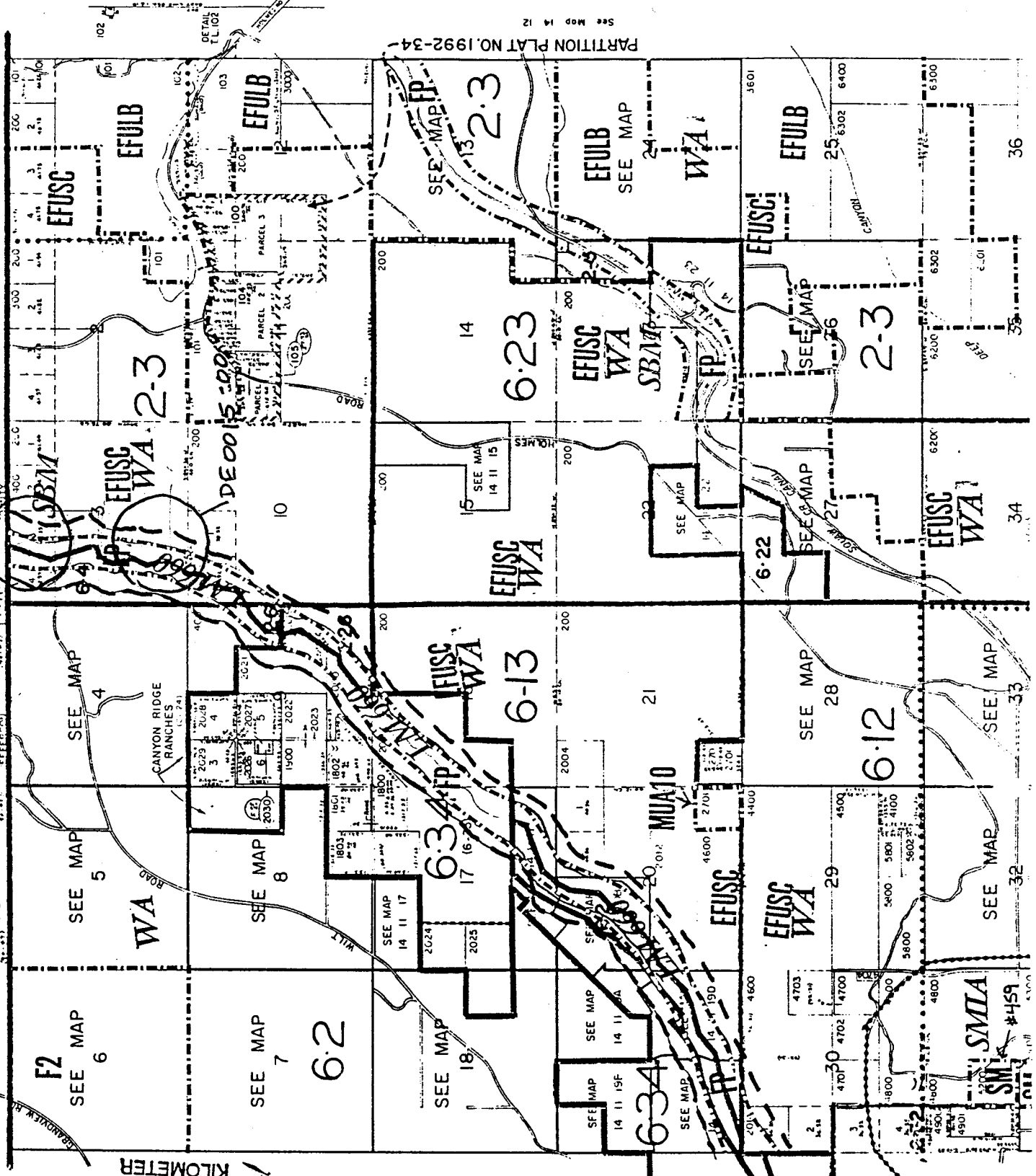


Exhibit "A-2"  
Golden Eagle  
DE-0015-00/DE-0015-01  
14-11-03/NENW/SFSW

1. Inventory.

The Oregon Department of Fish and Wildlife has identified a golden eagle nest site in Township 20S, Range 17E, Section 36 (map number 20-17-00-3801). The ODFW identifier for the site is DE0029-00. The site is known as Twin Pines. The sensitive habitat area includes the area within a 1/4 mile (1320 feet) radius of the nest site. The habitat site and sensitive habitat area are designated on maps attached as Exhibit "A".

2. Site Characteristics.

The nest is located in a ponderosa pine tree. It was active in 1992 and produced one eagle. The nest is located on a private 635 acre parcel zoned Exclusive Farm Use (EFUHR) and Wildlife Area Combining Zone (WA). The wildlife combining zone is for antelope habitat.

3. Conflicts Identification.

Potentially Conflicting Uses With Habitat Site

<u>Zone</u>	<u>Permitted Use</u>	<u>Conditional Use</u>
EFU	-Farm use	-Single family dwelling
	-Forest use	-Residential homes
	-Exploration for minerals	-Private park, campground
	-Farm accessory building	-Personal use airstrip
	-Some road construction	-Home occupation
		-Process forest products
		-Solid waste disposal site
		-Storage, crushing, processing of aggregate
		-Church or school
		-Certain road projects
		-Bed and breakfast

The conflicting uses would be any structure or activity which would cause disturbance within 1320 feet of the nest site during the nesting period from February 1 through August 1. Because the property is remote, it is unlikely that a church or school would be located within the sensitive habitat area. A farm or nonfarm dwelling, if approved as a conditional use, could be located outside of the sensitive habitat area as the property is

635 in size and the sensitive habitat area includes only 125 acres of the property.

Noise from construction activities, machinery operation, vehicles, loud music, voices or human activity within the sensitive habitat area could disturb the birds during the nesting period. Disturbance could interfere with establishment of the nest or cause the adults to temporarily abandon the nest leaving the eggs or young birds vulnerable to cold, heat, or predation.

4. Economic, Social, Environmental and Energy Consequences Analysis.

(A) Economic Consequences

Construction costs could increase if building activity is restricted during the nesting season. Restricting structural development within one quarter mile of the nest site would have a negligible economic effect because there is land available outside of the sensitive habitat area for residences or other structural development.

Maintaining nest sites will help assure that the species does not become a federally threatened and endangered species. Should this happen, the protection criteria would be much more restrictive around the remaining nest sites.

Limiting the development of parks or campgrounds would have a negligible economic consequence as there are numerous private and public recreational facilities throughout the county.

(B) Social Consequences

The social consequence of allowing unregulated conflicting uses could be the abandonment of the nest site which would be a loss to the segment of society that enjoys viewing wildlife. The positive social consequences of limiting conflicting uses would be continuing opportunities for naturalists and bird watchers to study and enjoy the birds. However, because the land in the sensitive habitat area is private, public access may be prohibited.

Structural development within the sensitive habitat area could be prohibited with little social consequence as owners have the potential to develop their properties outside of the quarter mile sensitive habitat area.

(C) Environmental Consequences

Golden eagles, consume considerable numbers of rabbits, ground squirrels and other small prey. Farmers are constantly trying to control these small mammal populations. Loss of raptors could mean a higher use of chemical pesticides which can affect many other mammals, insects and birds.

The environmental consequences of allowing unregulated conflicting uses could be the failure of nesting, abandonment of the nest site, or alteration of foraging area. There are no identified negative environmental consequences of prohibiting conflicting uses.

(D) Energy Consequences

There are no identified significant energy consequences from either permitting or limiting conflicting uses.

5. Program To Meet Goal 5.

The Board of County Commissioners finds that, based on the ESEE consequences, both the resource site and the conflicting uses are important relative to each other and that the ESEE consequences should be balanced to allow conflicting uses in a limited way (OAR 660-16-010(3)).

In order to protect both the nest site and sensitive habitat area and allow limited conflicting uses, the following restrictions shall apply:

1. Structural development shall be prohibited within the sensitive habitat area.
2. The county shall require site plan review under the Sensitive Bird and Mammal Habitat Combining zone for all land uses within the sensitive habitat area requiring a land use permit.
3. Partitions creating a residential building site within the sensitive habitat area shall be prohibited.

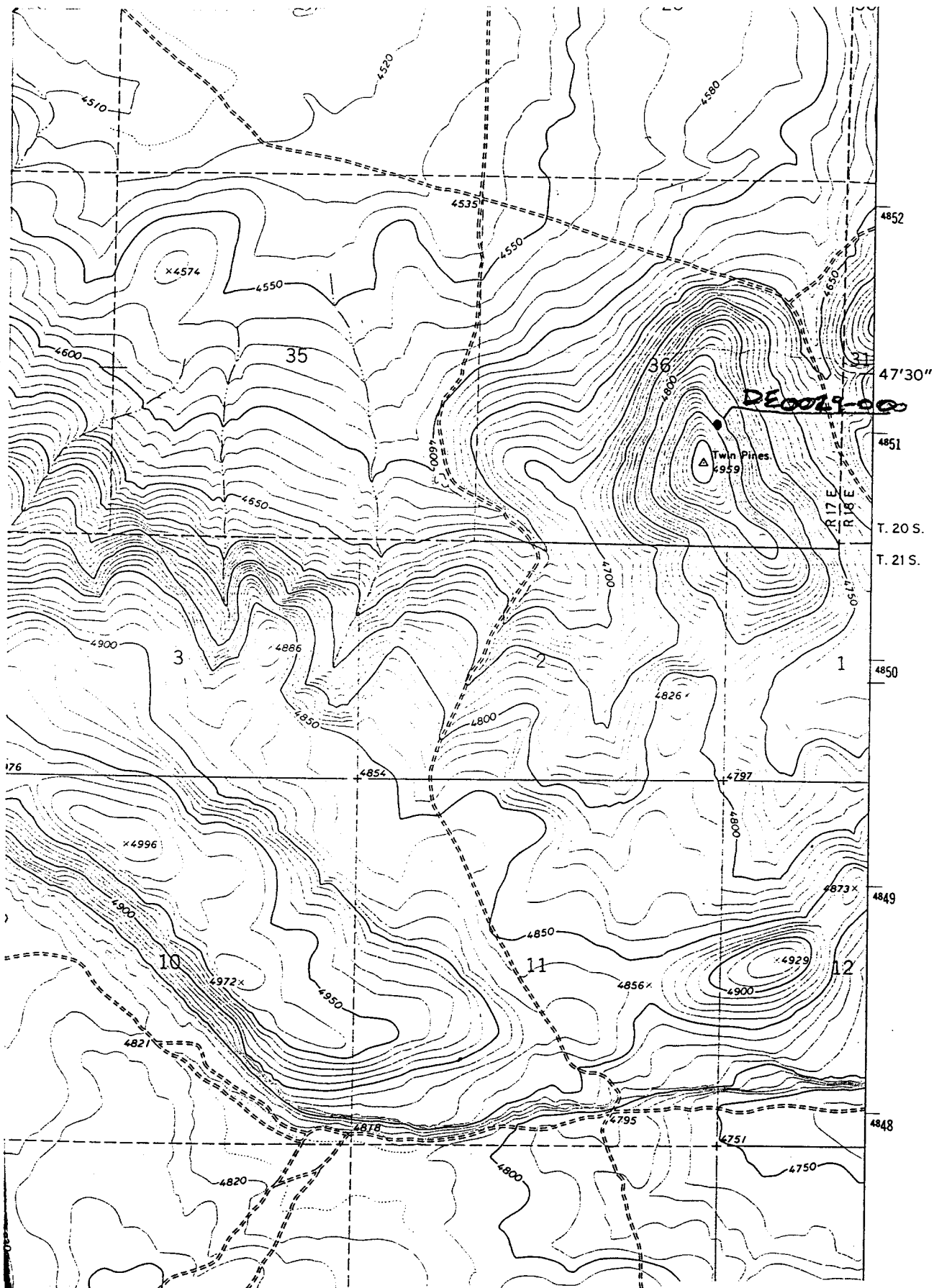


Exhibit "A-1"  
Golden Eagle  
DE-0029-00  
20-17-36/NWSE

20-17-00  
DE0029

0135-2373

DE0029-00  
Sensitive  
Habitat Area

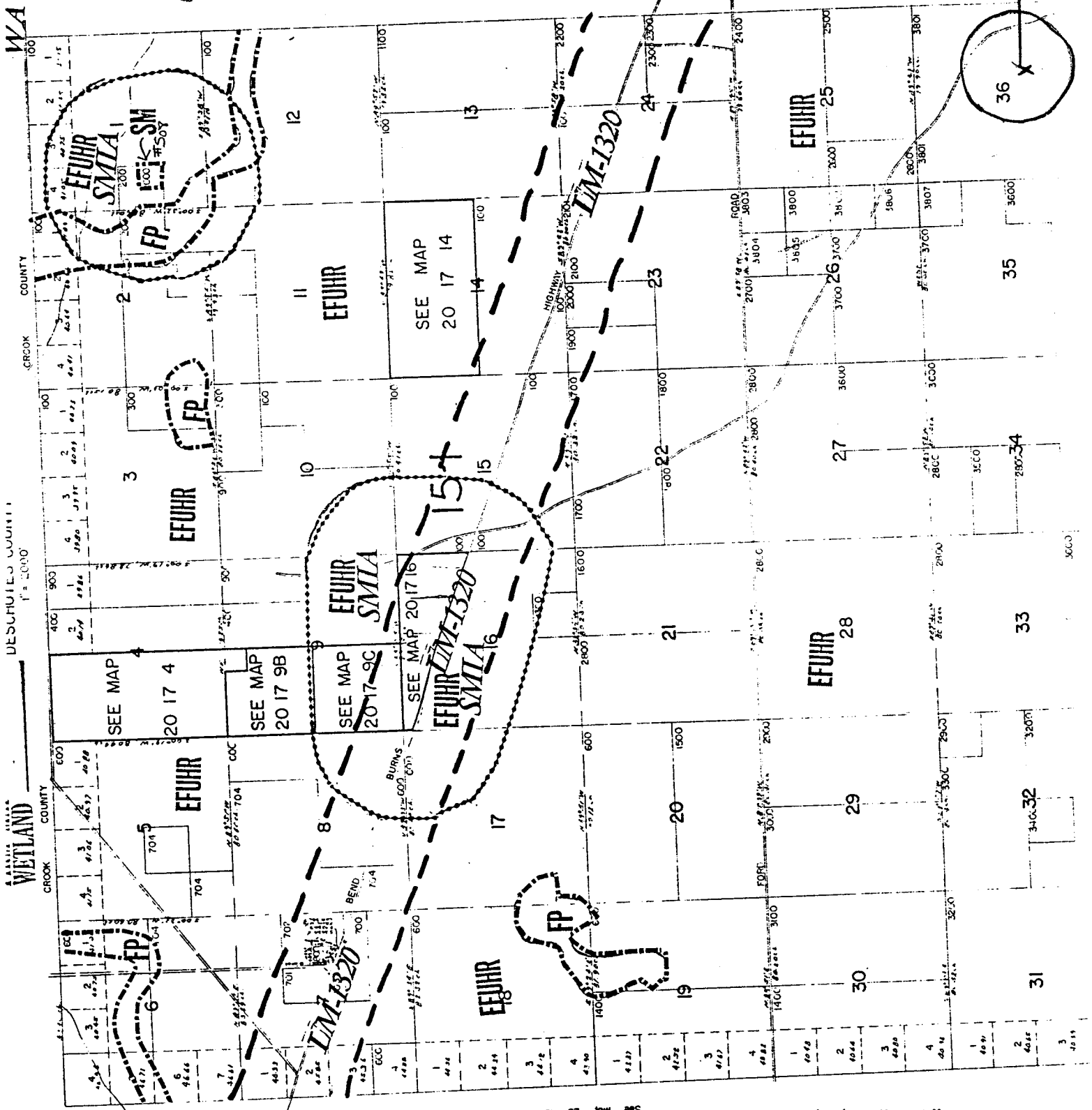


Exhibit "A-2"  
Golden Eagle  
DE-0029-00  
209-17-36/NWSE

1. Inventory.

The Oregon Department of Fish and Wildlife has identified two golden eagle nest sites: DE0034-00 (map number 15-10-00-00-1400) and DE0034-01 (map number number 15-11-00-00-1400). The sites are also known as the Lazy Z/USFS sites. Both sites are located on Deschutes National Forest land. The sensitive habitat area includes the area within a 1/4 mile (1320 feet) radius of each nest site. The habitat sites and sensitive habitat area are designated on maps attached as Exhibit "A".

2. Site Characteristics.

The sites are alternate nest sites for a single pair of birds. The area around the nests is forested. The sensitive habitat area for site DE00034-00 is entirely on federal land and is zoned Forest Use (F1).

The sensitive habitat are for site DE00034-01 includes federal land and a portion of a 156 acre tax lot (15-10-00-1800) that is part of a large ranch. Sixty acres of the tax lot are irrigated and the remainder is dry. The sensitive habitat area for site DE0034-01 is zoned Forest Use (F1) and Exclusive Farm Use (EFUSC).

3. Conflicts Identification.

Potentially Conflicting Uses With Habitat Site

<u>Zone</u>	<u>Permitted Use</u>	<u>Conditional Use</u>
EFU	-Farm use -Forest use -Exploration for minerals -Farm accessory building -Some road construction	-Single family dwelling -Residential homes -Private park, campground -Personal use airstrip -Home occupation -Process forest products -Solid waste disposal site -Storage, crushing, processing of aggregate -Church or school -Certain road projects -Bed and breakfast
<u>Zone</u>	<u>Permitted Use</u>	<u>Conditional Use</u>
F1	-Forest practices -Distribution lines -Portable processing	-Parks and campgrounds -Fire station -Forest management dwelling

forest products

-Caretaker residences for  
parks or hatcheries

The conflicting uses would be any structure or activity which would cause disturbance within 1320 feet of the nest site during the nesting period from February 1 through August 1. The private land within the sensitive habitat area is currently undeveloped. There is land outside of the sensitive habitat area where structural development could occur.

Noise from construction activities, machinery operation, vehicles, loud music, voices or human activity within the sensitive habitat area could disturb the birds during the nesting period. Disturbance could interfere with establishment of the nest or cause the adults to temporarily abandon the nest leaving the eggs or young birds vulnerable to cold, heat, or predation.

The county has no authority to regulate commercial forest practices. Forest practices are regulated by the Oregon Department of Forestry through the Oregon Forest Practices.

Farm use on the private and USFS is limited to grazing which is not a conflicting use.

#### 4. Economic, Social, Environmental and Energy Consequences Analysis.

##### (A) Economic Consequences

Construction costs could increase if building activity is restricted during the nesting season. Prohibiting structural development within the sensitive habitat area on the one private parcel would have minimal economic impact as there are other locations where farm buildings or residences could be constructed.

Maintaining nest sites will help assure that the species does not become a federally threatened and endangered species. Should this happen, the protection criteria would be much more restrictive around the remaining nest sites.

Restricting commercial forest activity could reduce revenues or increase expenses for private land owners. However, the county does not have jurisdiction to regulate commercial forest practices.

Limiting the development of parks or campgrounds would have a negligible economic consequence as there are numerous private and public recreational facilities throughout the county.

##### (B) Social Consequences



The social consequence of allowing unregulated conflicting uses could be the abandonment of the nest site which would be a loss to the segment of society that enjoys viewing wildlife. The positive social consequences of limiting conflicting uses would be continuing opportunities for naturalists and bird watchers to study and enjoy the birds.

Structural development within the sensitive habitat area could be prohibited with little social consequence because owners have the potential to develop their properties outside of the quarter mile sensitive habitat area.

(C) Environmental Consequences

Golden eagles, consume considerable numbers of rabbits, ground squirrels and other small prey. Farmers are constantly trying to control these small mammal populations. Loss of raptors could mean a higher use of chemical pesticides which can affect many other mammals, insects and birds.

The environmental consequences of allowing unregulated conflicting uses could be the failure of nesting, abandonment of the nest site, or alteration of foraging area. There are no identified negative environmental consequences of prohibiting conflicting uses.

(D) Energy Consequences

There are no identified significant energy consequences from either permitting or limiting conflicting uses.

5. Program To Meet Goal 5.

The Board of County Commissioners finds that, based on the ESEE consequences, both the resource site and the conflicting uses are important relative to each other and that the ESEE consequences should be balanced to allow conflicting uses in a limited way (OAR 660-16-010(3)).

In order to protect both the nest site and sensitive habitat area and allow limited conflicting uses, the following restrictions shall apply:

1. Structural development shall be prohibited within the sensitive habitat area on the tax lot identified as 15-10-00-1800.
2. The county shall require site plan review under the Sensitive Bird and Mammal Habitat Combining zone

for all land uses within the sensitive habitat area requiring a land use permit.

3. Partitions creating a residential building site within the sensitive habitat area shall be prohibited.
4. Forest practices may occur during the nesting period either on the Deschutes National Forest or on the private forest land. However, the Oregon Department of Forestry regulates commercial forest practices on private land. Forest practices on the Deschutes National Forest are regulated by the Deschutes National Forest Land and Resource Management Plan.

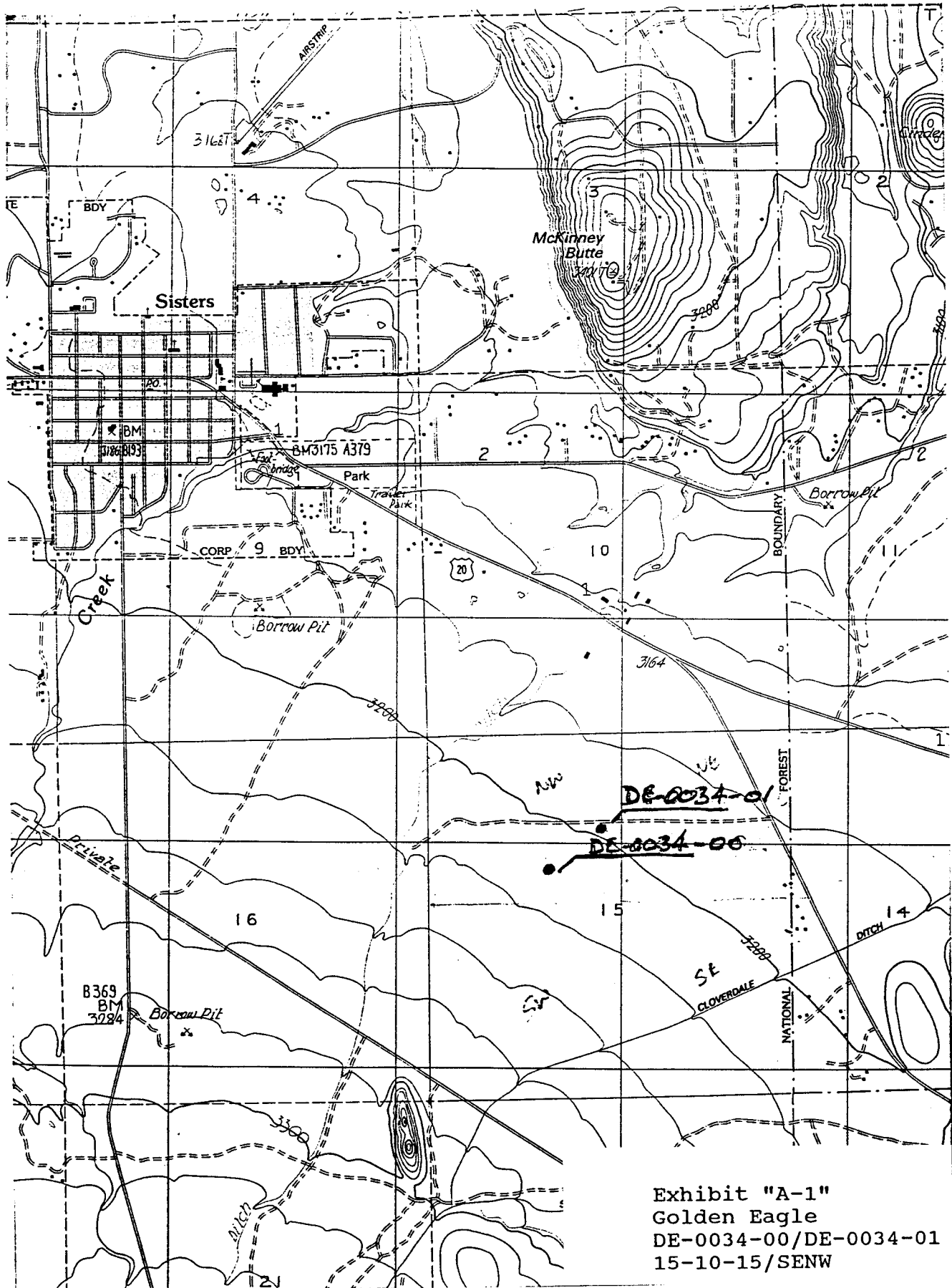


Exhibit "A-1"  
Golden Eagle  
DE-0034-00/DE-0034-01  
15-10-15/SENW



TABLE 16

PRAIRIE FALCON NEST SITE INVENTORY  
NEST SITES ON NON-FEDERAL LAND  
OR WITH NON-FEDERAL SENSITIVE HABITAT AREA

ODFW Site #	Map & Tax Lot	Quarter Section	General Location
DE 0016-00	22-16-00-100	12/SWSE	Dickerson Flat
DE 0031-00	16-11-00-5600	20/NESE	Tumalo Dam
DE 0031-01	16-11-20-400	20/SESW	Tumalo Dam
DE 0794-01	14-13-11-100	11/NWSW	Smith Rock State Park

1. Inventory.

The Oregon Department of Fish and Wildlife (ODFW) has identified a prairie falcon nest site in Township 22S, Range 16E, Section 12 (map number 22-16-00-100). The ODFW identifier for the site is DE0016-00. The site is known as Dickerson Flat. The sensitive habitat area includes the area within a 1/4 mile radius of the nest site. The habitat site and sensitive habitat area are designated on maps attached as Exhibit "A".

2. Site Characteristics.

The nest has been active since it was first observed in 1970. The nest is located on a private 959 acre parcel zoned Exclusive Farm Use (EFU) and Wildlife Area Combining Zone (WA). The wildlife combining zone is for antelope habitat. The minimum lot size for the area is 320 acres.

3. Conflicts Identification.

Potentially Conflicting Uses With Habitat Site

<u>Zone</u>	<u>Permitted Use</u>	<u>Conditional Use</u>
EFU	-Farm use	-Single family dwelling
	-Forest use	-Residential homes
	-Exploration for minerals	-Private park, campground
	-Farm accessory building	-Personal use airstrip
	-Some road construction	-Home occupation
		-Process forest products
		-Solid waste disposal site
		-Storage, crushing, processing of aggregate
		-Church or school
		-Certain road projects
		-Bed and breakfast

The conflicting uses would be any structure or activity which would cause disturbance within 1320 feet of the nest site during the nesting period from March 1 through August 1.

Noise from construction activities, machinery operation, vehicles, loud music, voices or human activity within the sensitive habitat area could disturb the birds

during the nesting period. Disturbance could interfere with establishment of the nest or cause the adults to temporarily abandon the nest leaving the eggs or young birds vulnerable to cold, heat, or predation.

Because the property is remote, it is unlikely that a church or school would be sited within the sensitive habitat area. A farm or nonfarm dwelling, if approved as a conditional use, could be located more than 1320 feet from the nest sites as the property is 635 acres and there is land outside of the sensitive habitat area where a residence could be located.

4. Economic, Social, Environmental and Energy Consequences Analysis.

(A) Economic Consequences

Construction costs could increase if building activity is restricted during the nesting season. Restricting structural development within one quarter mile of the nest site would have a negligible economic effect because there is land available outside of the sensitive habitat area for residences or other structural development.

Limiting the development of parks or campgrounds would have a negligible economic consequence as there are numerous private and public recreational facilities throughout the county.

(B) Social Consequences

The social consequence of allowing unregulated conflicting uses could be the abandonment of the nest site which would be a loss to the segment of society that enjoys viewing wildlife.

Structural development within the sensitive habitat area could be prohibited with little social consequence as owners have the potential to develop their properties outside of the quarter mile sensitive habitat area.

The positive social consequences of limiting conflicting uses would be continuing opportunities for naturalists and bird watchers to study and enjoy the birds.

(C) Environmental Consequences

The environmental consequences of allowing unregulated conflicting uses could be the failure of nesting, abandonment of the nest site, or alteration of foraging area. There are no identified negative environmental consequences of prohibiting conflicting uses.

## (D) Energy Consequences

There are no identified significant energy consequences from either permitting or limiting conflicting uses.

5. Program To Meet Goal 5.

The Board of County Commissioners finds that, based on the ESEE consequences, both the resource site and the conflicting uses are important relative to each other and that the ESEE consequences should be balanced to allow conflicting uses in a limited way (OAR 660-16-010(3)).

In order to protect both the lek and the sensitive habitat area and allow limited conflicting uses, the following restrictions shall apply:

1. Site plan review under the Sensitive Bird and Mammal Habitat Combining zone shall be required for all land uses within the sensitive habitat area requiring a land use permit.
2. Structural development within the quarter mile sensitive habitat area shall be prohibited because there are alternative locations for structures outside of the sensitive habitat area.
3. Partitions creating a residential building site within the sensitive habitat area shall be prohibited.



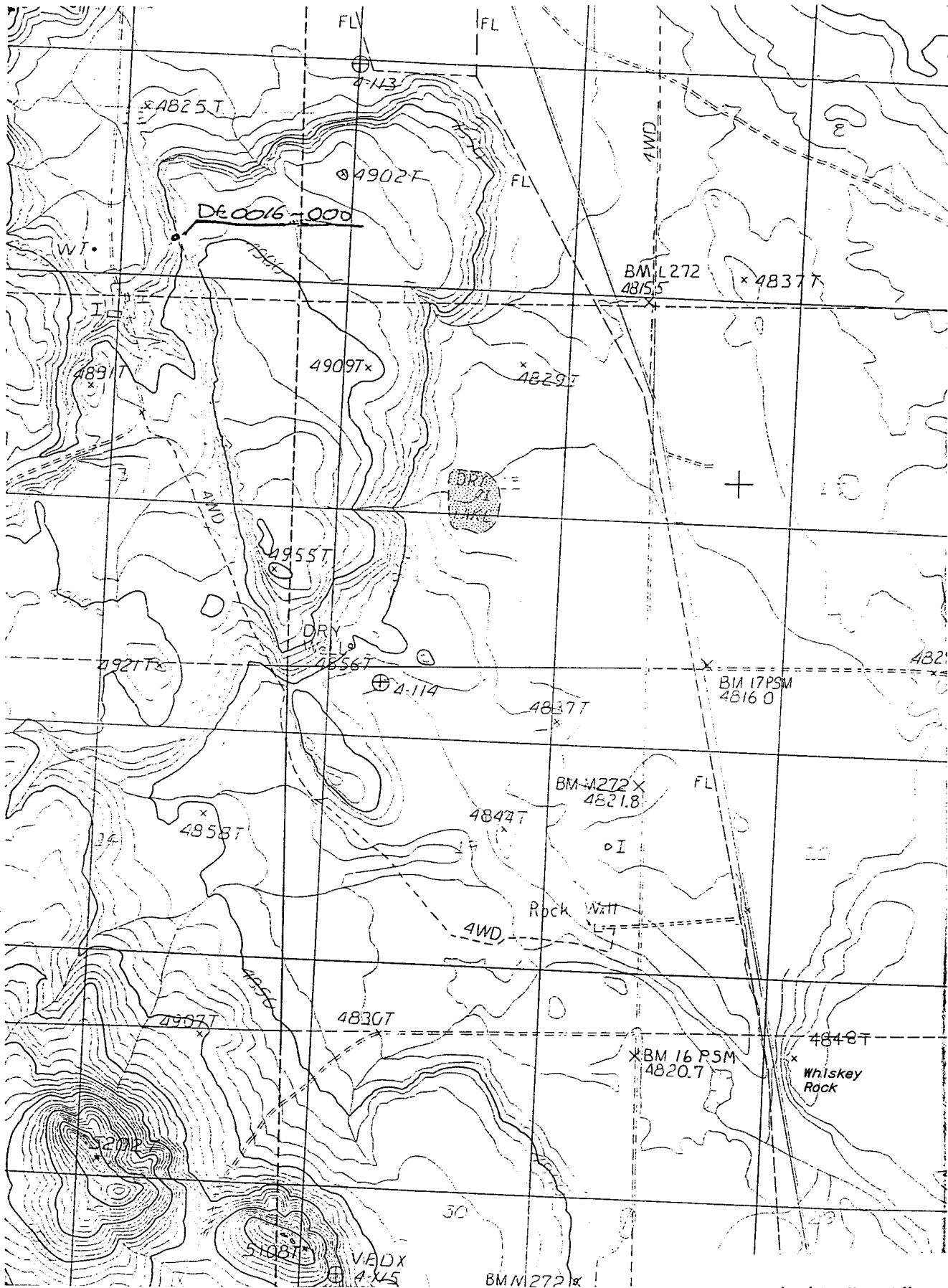
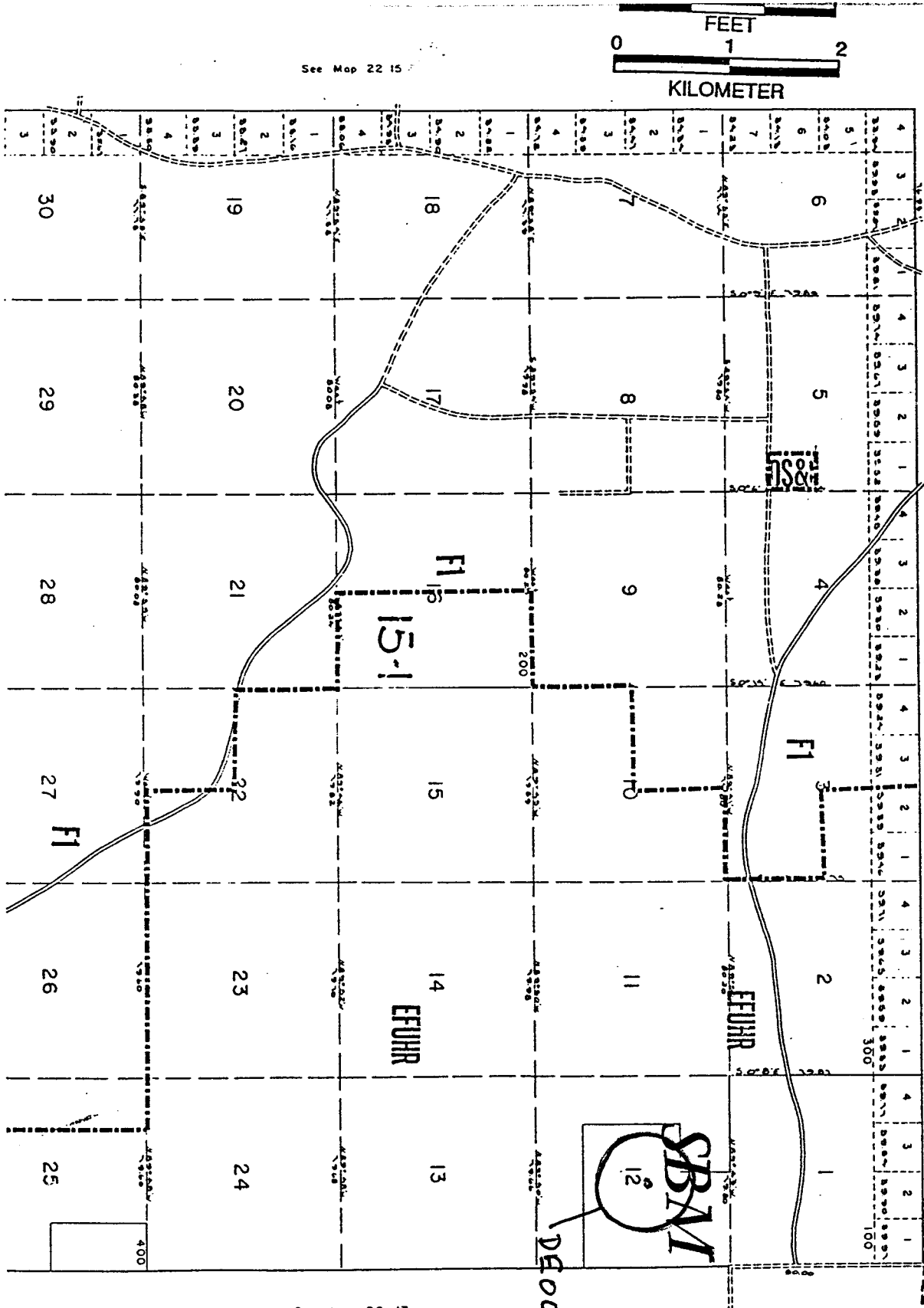


Exhibit "A-1"  
Prairie Falcon  
DE-0016-00  
22-16-12/SWNE



This map was prepared for assessment purposes only.

T22S. R16E.WM.  
DESCHUTES COUNTY

See Map 21 16

22 16



See Map 22 15

See Map 22 17

DE0016-00

Exhibit "A-1"  
Prairie Falcon  
DE-0016-00  
22-16-00-100

**ESEE FINDINGS AND DECISION**  
**PRAIRIE FALCON SITES DE0031-00 and DE0031-01**

1. Inventory.

The Oregon Department of Fish and Wildlife (ODFW) has identified a two prairie falcon nest sites in Township 16S, Range 11E, Section 20 (map number 16-11-00-5600 and 16-11-20-400). The ODFW identifiers for the sites are DE0031-00 and DE0031-01. The sites are also known as Tumalo Dam. The sensitive habitat area includes the area within a 1/4 mile radius of the each nest site. The habitat sites and sensitive habitat areas are designated on maps attached as Exhibit "A".

2. Site Characteristics.

The sites are located in the cliffs in the canyon below Tumalo Dam. They are alternate sites for a single pair of birds. Site DE0031-00 was active in 1993 and produced two young. Site DE0031-00 and the sensitive habitat area are located entirely on federal (BLM) land and is zoned Forest (F1).

Site DE0031-01 is located on private land and the sensitive habitat area includes two private 20 acre parcels zoned Forest (F-2). The two private parcels are both developed with residences. Both sites are also zoned Wildlife area Combining Zone (WA) because of deer winter range.

The federal land within the sensitive habitat area is part of the Tumalo Natural Area which is an area managed jointly by the Bend Parks and Recreation Foundation Bureau of Land Management as a wildlife refuge and natural area.

The nesting period for prairie falcons occurs between March 1 and August 1.

3. Conflicts Identification.

**Potentially Conflicting Uses With Habitat Site**

<u>Zone</u>	<u>Permitted Use</u>	<u>Conditional Use</u>
F1	-Forest practices -Distribution lines -Portable processing forest products -Farm use	-Parks and campgrounds -Fire station -Forest management dwelling -Caretaker residences for parks/hatcheries.
F2	-Same as F1 above	-Same as F1 above -Private hunting and

- Nonforest dwelling
- Temporary hardship dwelling
- Home occupation
- Campground

The two private parcels within the sensitive habitat area are already developed with residences. Except for a medical hardship dwelling, there is no potential for additional residential development or land division because of the forest zoning (F2). A medical hardship dwelling could be a conflict because of the increase in traffic and the number of people and resulting activity in the sensitive habitat area. A home occupation could be a conflict if it increased traffic or generated noise during the nesting season.

A campground or hunting lodge are unlikely potential developments because the two private lots are already developed for residential use. However, if allowed on the public land, the increased number of visitors could cause disturbance to the birds during nesting season.

The sensitive habitat is predominately juniper forest and is not commercial forest. Therefore, commercial forest activities are not a conflict.

4. Economic, Social, Environmental and Energy Consequences Analysis.

(A) Economic Consequences

The two private properties are already developed with residences. Therefore, restricting structural development within one quarter mile of the nest site would have a negligible economic effect because the property is already developed.

Limiting the development of parks or campgrounds would have a negligible economic consequence as there are numerous private and public recreational facilities throughout the county.

Some home buyers will pay higher prices for property that has resident wildlife or wildlife such as falcons in close proximity to the property.

(B) Social Consequences

The social consequence of allowing unregulated conflicting uses could be the abandonment of the nest site which would be a loss to the segment of society that enjoys viewing wildlife.

Additional structural development not associated with the existing residential use within the sensitive habitat area could be prohibited with little social consequence as owners have already realized the residential use of the property.

The positive social consequences of limiting conflicting uses would be continuing opportunities for naturalists and bird watchers to study and enjoy the birds.

(C) Environmental Consequences

The environmental consequences of allowing unregulated conflicting uses could be the failure of nesting, abandonment of the nest site, or alteration of foraging area. There are no identified negative environmental consequences of prohibiting conflicting uses.

(D) Energy Consequences

There are no identified significant energy consequences from either permitting or limiting conflicting uses.

5. Program To Meet Goal 5.

The Board of County Commissioners finds that, based on the ESEE consequences, both the resource site and the conflicting uses are important relative to each other and that the ESEE consequences should be balanced to allow conflicting uses in a limited way (OAR 660-16-010(3)).

In order to protect both the lek and the sensitive habitat area and allow limited conflicting uses, the following restrictions shall apply:

1. Site plan review under the Sensitive Bird and Mammal Habitat Combining zone shall be required for all land uses within the sensitive habitat area requiring a land use permit.
2. Medical hardship residences, campgrounds and hunting or fishing lodges shall be prohibited.
3. Partitions creating a residential building site within the sensitive habitat area shall be prohibited.

In addition the Tumalo Natural Area is jointly managed by the Bend Parks and Recreation Foundation and the Bureau of Land Management to enhance wildlife habitat.

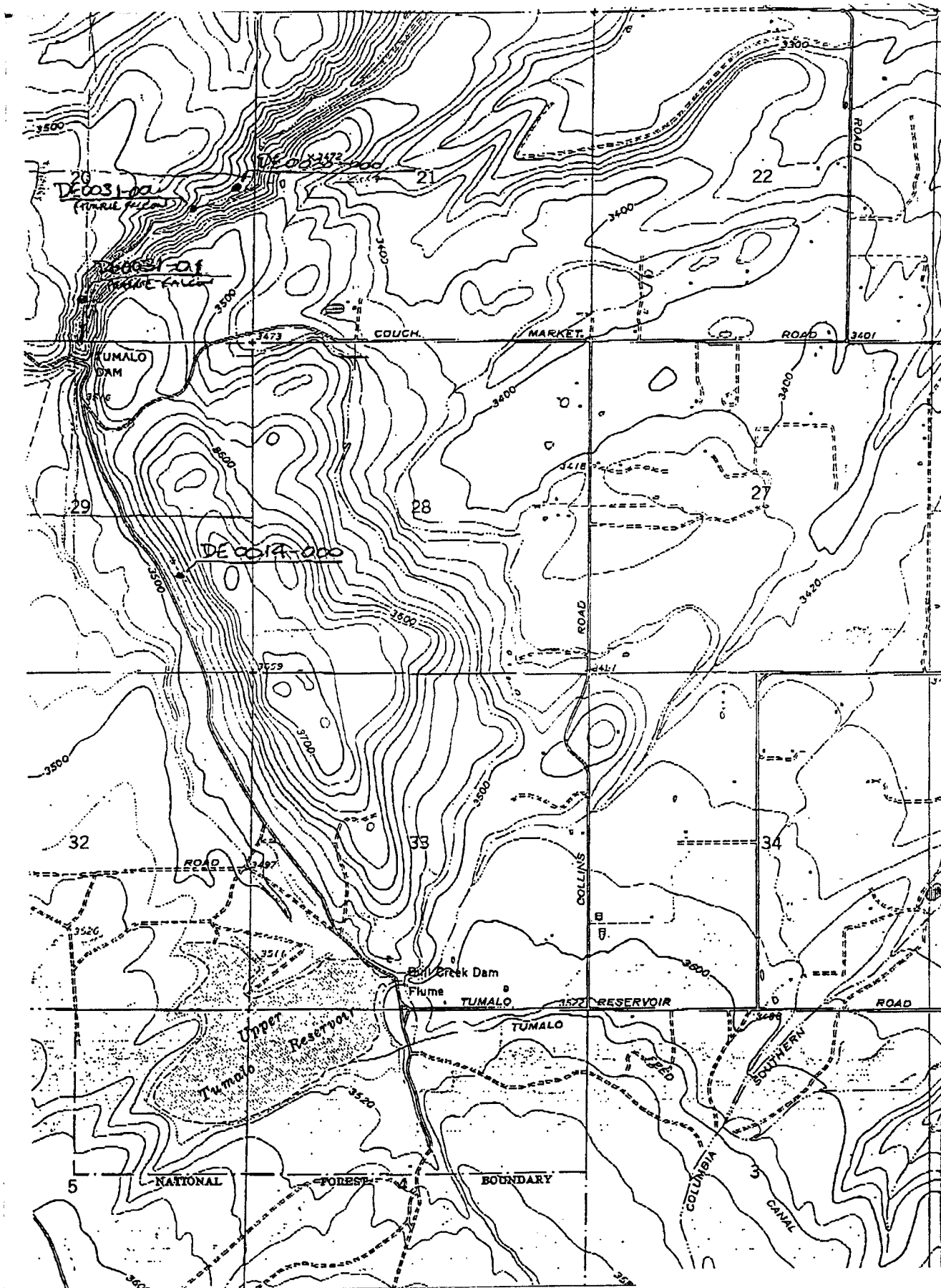


Exhibit "A-1"  
Prairie Falcon  
DE-0031-00/DE-0031-01  
16-11-20/NESE/SESW

0135-2390



This map was prepared for assessment purposes only.

FIRM MAP 0/25C  
WETLAND IUMALO DAM

1:100,000 N.T.I.E. W.M.  
DESCHUTES COUNTY  
1"=2000'

1:21,423 11/4/429, 1600 11/4/5200, 5500,  
3700 11/4/770, 8500 11/4/10206, 10401 11/4/10409, 10600

16 11  
8 INDEX

DE 0031-00  
DE 0031-01

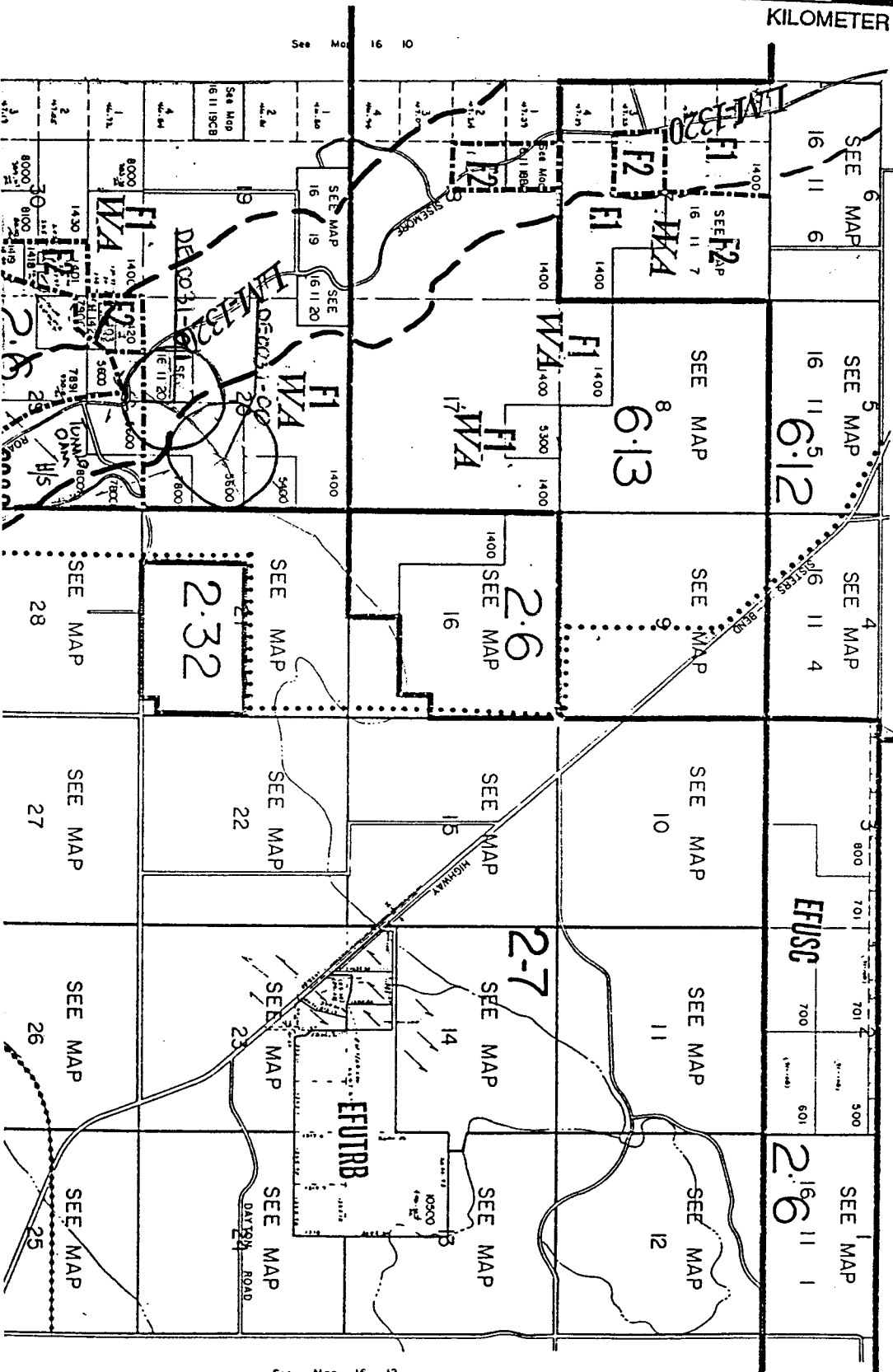
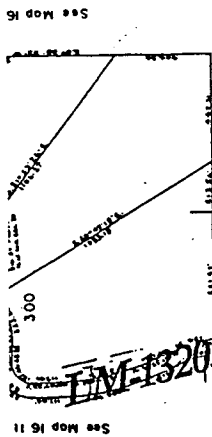
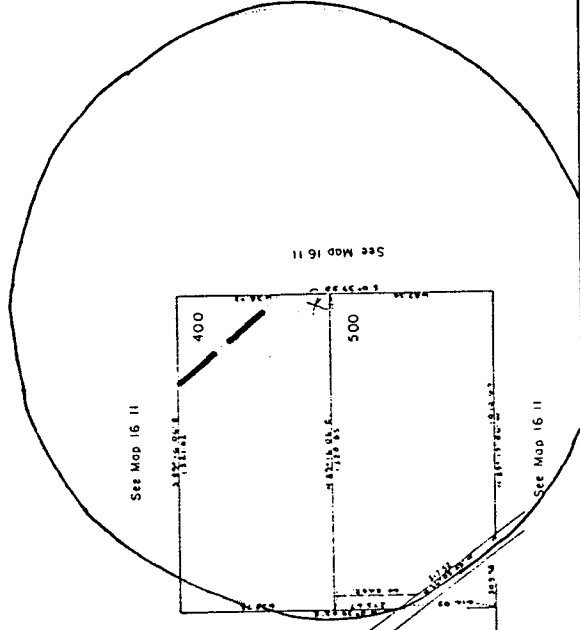
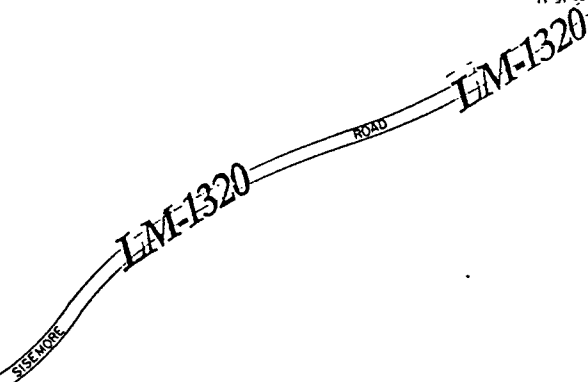


Exhibit "A-2"  
Prairie Falcon  
DE-0031-00/DE-0031-01  
16-11-20/NESE/SESW

2.6



See Map 16 11



19	20
30	29



**ESEE FINDINGS AND DECISION**  
**PRAIRIE FALCON SITE DE0794-00 and DE0794-01**  
**SMITH ROCK STATE PARK**

1. Inventory.

The Oregon State Parks Division has identified two prairie falcon cliff nest sites in Smith Rock State Park. The Oregon Department of Fish and Wildlife (ODFW) identifiers for the prairie falcon sites are DE0794-00 and DE0794-01. The sensitive habitat area includes the area within a 1/4 mile (1320 feet) radius of each nest site. The habitat sites and sensitive habitat areas are designated on a map attached as Exhibit "A".

2. Site Characteristics.

The nests are located in the cliffs of the rock formations in the Smith Rock State Park. The park is zoned Open Space Conservation (OSC). The land within the sensitive habitat area that is outside of the state park is Exclusive Farm Use (EFU-TE). The land within the sensitive habitat area that is within 660 feet of the Crooked River is zoned Landscape Management Combining zone (LM) which protects the scenic values of the Crooked River corridor. The LM zone is an overlay zone. The uses permitted in the underlying zone are also permitted in the LM zone. The land within the sensitive habitat area north of the Crooked River is also zoned Wildlife Area Combining Zone (WA) because it is deer winter range.

Two pairs of prairie falcons have nested in the park at the same time. The prairie falcon nests are in the southern part of the park. Site DE0794-00 was active in 1992; Site DE0794-01 has been active every year since at least 1988. The nesting season for prairie falcons is from March 1 through August 1.

The entire sensitive habitat area for one of the prairie falcon nests is within Smith Rock State Park. The sensitive habitat area for the southern-most prairie falcon nest (DE-794-01) extends outside of the park and includes portions of the following tax lots which are zoned Exclusive Farm Use (EFU-TE):

14-13-10-600	Private 30 acres
14-13-10-500	Private 326 acres

Approximately 20 acres of the 30 acre tax lot are within the sensitive habitat area. A residence on the 30 acre tax lot is within the sensitive habitat area. The 326 acre tax lot is a ranch with almost 200 acres of irrigated land and no residence. Approximately 20 acres of the 326 acre lot are within the sensitive habitat area. At least 10 of the 20 acres within the sensitive habitat area are located within the Crooked River Canyon below the rimrock.

3. Conflicts Identification.

## Potentially Conflicting Uses With Habitat Site

<u>Zone</u>	<u>Permitted Use</u>	<u>Conditional Use</u>
OSC	-Farm use -Public museum -Wildlife refuge -Public park, recreation area	-Picnic or campground -Utility facility -Golf course -Water supply treatment facility -Commercial recreation -Public camp or resort -Rockhound site -Fill and removal in stream
EFU	-Farm use -Forest use -Exploration for minerals -Farm accessory building -Some road construction	-Single family dwelling -Residential homes -Private park, campground -Personal use airstrip -Home occupation -Process forest products -Solid waste disposal site -Storage, crushing, processing of aggregate -Church or school -Certain road projects -Bed and breakfast

The most significant conflicting use is recreational hiking and rock climbing in the state park. This activity has the potential to bring humans into close contact with the birds during the nesting season. The park is regulated by a master plan administered by the Oregon State Parks. One of the objectives of the master plan for the park is: "Maximize protection of significant wildlife and vegetation in the siting and construction of all park development projects."

The prairie falcons are disturbed by some climbing routes; but, according to the park manager, the birds do not appear to be disturbed by hikers on established trails. The park closes some climbing routes during the nesting season to minimize the conflicts with the falcons.

The potential for conflicting uses permitted in the EFU zone on the private or BLM land within the sensitive habitat area north of the state park is unlikely because of difficult access and the restrictions of the WA and LM zones.

A single farm or nonfarm dwelling within the sensitive habitat area the one undeveloped ownership (14-13-10-500) would probably not be a significant conflicting use if the rest of the lot remained in farm use/open space. However,

there is considerably more land on the parcel outside of the sensitive habitat area than within.

If nonfarm partitions are permitted within the sensitive habitat area, it could significantly increase the residential density within the sensitive habitat area which would reduce the effectiveness of the open space buffer adjacent to the state park.

A personal use airport or storage and crushing of aggregate could conflict with the birds because of increased noise. A private park or campground, bed and breakfast, church or school could conflict with the birds by introducing a level of human activity in an area that is currently undeveloped.

Forest practices are not a conflicting use because there is no commercial forest land within the sensitive habitat area. Farm use on the private and BLM land is limited to grazing which is not a conflicting use. State statute prevents regulations to restrict farm practices.

Deschutes County has not zoned the area within the sensitive habitat area for destination resorts. Therefore, destination resorts are not addressed as a conflicting use in this ESEE analysis.

#### 4. Economic, Social, Environmental and Energy Consequences Analysis.

##### (A) Economic Consequences

In 1992 the visitation at Smith Rock State park was 350,000; up from 220,000 in 1987. Fifteen thousand visitors camped at the park in 1992; up from 4,600 in 1987. The park manager reports that there are between 45 and 50 jobs in the county directly related to the rock climbing occurring at the park. These jobs include manufacturing of climbing equipment, climbing walls and guiding. Parking and camping fees generated \$72,000 dollars for the state park in 1993. This level of visitation generates tourism dollars throughout the county.

The management plan for the park regulates some climbing routes during the nesting season to reduce the conflict with nesting eagles and falcons.

Residential or other structural development could be prohibited within the sensitive habitat area on the EFU zoned land north and west of Smith Rock State Park with minor economic consequence. Only small portions of the two undeveloped private ownerships are within the sensitive area. The private ownership which is mostly within the sensitive habitat area already has a

residence. Structural development could occur outside of the sensitive area on the remaining two ownerships; however, the value of the property may be less because the area within the sensitive habitat on one of the properties (14-13-10-500) is located on the rimrock of the canyon which may be more desirable for building. Construction costs could increase if building activity is restricted during the nesting season.

Maintaining nest sites will help assure that the species does not become a federally threatened and endangered species. Should this happen, the protection criteria would be much more restrictive around the remaining nest sites.

#### (B) Social Consequences

Prohibiting or restricting the location of structural or other development outside of the park could have a minor social consequence if the property owner wanted to build or otherwise develop within the sensitive habitat area. There are places outside of the sensitive habitat area where structural development could occur, as permitted by EFU zone, on the two undeveloped private ownerships outside of the state park. However, prohibiting structures within the sensitive habitat area may prevent an owner from locating a structure in a preferred location.

Permitting the managed recreational use in the state park has a positive social consequence because visitors to the park can enjoy the scenery, hiking, rock climbing, bird watching, picnicing and camping. Placing more restrictions on use of the park could limit the recreational opportunities available.

#### (C) Environmental Consequences

Suitable cliff habitat is a scarce resource and could not be replaced. If the recreational use is not managed to reduce the conflict with the birds during nesting season, climbers and hikers could harass the birds and cause nest failure or abandonment. Permitting development which would significantly alter the open space characteristics of the EFU zoned land may alter the foraging patterns of the birds threatening nesting success.

Raptors, consume considerable numbers of rabbits, ground squirrels and other small prey. Farmers are constantly trying to control these small mammal populations. Loss of raptors could mean a higher use of chemical pesticides which can affect many other mammals, insects and birds.

There are no identified negative environmental consequences of regulating conflicting recreational uses or prohibiting structural development on the EFU zoned land within the sensitive habitat area.

(D) Energy Consequences

There are no significant energy consequences resulting from prohibiting or permitting conflicting uses.

5. Program To Meet Goal 5.

The Board of County Commissioners finds that, based on the ESEE consequences, both the resource site and the conflicting uses are important relative to each other and that the ESEE consequences should be balanced to allow conflicting uses in a limited way (OAR 660-16-010(3)).

The Smith Rock State Park Master Plan and management policies for the park reduce the conflict from recreation activities and rock climbing. Each year in March and April the park management, assisted by ODFW or Audubon Society, determines which nests are active. Certain rock climbing routes are closed during the nesting season to protect the active nests. The closure remains in effect until June 30. The climbing route closure program has been in effect for 4 years. The manager of the park reports that the rock climbing community supports the closures.

In order to protect both the nest site and sensitive habitat area and allow limited conflicting uses, the following requirements shall apply:

1. Site plan review under Section 18.90 of Title 18, Sensitive Bird and Mammal Habitat Combining zone, shall be required for all conditional uses, occurring within the sensitive habitat area as designated on Exhibit "A".
2. One farm or non farm dwelling approved under Title 18.16 may be established within the sensitive habitat area on the tax lot described as 14-13-10-500. The dwellings shall be setback at least 50 feet from the uppermost rimrock of the Crooked River canyon. A restrictive covenant shall be required to protect and maintain existing native vegetation between the residential development and the inventoried nest site DE0794-01.
3. Construction activities for expansion, maintenance, replacement of existing structures or construction

of new structures requiring a building permit from the Deschutes County Community Development Department or septic installation requiring a permit from the Environmental Health Division shall be prohibited during the nesting season from March 1 through August 1. Maintenance and repair of existing structures not requiring a construction permit, permitted work conducted within a closed structure, or repair of a failing septic system are exempt from this requirement. Construction activity subject to a construction permit from the Community Development Department or a septic installation permit from the Environmental Health Division may occur after May 1, if ODFW determines in writing that the nest site is not active or that the young birds have fledged.

4. Nonfarm partitions which would create new parcels for residential use or for campgrounds shall be prohibited within the sensitive habitat area in Township 14S, Range 13E, Section 2, 10 or 11.
5. The Deschutes County Comprehensive Plan recognizes the Smith Rock State Park Master Plan as the controlling document for guiding development within the park (Policy Number 13, Recreation Chapter). The County shall not require site plan review under the Sensitive Bird and Mammal Habitat Combining Zone for development described in the "Objectives" section of the Development Plan for Smith Rock State Park. Campground or other structural development not included in the Development Plan Objectives (1990) shall be subject to site plan review under the Sensitive Bird and Mammal Habitat Combining Zone. Construction activities requiring a building permit shall be subject to the construction period limitations of Number 3 above.

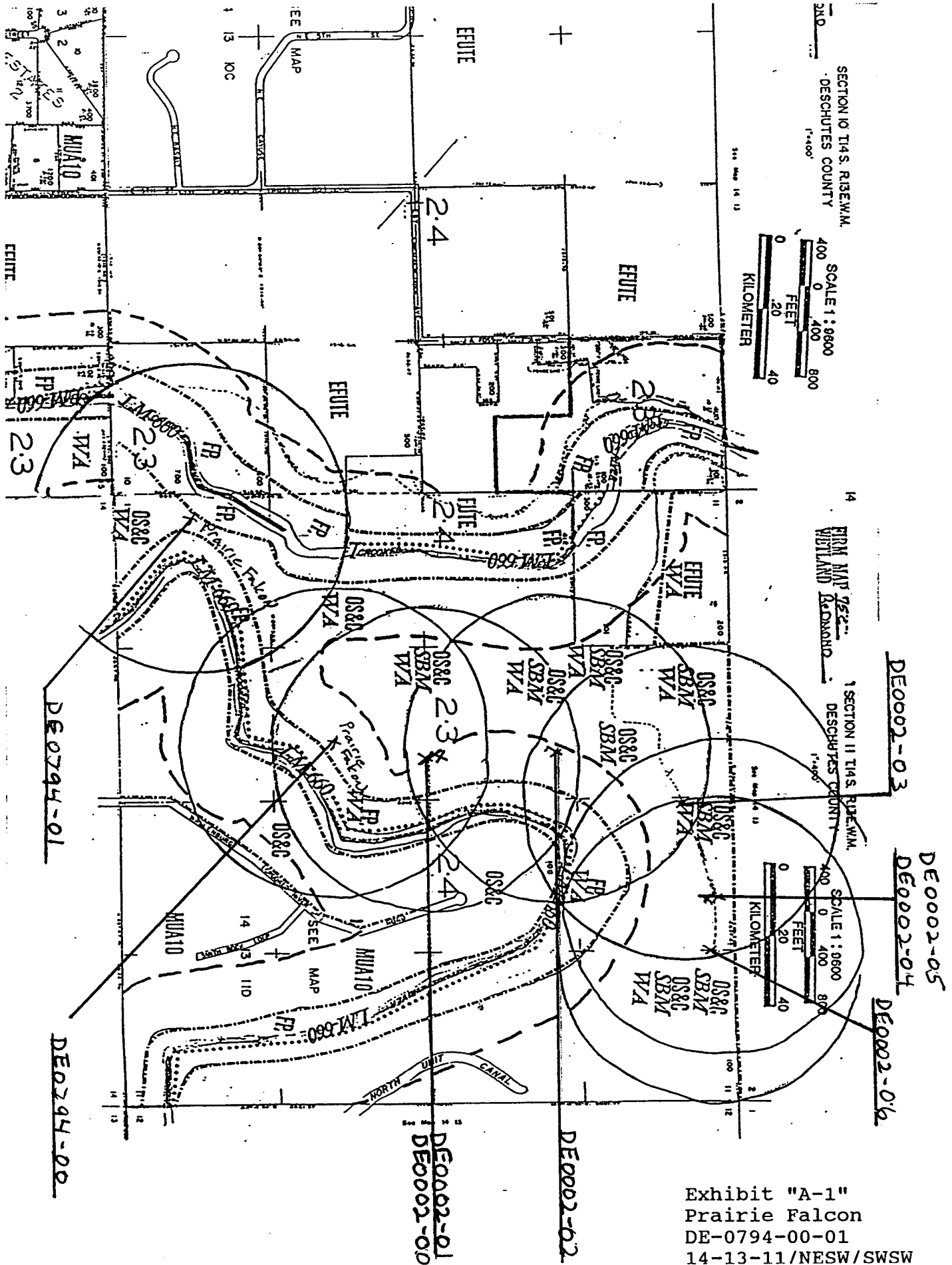


Exhibit "A-1"  
Prairie Falcon  
DE-0794-00-01  
14-13-11/NESW/SWSW

TABLE 17

OSPREY NEST SITE INVENTORY  
NEST SITES ON NON-FEDERAL LANDS OR  
WITH NON-FEDERAL HABITAT AREA

ODFW Site #	Map & Tax Lot	Quarter Section	General Location
DE 0080-00	20-11-00-1300	07/NWNE	Sunriver/Meadowland



ESEE FINDINGS AND DECISION  
OSPREY NEST - #DE0080-00

1. Inventory.

The Oregon Department of Fish and Wildlife (ODFW) has identified an osprey nest DE0080-00 (map number 20-11-00-1300). The site is also known as Sunriver/Meadowland. The sensitive habitat area includes the area within a 300 foot radius of the nest site. The habitat site and sensitive habitat area are designated on maps attached as Exhibit "A".

2. Site Characteristics.

The nest is located on a 537 acre parcel south of Spring River Road that is being developed as a golf course and residential development expansion of the Sunriver Resort. The property is zoned Forest (F1) and Flood Plain (FP) with Landscape Management (LM) and Wildlife Area (WA) combining zones.

3. Conflicts Identification.

The parcel with the nest is subject to a master plan for a golf course and residential development approved with applications TP-93-817 and SP-2-17. The tentative plat and site plan establish a 300 setback for residential lot lines and roads adjacent to the site. This setback and the design of the golf course mitigates the potential conflicts with the nest. Golf course or road construction activities during the nesting season could disturb the nesting birds, causing nest failure or abandonment. However, construction activities will only occur once.

4. Program to Achieve Goal 5.

The Board of County Commissioners finds that there are no identified conflicting uses that are not mitigated by the site plan for the Sunriver Resort expansion approved by TP-93-817 and SP-92-173. The osprey nest is hereby designated a "2A" Goal 5 resource and shall be managed by the master plan for the Sunriver Resort. The plan requires a 300 foot setback from the nest in order to preserve the original character of the nest and adjacent sensitive habitat.

0135-2401



Exhibit "A-1"  
Osprey Nest  
DE-0080-00  
20-11-07/NWNE

PROPOSED 20' ROADWAY EASEMENT TO REPLACE ROADWAY EASEMENT RECORDED IN 332-D-133

MAIN END PRIVATE ROAD SYSTEM

PHASE 2

FP

FLOOD PLAIN LIMITS

TRACT G GOLF COURSE & OPEN SPACE PHASE 4

HARPER BRIDGE

SPRING RIVER ROAD

7648.63

N81°59'18"E

SUNRIVER

PC

PHASE 2

F-2

F-2

NE COR SEC. 7

APPROVED PHASE PER TP-92-195

EMERGENCY ACCESS

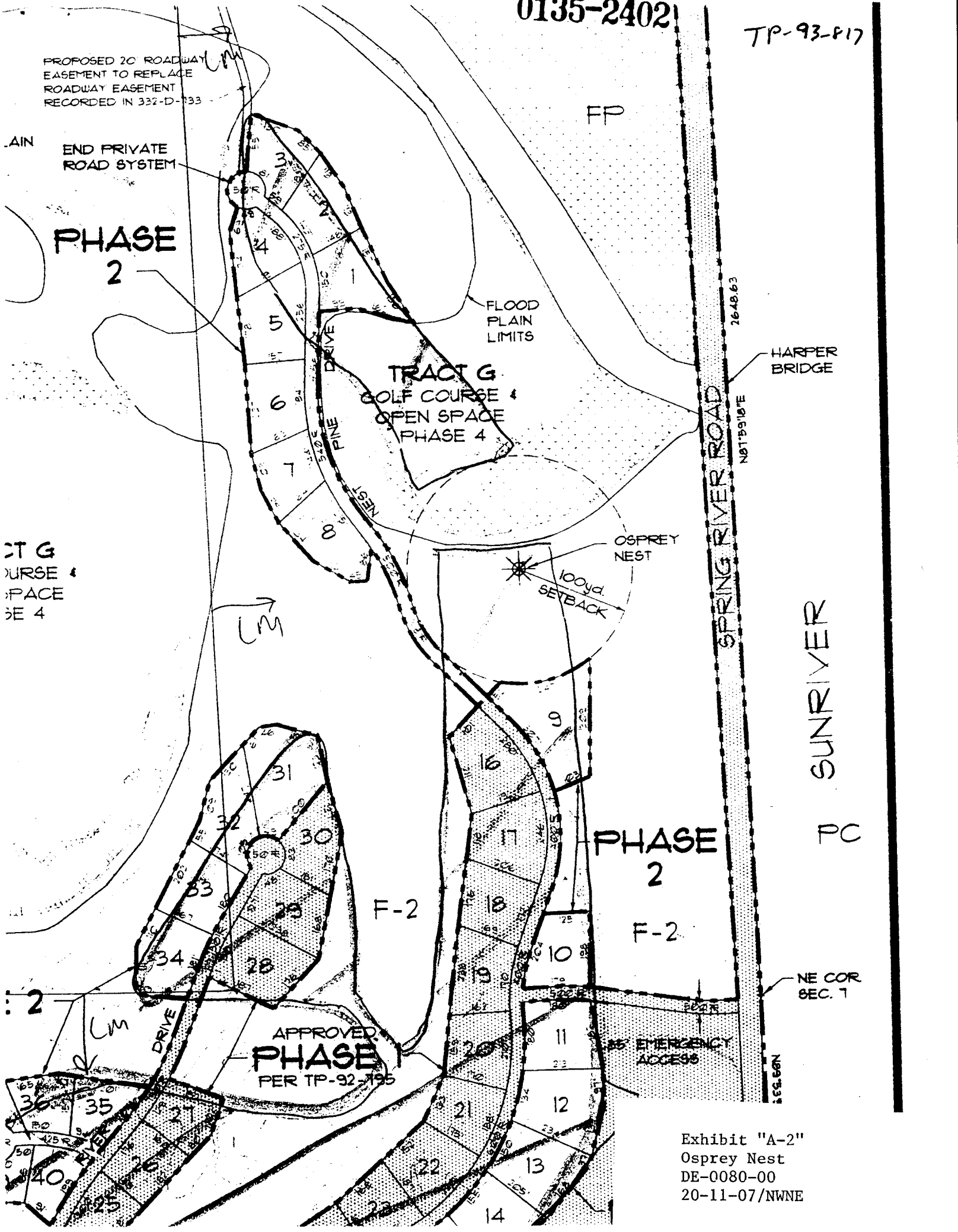
N89°56'

TRACT G GOLF COURSE & OPEN SPACE PHASE 4

LM

OSPREY NEST 100yd. SETBACK

Exhibit "A-2"  
Osprey Nest  
DE-0080-00  
20-11-07/NWNE



NOTE: New text is **BOLD** and deleted text is in brackets [ ].

HABITAT AREAS FOR TOWNSEND'S BIG-EARED BATS

[Description: Caves and other sites used by the Townsend's big-eared bats for hibernating, roosting and nursery.]

1. Inventory:

The inventory information presented in the following tables has been provided by the Oregon Department of Fish and Wildlife, and the Oregon State University Cooperative Wildlife Research Unit and the Oregon Natural Heritage Data Base. The sites are caves used by Townsend's big-eared bats as nursery and hibernating habitat.

The inventory separates sites located on federal land from those on private land. [The federal sites are not analyzed further in the Goal 5 process as they are protected through the management and planning process for federal lands. The sites located on private land are mapped on the Sensitive Bird and Mammal Map. The federal sites are not included on the map unless the impact area around the habitat site extends into private land.] The economic, social, environmental and energy (ESEE) consequences of conflicting uses for the two sites on private land, Stookey Ranch and Skylight, are analyzed in a separate site specific ESEE analyses and decisions.

TABLE [18]20

TOWNSEND'S BIG-EARED BAT HABITAT SITE INVENTORY  
PRIVATE LAND SITES

Township	Range	Section	Quarter	General Location
[15S	13E	21	SE	Redmond Cave]
19S	13E	13	[E 1/2]SWNE	Stookey Ranch
14S	09E	19	NWNE	Skylight Cave

TABLE [19]21

TOWNSEND'S BIG-EARED BAT HABITAT SITES ON FEDERAL LAND

Township	Range	Section	Quarter	General Location
19S	09E	14	SE 1/2	Edison Ice Cave
19S	11E	26	SE 1/4	Lava River Cave

19S	13E	04	SW 1/4	Skeleton Cave
19S	13E	08	SE 1/4	Boyd Cave
19S	13E	14	SE 1/4	Wind Cave
19S	13E	14	SE 1/4	Pictograph Cave
19S	13E	23	SW 1/4	Charley the Cave
19S	13E	27	NENW	Charcoal Cave
19S	13E	23	W 1/2	DEG Cave
22S	15E	07		Lees Cave
22S	15E	16	SW 1/4	LQM Cave

The Oregon Department of Fish and Wildlife non-game biologist recommends that the **sensitive habitat** [impact] area around the cave site where Townsend's big-eared bats are found should be a radius of 1,320 feet. The biologist recommends that prior to approval of any development within the radius of the cave that a management plan be developed to protect the habitat needs of the bats. Researchers are currently studying the bats to learn more about the extent of the habitat.

## 2. Location, Quality and Quantity:

The location of the habitat sites is described above in Tables 16[,] and 17 [2, and 3]. Information on the number of bats is available in a report by J. Mark Perkins, Summary of Fort Rock District Use by Bats With Emphasis on Plecotus Townsendii - 1985-1991. The U.S. Forest Service, Deschutes National Forest has additional information on the quality and quantity of the habitat for the Townsend's big-eared bats.

The Townsend's big-eared bat is listed as an Oregon sensitive species with a vulnerable classification. The bat is classified as a federal Category 2 sensitive species. The Category 2 species need additional information in order to be proposed for federal listing as a threatened or endangered species under the federal Threatened and Endangered Species Act.

## 3. Conflicting Uses Determination and Analysis:

[The Redmond Cave site is zoned Exclusive Farm Use-40. The Stookey Ranch site is zoned Exclusive Farm Use-320.] **The bats are especially sensitive to noise, dust, light, smoke and vibration.** All of the caves on federal land are zoned Exclusive Farm Use (EFU) or Forest Use (F-1). The uses permitted in these zones that could conflict with the habitat site are surface mining, recreation facilities

including golf courses and destination resorts, roads, logging, air strips. The report identified above, cites recreational conflicts at most of the caves located on federal land. [Large numbers of v] Visitors can disturb the bats. **Cavers and rock climbers visit the caves for recreation.** The Deschutes National Forest has also identified the removal of nearby riparian vegetation where the bats feed as a conflicting use.

**[Economic, Social, Environmental and Energy Consequences of Conserving sensitive bird sites**

1. **Economic Consequences:** Limiting aggregate extraction as a conflicting use does not have an economic consequence at this time because there are not any identified aggregate sites adjacent to the identified bat habitat sites located on non-federal land. There are no identified aggregate sites within the impact area of the identified habitat sites on private land. The economic consequences of protecting sensitive bat habitat sites from residential conflicts could prohibit the development of a property for residential use which would lower its value. However, both of the identified sites are located on large parcels where a residence could be located outside of the habitat site. Regulating or prohibiting conflicting uses associated with intensive recreational use or resort development to protect could restrict the area available for such development.

Caves are visited by tourists who are interested in geology and natural history. By limiting development and vegetation removal around the bat caves, the caves retain their natural characteristics and attraction to some tourists. If tourist use is limited to reduce conflict with the bats, there could be a minor negative economic consequence.

2. **Social Consequences:** The negative social consequence of limiting recreational use in or near an identified significant bat cave would cause those activities to be channeled to other areas. Limiting such recreational use on federal lands is not within the jurisdiction of the county. By limiting conflicting uses people interested in wildlife would have enhanced opportunities for viewing the bats in their natural habitat.
3. **Environmental Consequences:** The environmental consequences of limiting development near sensitive bat caves are positive. Opportunities for bats to thrive in a habitat without repeated interference or disturbances from man should be a positive consequence. Restricting vegetation removal through a management plan will retain habitat features which are necessary for the foraging bats. Limiting residential, recreational and resort

development in the vicinity of a cave would limit disturbance which could cause the bats to leave the habitat site.

4. **Energy Consequences:** There are no significant energy consequences associated with limiting conflicts with bat habitat sites.
5. **Conclusion:** Based on the ESEE analysis, the identified consequences should be balanced so as to allow the conflicting uses but in a limited way so as to protect the resource to a desired extent.]

4[6]. Program to Achieve the Goal [(protect sensitive bird sites)]

[Ordinance 92-042 adopted the Sensitive Bird and Mammal Combining Zone for the sensitive birds and the Townsend's big-eared bat. The zone requires that a management plan be developed and reviewed by the Oregon Department of Fish and Wildlife if a development is proposed within the 1,320 feet of an inventoried Townsend's big-eared bat habitat site on private land. The zone does not regulate forest practices which are regulated by the Forest Practices Act.]

The county does not regulate federal lands. Therefore, the inventoried sites on federal land shall be classified as "2A" Goal 5 resources in accordance with OAR 660-16-005(1) and managed to preserve their original character by the management plans of the federal agencies.

The Deschutes National Forest Land and Resource Management Plan has provisions for cave management which prohibit clear cutting within 250 feet of the entrance of caves with significant bat populations. The plan also requires a 150 to 200 foot wide forested corridor between the entrance of the cave and the nearest foraging area. If the foraging area is a nearby stream, trees will not be harvested for 75 to 100 feet on either side. The Forest Service has a guideline which states that significant and potentially significant caves will be protected and managed in accordance with the Federal Cave Resources Protection Act of 1988.

**ESEE FINDINGS AND DECISION  
TOWNSEND'S BIG-EARED BAT SITE #DE 0993-00**

1. Inventory Location, Quality and Quantity

Stookey Ranch Cave is a site used by hibernating Townsend's big-eared bats. The cave is located in Township 19E, Range 13S, Section 13, tax lot 200 and is shown on the maps attached as Exhibit "A." The Oregon Department of Fish and Wildlife (ODFW) identifier for the site is DE 0993-00.

The cave is especially important because approximately one half of the 500 Townsend's big-eared bats in Central Oregon use this cave for hibernating. The bats occupy the cave from October 15 through April 15. Additional information on the number of bats is available in a report by J. Mark Perkins, Summary of Fort Rock District Use by Bats With Emphasis on Plecotus Townsendii - 1985-1991.

The Townsend's big-eared bat is listed as an Oregon sensitive species with a vulnerable classification. The bat is also a candidate for federal listing as a threatened species under the Federal Threatened and Endangered Species Act.

The Oregon Department of Fish and Wildlife non-game biologist recommends that the sensitive habitat area around a cave site where Townsend's big-eared bats are found should be a radius of 1,320 feet. The biologist recommends that prior to approval of any development within the radius of the cave that a site plan be developed to protect the habitat needs of the bats. Researchers are currently studying the bats to learn more about the extent of the habitat.

The 1320 foot radius sensitive habitat area includes Bureau of Land Management land and a portion of a 237 acre property that is developed as a private recreational vehicle park.

2. Conflicts Identification

The primary conflict with the hibernating bats is recreational use of the cave by explorers and rock climbers during the hibernation season. Visitors to the cave can disturb the bats causing them to expend energy that is needed to sustain them during their hibernation. The hibernating bats are especially sensitive to disturbance in the cave from noise, dust, light, smoke and vibration. Visitors during the hibernation season can disturb the bats and alter the delicate biology of the cave environment. However, other activities within the 1,320 foot radius which could create noise, dust, vibration or alteration of existing vegetation should also be considered conflicts because the animals are so sensitive and there is not enough information on their



habitat needs.

The Stookey Ranch Cave site is zoned Exclusive Farm Use-320. The uses permitted in this zone that could conflict with the habitat site are surface mining, recreation facilities including golf courses and destination resorts, roads, logging, air strips and residences.

The cave is located on a 237 acre parcel owned by Sundance Meadows. The property contains a recreational development including a recreational vehicle camping area, swimming pool, bunk house, lodge, horse stable and private air strip. The development currently has 600 owners who are eligible to use the facilities. Most of the use is in the summer time when it is not a conflict with the hibernating bats. At this time there is no evidence of cave visitation by Sundance Meadows owners during the hibernation season. However, rock climbers, spelunkers and naturalists know about the cave and do visit it even though it is on private land.

The sensitive habitat area extends onto Bureau of Land Management land to the north and west of the Sundance Meadows property.

### 3. Economic, Social, Environmental and Energy Consequences

#### (A) Economic Consequences:

Limiting aggregate extraction as a conflicting use does not have an economic consequence at this time because there is no identified aggregate site within the sensitive habitat area. The property is already developed as private recreational vehicle park. Alteration or expansion of the facility will require a land use permit. Regulating or prohibiting conflicting uses associated with intensive recreational use or resort development to protect could restrict the ability of Sundance Meadows to expand.

Caves are visited by tourists who are interested in geology and natural history. By limiting development and vegetation removal around the bat caves, the caves retain their natural characteristics and attraction to some tourists. However, at this time, because the site is on private land and there is little tourist or recreational activity near the cave during the hibernating season, there is no economic consequence restricting additional recreational development within the sensitive habitat area.

#### (B) Social Consequences:

The negative social consequence of limiting recreational use in or near the cave would cause those activities to be channeled to other areas. By limiting access to the cave during the hibernating season, people interested in wildlife would not be able to view the bats in their natural habitat.

## (C) Environmental Consequences:

The environmental consequences of limiting development near sensitive bat caves are positive. Opportunities for bats to thrive in a habitat without repeated interference or disturbances from people should be a positive consequence. Restricting vegetation removal through a site plan could retain habitat features which are necessary for the foraging bats. Limiting residential, recreational and resort development in the vicinity of a cave would limit disturbance which could cause the bats to leave the habitat site.

## (D) Energy Consequences:

There are no significant energy consequences associated with limiting conflicts with bat habitat sites.

4. Program to Achieve the Goal

The Board of County Commissioners finds that, based on the ESEE consequences, both the resource site and the conflicting uses are important relative to each other and that the ESEE consequences should be balanced to allow conflicting uses in a limited way (OAR 660-16-010(3)).

The Board finds that it has no authority to regulate the primary conflicting use which is recreational use of the cave by explorers, climbers during the hibernating season. These activities are not land use actions subject to county regulation.

In order to protect both the Stookey Cave hibernaculum and the sensitive habitat area and allow limited conflicting uses, the following restrictions shall apply:

1. Site plan review under the Sensitive Bird and Mammal Habitat Combining zone shall be required for all land uses within the sensitive habitat area requiring a land use permit.
2. Partitions creating a residential building site within the sensitive habitat area shall be prohibited.
3. If ODFW finds that the bats are being disturbed by winter visitation in the cave, the county will work with ODFW and the Sundance Meadows Owner's Association to place signs at the cave entrances to restrict entry during the hibernation season and to educate the public about maintaining the cave and surrounding habitat in its natural condition during other times of the year.

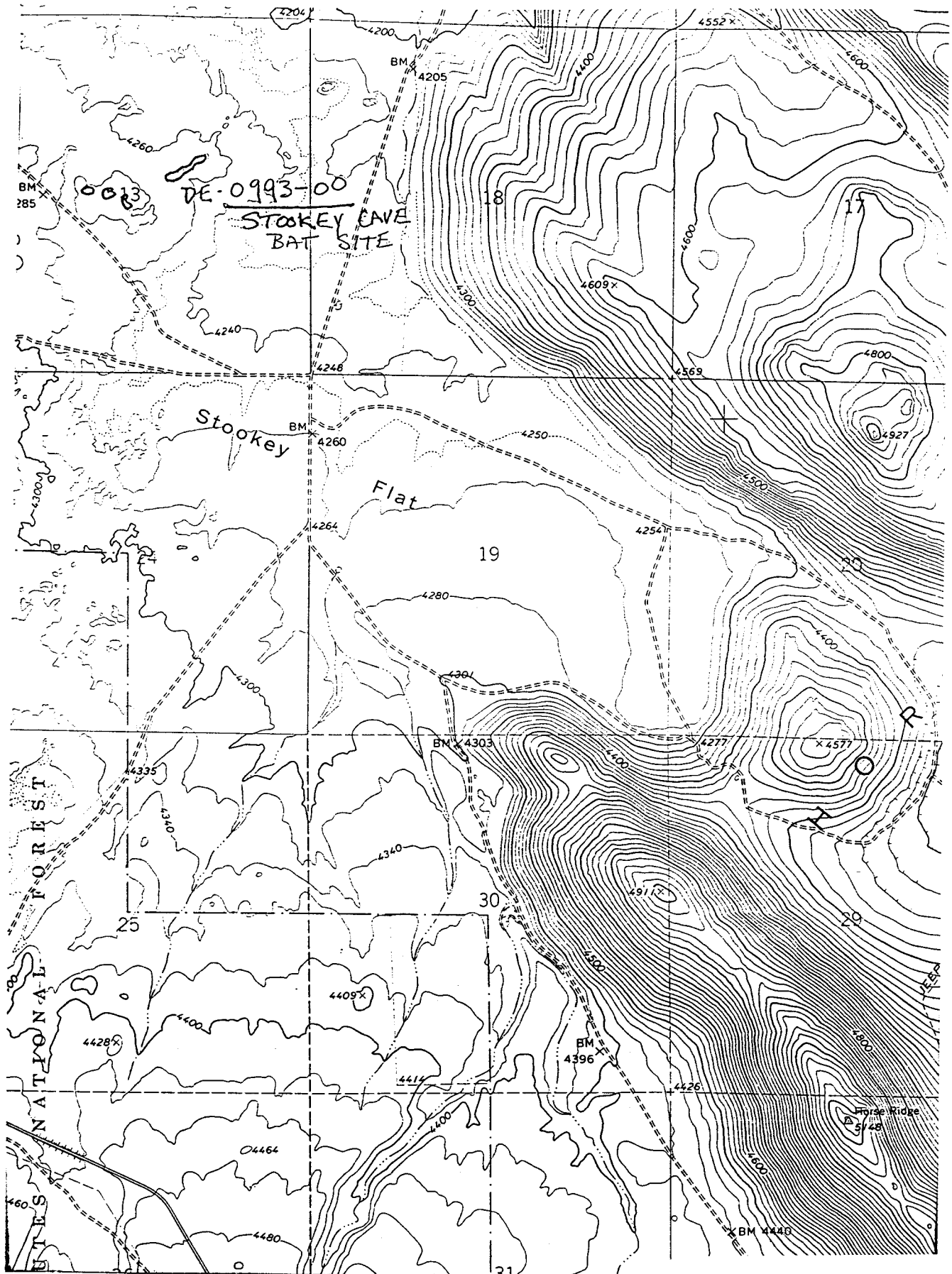
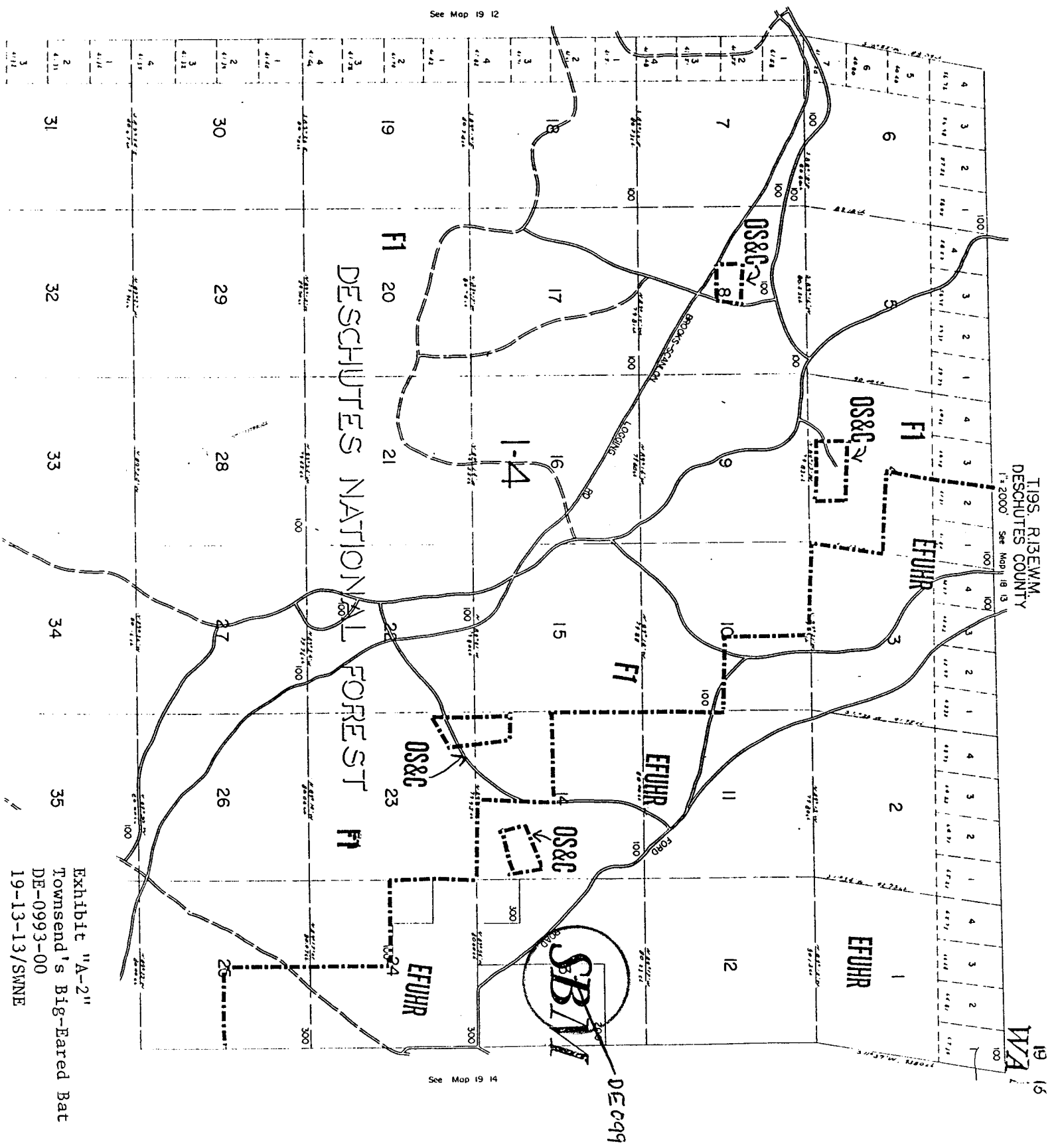


Exhibit "A-1"  
Townsend's Big-Eared Bat  
DE-0993-00  
19-13-13/SWNE

See Map 19 12



T195, R13E, W11M,  
DESCHUTES COUNTY  
1" = 2000' See Map 19 13

19 15  
W11

See Map 19 14

Exhibit "A-2"  
Townsend's Big-Eared Bat  
DE-0993-00  
19-13-13/SWNE

ESEE FINDINGS AND DECISION  
TOWNSEND'S BIG-EARED BAT SITE #DE 0992-00

0135-2412

1. Inventory Location, Quality and Quantity

Skylight Cave is a site used by hibernating Townsend's big-eared bats. The cave is located in Township 14S, Range 9E, Section 19, tax lot 200 and is shown on the maps attached as Exhibit "A." The Oregon Department of Fish and Wildlife (ODFW) identifier for the site is DE 0992-00.

The cave is used by 10 Townsend's big-eared bats for hibernation from October 15 to April 15. The main entrance to the cave is on the Deschutes National Forest and the cave is under the surface of both forest service and private land. The hole in the roof of the cave that is the feature giving it the name "skylight" is on private, Willamette Industries land. Willamette Industries has placed a rock over the skylight hole to prevent potential accidents at the site.

The Townsend's big-eared bat is listed as an Oregon sensitive species with a vulnerable classification. The bat is also a candidate for federal listing as a threatened species under the Federal Threatened and Endangered Species Act.

The Oregon Department of Fish and Wildlife non-game biologist recommends that the sensitive habitat area around a cave site where Townsend's big-eared bats are found should be a radius of 1,320 feet. The biologist recommends that prior to approval of any development within the radius of the cave that a site plan be developed to protect the habitat needs of the bats. Researchers are currently studying the bats to learn more about the habitat needs of the Townsend's big-eared bat.

2. Conflicts Identification

The primary conflict with the hibernating bats is recreational use of the cave for parties and exploration during the hibernation season. Visitors to the cave can disturb the bats causing them to expend energy that is needed to sustain them during their hibernation. The hibernating bats are especially sensitive to disturbance in the cave from noise, dust, light, smoke and vibration. However, other activities within the 1,320 foot radius which could create noise, dust, vibration or alteration of existing vegetation should also be considered conflicts because the animals are so sensitive and there is not enough information on their habitat needs.

The main entrance to the cave is located on the Deschutes National Forest very near the boundary with Willamette Industry land. The cave and the sensitive habitat area are on both private and U.S. Forest Service land. The land is zoned Forest Use (F1). The uses permitted in this zone that

could conflict with the habitat site are timber harvest, road building and other conditional uses which could create vibration or noise during the hibernation season.

The county does not regulate forest practices which include road building and timber harvest. These practices are regulated by the Department of Forestry through the Oregon Forest Practices Act.

### 3. Economic, Social, Environmental and Energy Consequences

#### (A) Economic Consequences:

Limiting aggregate extraction as a conflicting use does not have an economic consequence at this time because there is no identified aggregate site within the sensitive habitat area.

Caves are visited by tourists who are interested in geology and natural history. By limiting development and vegetation removal around the bat caves, the caves retain their natural characteristics and attraction to some tourists.

Limiting forest practices could have an economic consequence if timing or location of timber harvest is regulated. However, forest practices are not regulated by the county but are regulated by the Oregon Department of Forestry through the Forest Practices Act.

#### (B) Social Consequences:

The negative social consequence of limiting recreational use in or near the cave would cause those activities to be channeled to other areas. By limiting access to the cave during the hibernating season, people interested in wildlife would not be able to view the bats in their natural habitat.

The county does not regulate recreational use that is not a land use action requiring a permit.

#### (C) Environmental Consequences:

The environmental consequences of limiting development within the sensitive habitat area are positive. Opportunities for bats to thrive in a habitat without repeated interference or disturbances from man should be a positive consequence. Restricting vegetation removal through a management plan will retain habitat features which are necessary for the foraging bats. Limiting residential, recreational and resort development in the vicinity of a cave might reduce disturbance which could cause the bats to leave the habitat site.

#### (D) Energy Consequences:

There are no significant energy consequences associated with limiting conflicts with bat habitat sites.

4. Program to Achieve the Goal

The Board of County Commissioners finds that, based on the ESEE consequences, both the resource site and the conflicting uses are important relative to each other and that the ESEE consequences should be balanced to allow conflicting uses in a limited way (OAR 660-16-010(3)).

The Board finds that it has no authority to regulate the primary conflicting use which is recreational use of the cave by explorers, climbers and people having parties. These activities are not land use actions subject to county regulation. The county will work with the ODFW, the private land owner and the Deschutes National Forest to encourage placement of signs at the cave entrance to restrict entry during the hibernation season and to educate the public about the habitat needs of the bats.

The Board finds that it has no authority to regulate forest practices which are regulated by the Oregon Department of Forest through the Oregon Forest Practices Act.

In order to protect both the Skylight Cave Townsend's big-eared bat hibernaculum and the sensitive habitat area and allow limited conflicting uses, the following restrictions shall apply:

1. Site plan review under the Sensitive Bird and Mammal Habitat Combining zone shall be required for all land uses within the sensitive habitat area requiring a land use permit.

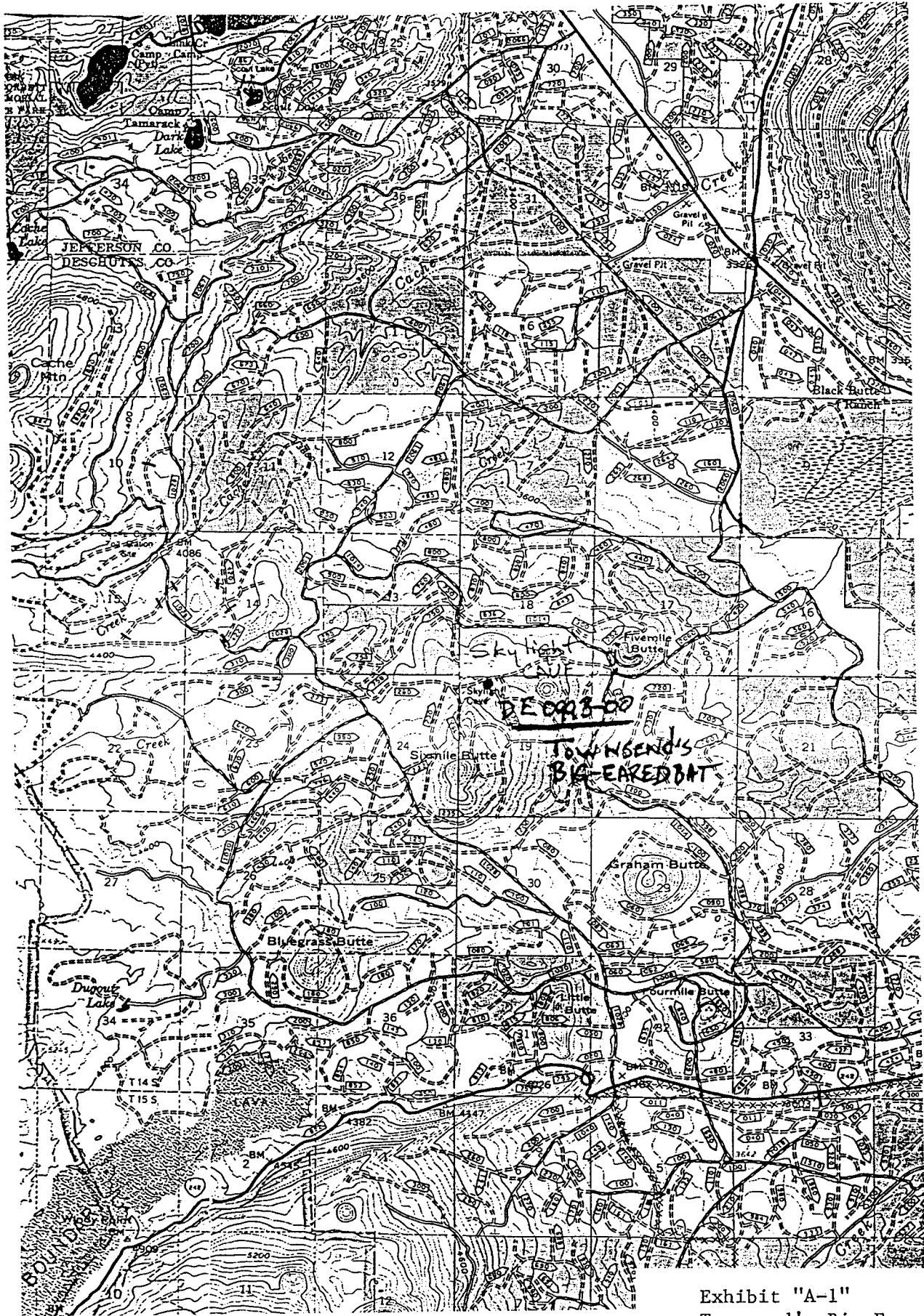
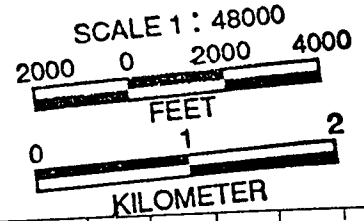


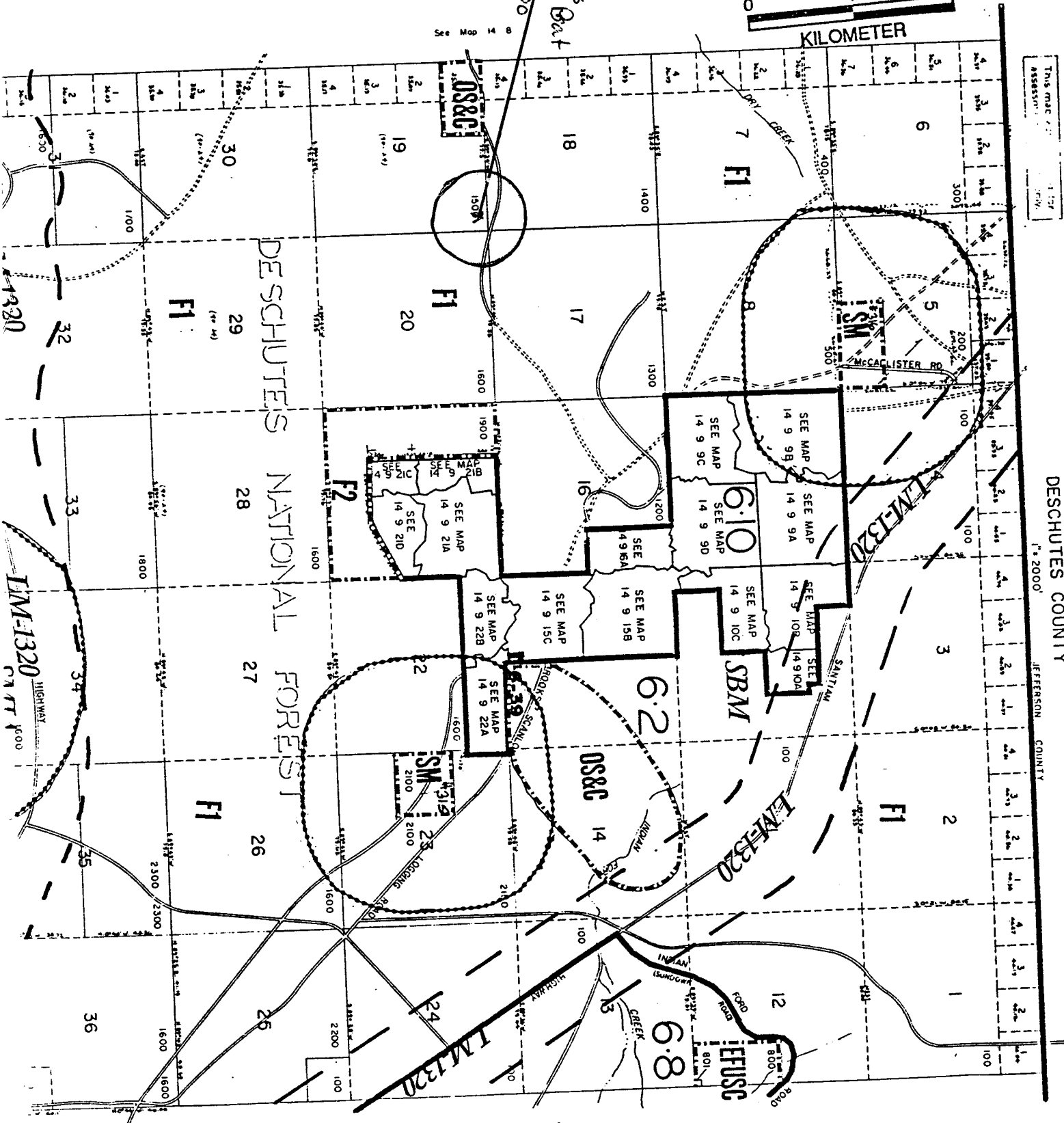
Exhibit "A-1"  
Townsend's Big-Eared Bat  
DE-0992-00  
14-09-19/NWNE



0135-2416



Townsend's  
Big-eared Bat  
DE-092-00



This map is for  
Assessor's use only.

DESCHUTES COUNTY  
JEFFERSON COUNTY

See Map 14 10

Exhibit "A-2"  
Townsend's Big-Eared Bat  
DE-0992-00  
14-09-19/NWNE

UPLAND GAME BIRD HABITAT**1. Inventory**

The following upland game birds are found in Deschutes County:

Estimated upland game population in 1980 (ODF&W 1985):

Ring-necked Pheasant	200
Valley Quail	10,000
Mountain Quail	50
Chukar Partridge	300
Turkey	50
Blue Grouse	900
Sage Grouse	1,800
Ruffed Grouse	100
Mourning Dove	8,000

**2. Location, Quality and Quantity**

The habitat for upland game birds is dispersed throughout the county in the riparian, forest, agricultural and rangeland areas of the county. Valley quail and mourning doves are the most common upland game birds. Pheasants, and to a lesser extent valley quail, are truly products of and dependent upon agriculture for their existence. Ideal habitat includes a varied patchwork of seed-producing crops interspersed with brushy fence rows, ditches, streams and woodlots. This type of land cover pattern provides their basic needs of food, water and cover. These birds are primarily found in the Terrebonne and Alfalfa areas. Since pheasants are products of agriculture, they are generally found on farmlands, with no area being essentially more critical than another. However, in many places, riparian vegetation is the only cover available and these thin strips are considered as sensitive areas.

The Oregon Department of Fish and Wildlife has not identified critical habitat areas for any of the upland game species except for the sage grouse. The inventory and ESEE for sage grouse follows this inventory and ESEE analysis for upland game birds.

Ruffed grouse and turkey are found mostly on the Deschutes National Forest in forested and riparian habitat. Blue grouse are also mostly on the national forest and are frequently found on ridge tops. Chukars live in grass land habitat and in grassy canyons and also rely on riparian habitat.

### 3. Conflicting Uses Determination and Analysis:

Pheasant and quail are affected whenever agricultural land is taken out of production through urban sprawl, road construction, industrial development, and other land clearing activities. Farming practices on existing agricultural lands also have an impact. The trend today is to farm as much land as possible. Brushy fence rows, woodlots, and riparian vegetation are constantly being removed at the expense of upland game bird use. Reduced acres of agricultural land combined with clean farming techniques (burning fence rows and removing brush areas) has significantly reduced the ring-necked pheasant population in Deschutes County.

The Deschutes County/City of Bend River Study identifies conflicting uses with upland game bird habitat (Chapter 6) and is incorporated here by reference.

### 4. Economic, Social, Environmental and Energy Consequences of Conserving riparian and wetland habitat

#### Economic Consequences:

The positive economic consequences of limiting conflicting uses are the protection of habitat which will maintain or increase the upland game bird populations in the county. Abundant wildlife and natural areas are a main reason tourists visit the county. The maintenance of riparian and wetland habitat may increase the value of property because of the aesthetic values often associated with natural areas and wildlife.

#### Social Consequences:

The positive social consequence of limiting conflicting uses is the the protection of habitat which has aesthetic qualities appreciated by residents of the area and tourists. Limiting conflicting uses could prevent someone from developing their property in a manner they desire. However, the county does not regulate accepted farming practices which could cause destruction of some habitat outside of riparian areas.

#### Environmental Consequences:

The environmental consequences of limiting conflicts with upland game bird habitat are positive. The habitat would be retained or enhanced which results in stable upland game populations. There are no significant negative environmental consequences.

#### Energy Consequences:

Except for the possible limits on development of

hydroelectric facilities, the energy consequences are not significant. The consequences of hydroelectric development are described in detail in the Deschutes County/City of Bend River Study.

Additional information and ESEE analysis is provided in the Deschutes County/City of Bend River Study, Chapter 6 and the River Study Staff Report which are hereby incorporated by reference.

#### 5. Conclusion:

Based on the ESEE analysis, consequences should be balanced to allow the conflicting uses but in a limited way in order to protect the resource to the desired extent.

#### 6. Program to Achieve the Goal (protect upland game birds):

For all of the upland game birds except sage grouse, the habitat is adequately protected by the existing exclusive farm use and forest zoning and the provisions to protect wetlands and riparian areas. The habitat for upland game birds is in the farm and forest zones which provide for minimum lot sizes greater than 20 acres to limit the density of development and the consequent conversion or deterioration of habitat. Any residential development in either the EFU or forest zone requires a conditional use permit.

Agriculture is a permitted use in the exclusive farm use zone and the county does not regulate ordinary farming practices which could cause some loss of cover habitat.

The county provisions to protect riparian areas and wetlands protect one of the most significant components of upland game habitat. The Oregon Forest Practices Act also contains provisions which regulate forest activities in riparian areas.

Most of the ruffed grouse, blue grouse, and turkey are found on National Forest lands where the habitat is managed under the Deschutes National Forest Land and Management Plan.

## SAGE GROUSE HABITAT

Sage grouse inhabit the sagebrush-grass areas in the eastern portion of the County. The population of sage grouse has shown considerable fluctuation over the years. The Oregon Department of Fish and Wildlife Research Report "Sage Grouse in Oregon" (April, 1993) lists the populatio of adult sage grouse in Deschutes County as 775. The Bureau of Land Management estimates there are 275 adult birds in Deschutes County.

Areas of particular concern for the sage grouse are the strutting grounds, known as leks. Strutting grounds are flat areas with vegetation less than six inches high on which the males exhibit a breeding display called strutting to attract the females. The Oregon Department of Fish and Wildlife has identified a radius of 1320 feet around a lek as a sensitive habitat area where conflicting uses with the habitat or strutting birds should be regulated.

Table 18 inventories the sage grouse leks on federal land. The sites located on federal land are classified as "2A" Goal 5 resources in accordance with OAR 660-16-1) and are managed to preserve their original character by the Bureau of Land Management (BLM). The BLM is in the process of developing a off road vehicle trail system to minimize the conflict with off-road vehicles and the sage grouse leks.

Table 19 inventories the sage grouse leks on private (non-federal) land or with a sensitive habitat area that extends onto private land or non-federal land. The ESEE analysis and decision for each private lek site follows Table 15.

TABLE 18.

SAGE GROUSE LEK INVENTORY  
SITES ON FEDERAL LANDS

Township	Range	Section	Quarter	General Location
20S	17E	05	NWSW	County Line/ Audubon Site
20S	19E	13-24		Todd Well
21S	15E	12	NENSW	Kotzman Basin
21S	16E	22/24	NESW	Mahogany Butte/ The Gap
21S	17E	18	NE	Whiskey Springs
21S	17E	28	NENE	Moonshine
21S	18E	22	NENE	South Well
21S	18E	24	SWSE	Viewpoint
22S	16E	11	SWSE	Antelope Butte
22E	17E	02	SENW	Spicer Flat
22S	17E	16	NW	The Rock
22S	17E	32	SWSW	Jaynes Well
22S	18E	06	SWNE	Little Mid Lake
22S	18E	11	SENEW	Squaw Lake

TABLE 19

SAGE GROUSE LEK INVENTORY  
LEKS ON NON-FEDERAL LANDS OR  
WITH NON-FEDERAL SENSITIVE HABITAT AREAS

ODFW Site #	Map & Tax Lot	Quarter Section	Site Name
DE 0994-01	20-18-00-700	05/SWSE	Circle F Reservoir
DE 0995-01	20-19-00-800	06/NWSE	Merril Rd
DE 0996-01	20-17-00-600	06/SWSW	Dickerson Well
DE 0997-01	20-16-00-2400	25/SENE	Moffit Ranch
DE 0997-02	20-16-00-2400	26/NENE	Moffit Satellite Ranch
DE 0998-01	20-14-00-400	10/NWNW	Evans Well
DE 0998-02	20-14-00-400	10/SWNW	Evans Sattellite Well
DE 0999-01	19-14-00-2200	26/SESE	Millican Pit

ESEE FINDINGS AND DECISION  
SAGE GROUSE SITE - DE 0994-01  
Circle F Reservoir

0135-2423

1. Inventory.

In 1992, the Bureau of Land Management identified a sage grouse lek in Township 20S, Range 18E, Section 5 SW (map number 20-18-00-700). The ODFW identifier for the site is DE 0994-01. The site is also known as Circle F Reservoir. The sensitive habitat area includes the area within a 1/4 mile radius of the lek site. The quarter mile sensitive habitat area is necessary to buffer the lek site and protect the habitat used by the birds for day roosting and cover during the mating season. The habitat site and sensitive habitat area are designated on a map attached as Exhibit "A".

Sage grouse inhabit the sagebrush-grass areas in the eastern portion of the County. The population of sage grouse has shown considerable fluctuation over the years. The Bureau of Land Management estimates that the current population of adult birds in Deschutes County is 275. The Oregon Department of Fish and Wildlife in a 1992 report estimated the population as 775. Areas of particular concern for the sage grouse are the strutting grounds, known as leks. Strutting grounds are flat areas with vegetation less than six inches high on which the males exhibit a breeding display called strutting to attract the females.

2. Site Characteristics.

The lek site is used by the sage grouse for strutting display and mating grouse from February 1 through April 30 with the peak of activity in March and April. The site is located on a seasonal reservoir. The area the birds use for display moves depending on the level of the water in the reservoir. The lek is located on a 1,358 acre tax lot zoned Exclusive Farm Use (EFU), Flood Plain (FP) and Wildlife Area Combining Zone (WA). The wildlife combining zone is for antelope habitat. The minimum lot size for the area is 320 acres.

3. Conflicts Identification.

Potentially Conflicting Uses With Habitat Site

<u>Zone</u>	<u>Permitted Use</u>	<u>Conditional Use</u>
EFU	-Farm use	-Single family dwelling
	-Forest use	-Residential homes
	-Exploration for minerals	-Private park, campground
	-Some road construction	-Personal use airstrip
		-Home occupation



- Process forest products
- Solid waste disposal site
- Storage, crushing, processing of aggregate
- Church or school
- Certain road projects
- Bed and breakfast

<u>Zone</u>	<u>Permitted Use</u>	<u>Conditional Use</u>
FP	-Farm use (no structure) -Forest management	-Road or bridge -Single family dwelling -Agricultural accessory buildings -Recreation Uses

Conflicts with sage grouse habitat are reduced by the limitations on uses in the exclusive farm use and flood plain zone, by the 320 acre minimum lot size, and by the predominance of Bureau of Land Management land throughout their range. However, because of their sensitivity and importance, the sage grouse leks or strutting grounds need additional protection.

Uses conflicting with the leks are activities or development which would disturb birds during the breeding season, disturb or occupy the ground in the lek area which could displace the birds, or destroy the vegetation within the sensitive habitat area the birds use for roosting and cover. These activities could include road construction, surface mining, or any construction activity, structural development and associated use of structures within 1320 feet of the lek.

Surface mining is not a conflicting use as none of the sensitive habitat area is zoned for surface mining. New road construction through the habitat area is unlikely as the roads in the area are established public or ranch roads with no anticipated need for relocation or expansion.

Because the lek and sensitive habitat area are remote, it is unlikely that a church or school would be sited within the sensitive habitat area. Additional structural development on the ranch could occur outside of the sensitive habitat area and would not be a conflict.

Agriculture is a permitted use in the exclusive farm use zone. Grazing is the principal agricultural use in the sensitive habitat area. Grazing during the mating season can disrupt the breeding cycle. The Bureau of Land Management works with the grazing permittees to minimize the grazing conflicts with the sage grouse leks during the breeding season.

Another potential conflicting use is recreational off-road vehicle use because it fragments habitat and can disrupt the birds during the breeding season. Off-road vehicle use in the area is regulated by the BLM.

A private park or campground would be a conflicting use because it would attract people and vehicles and alter the landscape.

4. Economic, Social, Environmental and Energy Consequences Analysis.

(A) Economic Consequences

Restricting structural development within one quarter mile of the lek would have a negligible economic effect because there is land available outside of the sensitive habitat area for residences or other structural development.

Limiting the development of parks or campgrounds would have a negligible economic consequence as there are numerous private and public recreational facilities throughout the county.

Maintaining lek sites will help assure that the species does not become a federally threatened and endangered species. Should this happen, the protection criteria would be much more restrictive around the remaining nest sites.

(B) Social Consequences

The social consequence of allowing unregulated conflicting uses could be the abandonment of the lek site which would be a loss to the segment of society that enjoys viewing wildlife. The positive social consequences of limiting conflicting uses would be continuing opportunities for naturalists and bird watchers to study and enjoy the birds. However, because the site is on private land, access to the public may not be available.

Structural development within the sensitive habitat area could be prohibited with little social consequence as

owners have the potential to develop their properties outside of the quarter mile sensitive habitat area.

(C) Environmental Consequences

The environmental consequences of allowing unregulated conflicting uses could be the destruction of the characteristics which make the lek and the sensitive habitat area desirable to the birds which could cause abandonment of the site, failure of breeding and reduction in the sage grouse population. There are no identified negative environmental consequences of prohibiting conflicting uses.

(D) Energy Consequences

There are no identified significant energy consequences from either permitting or limiting conflicting uses.

5. Program To Meet Goal 5.

The Board of County Commissioners finds that, based on the ESEE consequences, both the resource site and the conflicting uses are important relative to each other and that the ESEE consequences should be balanced to allow conflicting uses in a limited way (OAR 660-16-010(3)).

In order to protect both the lek and the sensitive habitat area and allow limited conflicting uses, the following restrictions shall apply:

1. Site plan review under the Sensitive Bird and Mammal Habitat Combining zone shall be required for all land uses within the sensitive habitat area requiring a conditional use permit.
2. Structural development within the quarter mile sensitive habitat area shall be prohibited because there are alternative locations for structures outside of the sensitive habitat area.
3. Partitions creating a residential building site within the sensitive habitat area shall be prohibited.

In addition the Bureau of Land Management is working with private property owners to develop grazing management plans to minimize grazing conflict with the lek site.

0135-2427

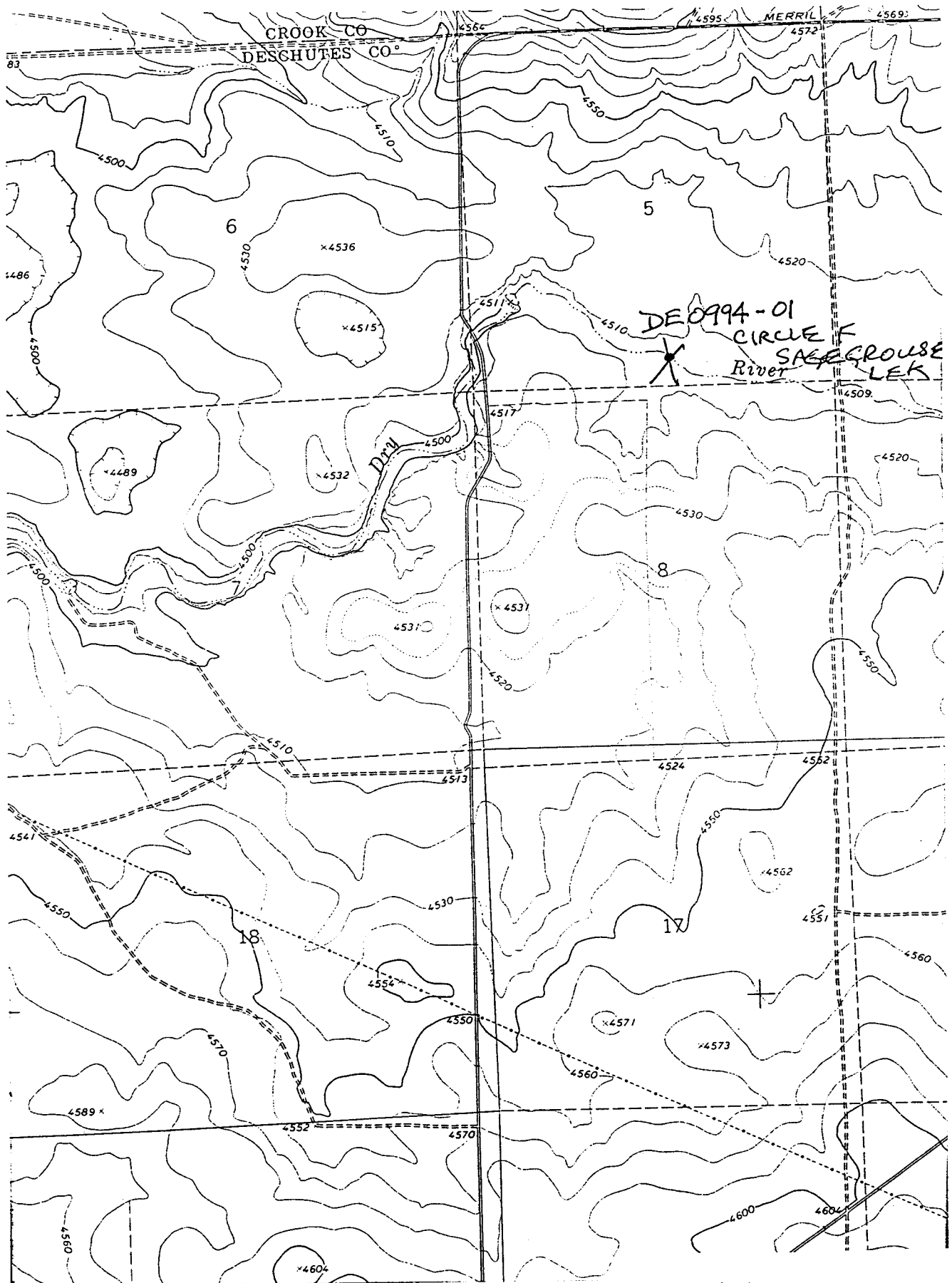
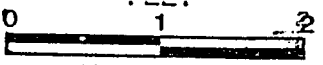
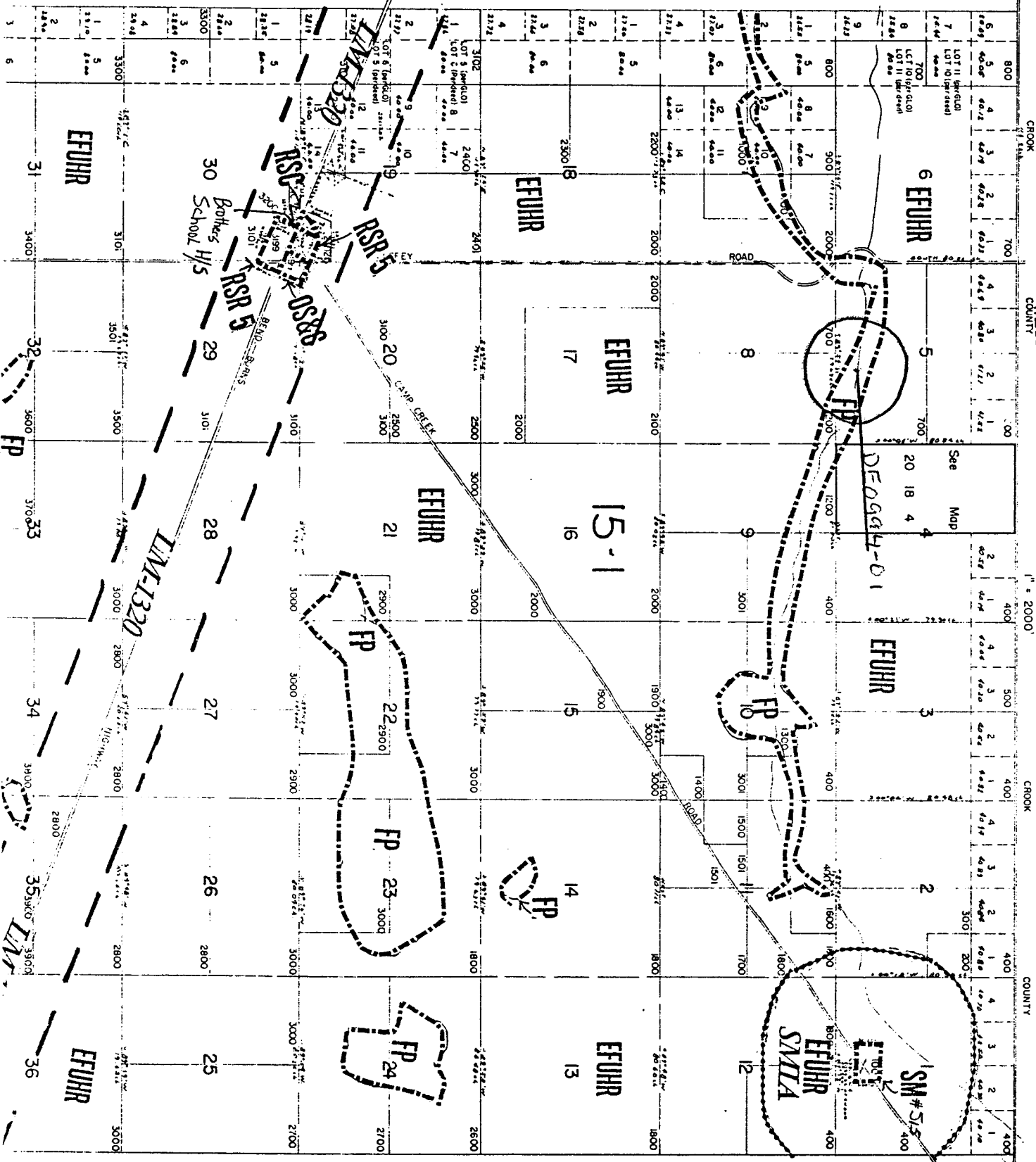


Exhibit "A-1"  
Sage Grouse Lek  
DE-0994-01  
20-18-05/SWSE



0135-2428

See Map 20 17



FIRM MAP 575  
 WETLAND  
 COUNTY  
 DESCHUTES COUNTY  
 T20S. R18E.W1M.  
 1" = 2000'

WYA 20 18  
 8 INDEX

See Map 20 19

Exhibit "A-2"  
 Sage Grouse Lek  
 DE-0994-01  
 20-18-05/SWSE

R 23 E  
 R 23 E

**ESEE FINDINGS AND DECISION**  
**SAGE GROUSE SITE - DE 0995-01**  
**Merril Road**

1. Inventory.

In 1992, the Bureau of Land Management identified a sage grouse lek in Township 20S, Range 19E, Section 6 NWSE (map number 20-19-00-800). The ODFW identifier for the site is DE 0995-01. The site is also known as Merrill Road. The sensitive habitat area includes the area within a 1/4 mile radius of the lek site. The quarter mile sensitive habitat area is necessary to buffer the lek site and protect the habitat used by the birds for day roosting and cover during the mating season. The habitat site and sensitive habitat area are designated on a map attached as Exhibit "A".

Sage grouse inhabit the sagebrush-grass areas in the eastern portion of the county. The population of sage grouse has shown considerable fluctuation over the years. The Bureau of Land Management estimates that the current population of adult birds in Deschutes County is 275. The Oregon Department of Fish and Wildlife in a 1992 report estimated the population as 775. Areas of particular concern for the sage grouse are the strutting grounds, known as leks. Strutting grounds are flat areas with vegetation less than six inches high on which the males exhibit a breeding display called strutting to attract the females.

2. Site Characteristics.

The lek site is used by the sage grouse for strutting display and mating grouse from February 1 through April 30, with the peak of activity in March and April. The lek is located on a 791 acre tax lot zoned Exclusive Farm Use (EFU), Flood Plain (FP) and Wildlife Area Combining Zone (WA). The wildlife combining zone is for antelope habitat. The minimum lot size for the area is 320 acres.

3. Conflicts Identification.

**Potentially Conflicting Uses With Habitat Site**

<u>Zone</u>	<u>Permitted Use</u>	<u>Conditional Use</u>
EFU	-Farm use	-Single family dwelling
	-Forest use	-Residential homes
	-Exploration for minerals	-Private park, campground
	-Some road construction	-Personal use airstrip
		-Home occupation
		-Process forest products

- Solid waste disposal site
- Storage, crushing, processing of aggregate
- Church or school
- Certain road projects
- Bed and breakfast

Sage grouse depend on large areas of undeveloped rangeland habitat. Conflicts with sage grouse habitat are reduced by the limitations on uses in the exclusive farm use and flood plain zone, by the 320 acre minimum lot size, and by the predominance of Bureau of Land Management land throughout their range. However, because of their sensitivity and importance, the sage grouse leks or strutting grounds need additional protection.

Uses conflicting with the leks are activities or development which would disturb birds during the breeding season, disturb or occupy the ground in the lek area which could displace the birds, or destroy the vegetation within the sensitive habitat area the birds use for roosting and cover. These activities could include road construction, surface mining, or any construction activity, structural development and associated use of structures within 1320 feet of the lek.

Surface mining is not a conflicting use as none of the sensitive habitat area is zoned for surface mining. New road construction through the habitat area is unlikely as the roads in the area are established public or ranch roads with no anticipated need for relocation or expansion.

Because the lek and sensitive habitat area are remote, it is unlikely that a church or school would be sited within the sensitive habitat area. Additional structural development on the ranch could occur outside of the sensitive habitat area and would not be a conflict.

Agriculture is a permitted use in the exclusive farm use zone. Grazing is the principal agricultural use in the sensitive habitat area. Grazing during the mating season can disrupt the breeding cycle. The Bureau of Land Management works with the grazing permittees to minimize the grazing conflicts with the sage grouse leks during the breeding season.

Another potential conflicting use is recreational off-road vehicle use because it fragments habitat and

can disrupt the birds during the breeding season. Off-road vehicle use in the area is regulated by the BLM.

A private park or campground would be a conflicting use because it would attract people and vehicles and alter the landscape.

4. Economic, Social, Environmental and Energy Consequences Analysis.

(A) Economic Consequences

Restricting structural development within one quarter mile of the lek would have a negligible economic effect because there is land available outside of the sensitive habitat area for residences or other structural development.

Limiting the development of parks or campgrounds would have a negligible economic consequence as there are numerous private and public recreational facilities throughout the county.

Maintaining lek sites and sensitive habitat areas will help assure that the species does not become a federally threatened and endangered species. Should this happen, the protection criteria would be much more restrictive around the remaining lek sites.

(B) Social Consequences

The social consequence of allowing unregulated conflicting uses could be the abandonment of the lek site which would be a loss to the segment of society that enjoys viewing wildlife. The positive social consequences of limiting conflicting uses would be continuing opportunities for naturalists and bird watchers to study and enjoy the birds. However, because the site is on private land, access to the public may not be available.

Structural development within the sensitive habitat area could be prohibited with little social consequence as owners have the potential to develop their properties outside of the quarter mile sensitive habitat area.

(C) Environmental Consequences

The environmental consequences of allowing unregulated conflicting uses could be the destruction of the characteristics which make the lek and the sensitive habitat area desirable to the birds which could cause abandonment of the site, failure of breeding and



reduction in the sage grouse population. There are no identified negative environmental consequences of prohibiting conflicting uses.

(D) Energy Consequences

There are no identified significant energy consequences from either permitting or limiting conflicting uses.

5. Program To Meet Goal 5.

The Board of County Commissioners finds that, based on the ESEE consequences, both the resource site and the conflicting uses are important relative to each other and that the ESEE consequences should be balanced to allow conflicting uses in a limited way (OAR 660-16-010(3)).

In order to protect both the lek and the sensitive habitat area and allow limited conflicting uses, the following restrictions shall apply:

1. Site plan review under the Sensitive Bird and Mammal Habitat Combining zone shall be required for all land uses within the sensitive habitat area requiring a conditional use permit.
2. Structural development within the quarter mile sensitive habitat area shall be prohibited because there are alternative locations for structures outside of the sensitive habitat area.
3. Partitions creating a residential building site within the sensitive habitat area shall be prohibited.

In addition the Bureau of Land Management is working with private property owners to develop grazing management plans to minimize grazing conflict with the lek site.

0135-2433

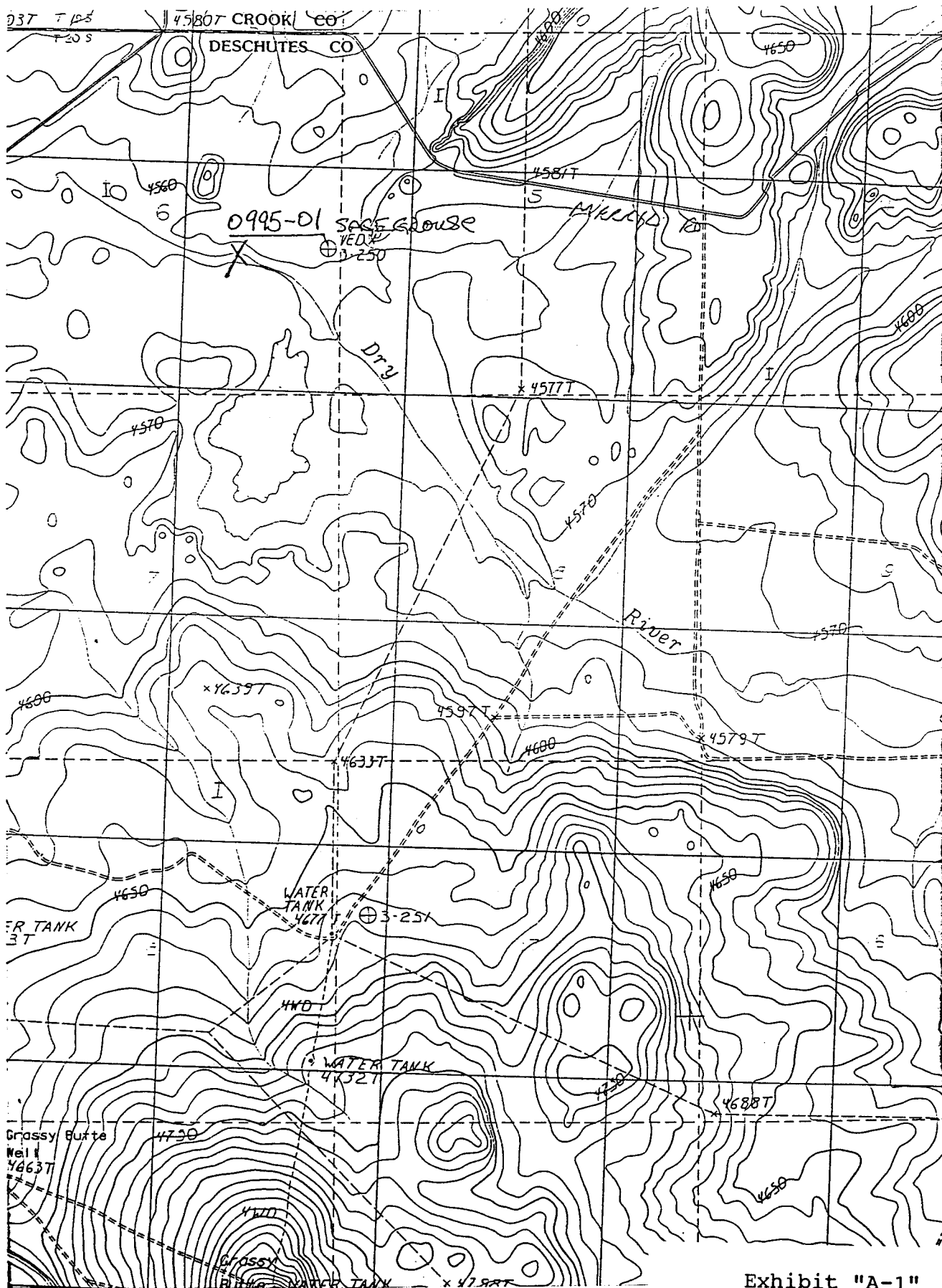


Exhibit "A-1"  
Sage Grouse Lek  
DE-0995-01  
20-19-06/NWSE

EFUHR

CROOK COUNTY

20-19

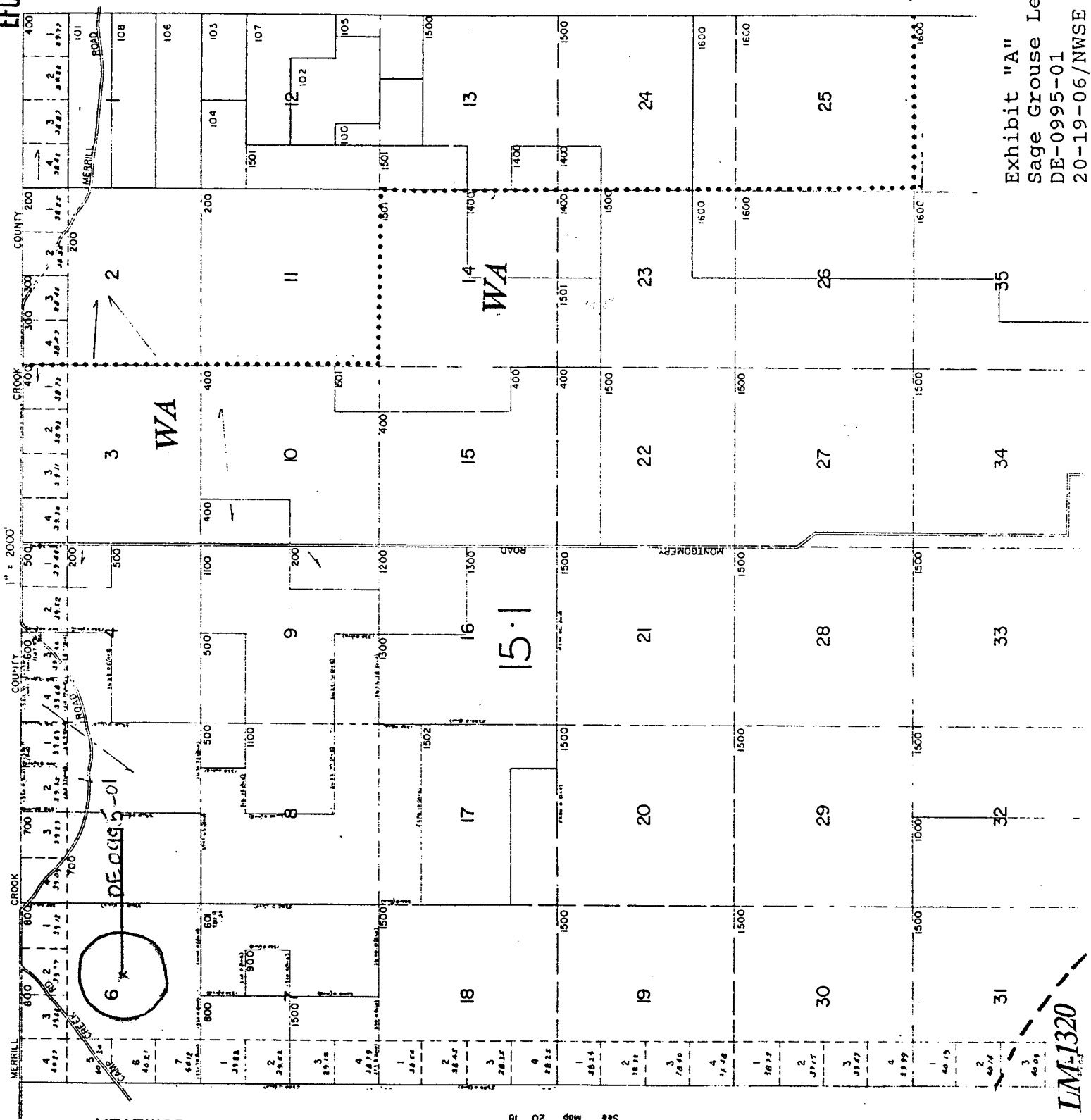
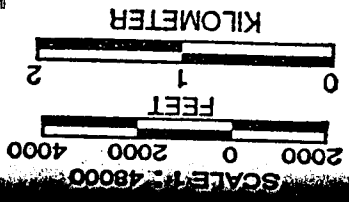


Exhibit "A"  
 Sage Grouse Lek  
 DE-0995-01  
 20-19-06/NWSE

LM-1320

Exhibit "A-2"  
 Sage Grouse Lek  
 DE-0995-01  
 20-19-06/NWSE



See Map 20 18

ESEE FINDINGS AND DECISION  
 SAGE GROUSE LEK SITE  
 DE 0996-01 - Dickerson Well

1. Inventory.

The Oregon Department of Fish and Wildlife has identified a sage grouse lek in Township 22S, Range 17E, Section 6 SWSW (map number 22-17-00-600). The ODFW identifier for the site is DE 0996-01 and is also known as Dickerson Well. The sensitive habitat area includes the area within a 1/4 mile radius of the lek site. The quarter mile sensitive habitat area is necessary to buffer the lek site and protect the habitat used by the birds for day roosting and cover during the mating season. The habitat site and sensitive habitat area are designated on a map attached as Exhibit "A".

Sage grouse inhabit the sagebrush-grass areas in the eastern portion of the County. The population of sage grouse has shown considerable fluctuation over the years. The Bureau of Land Management estimates that the current population of adult birds in Deschutes County is 275. The Oregon Department of Fish and Wildlife in a 1992 report estimated the population as 775. Areas of particular concern for the sage grouse are the strutting grounds, known as leks. Strutting grounds are flat areas with vegetation less than six inches high on which the males exhibit a breeding display called strutting to attract the females.

2. Site Characteristics.

The lek site is used by the sage grouse for strutting display and mating grouse from February 1 through April 30 with the peak of activity in March and April. The lek is located on a large ranch zoned Exclusive Farm Use (EFU) and Wildlife Area Combining Zone (WA). The wildlife combining zone is for antelope habitat. The minimum lot size for the area is 320 acres. The lek is on the site of an abandoned homestead where the ground is disturbed.

3. Conflicts Identification.

Potentially Conflicting Uses With Habitat Site

<u>Zone</u>	<u>Permitted Use</u>	<u>Conditional Use</u>
EFU	-Farm use	-Single family dwelling
	-Forest use	-Residential homes
	-Exploration for minerals	-Private park, campground
	-Some road construction	-Personal use airstrip
		-Home occupation
		-Process forest

- products
- Solid waste disposal site
- Storage, crushing, processing of aggregate
- Church or school
- Certain road projects
- Bed and breakfast

Sage grouse depend on large areas of undeveloped rangeland habitat. Conflicts with sage grouse habitat are reduced by the limitations on uses in the exclusive farm use zone, by the 320 acre minimum lot size, and by the predominance of Bureau of Land Management land throughout their range. However, because of their sensitivity and importance, the sage grouse leks or strutting grounds need additional protection.

Uses conflicting with the leks are activities or development which would disturb birds during the breeding season, disturb or occupy the ground in the lek area which could displace the birds, or destroy the vegetation within the sensitive habitat area the birds use for roosting and cover. These activities could include road construction, surface mining, or any construction activity, structural development and associated use of structures within 1320 feet of the lek.

Surface mining is not a conflicting use as none of the sensitive habitat area is zoned for surface mining. New road construction through the habitat area is unlikely as the roads in the area are established public or ranch roads with no anticipated need for relocation or expansion.

Because the lek and sensitive habitat area are remote, it is unlikely that a church or school would be sited within the sensitive habitat area. Additional structural development on the ranch could occur outside of the sensitive habitat area elsewhere on the ranch and would not be a conflict.

Agriculture is a permitted use in the exclusive farm use zone. Grazing is the principal agricultural use in the sensitive habitat area. Grazing during the mating season can disrupt the breeding cycle. The Bureau of Land Management works with the grazing permittees to minimize the grazing conflicts with the sage grouse leks during the breeding season.

Another potential conflicting use is recreational off-road vehicle use because it fragments habitat and

can disrupt the birds during the breeding season. However, ODFW reports that, at this time, there is not a problem with off-road vehicle use at this site. The Bureau of Land Management has a seasonal off-road vehicle closure from March 15 through September 1 south of Highway 20.

A private park or campground would be a conflicting use because it would attract people and vehicles and alter the landscape.

4. Economic, Social, Environmental and Energy Consequences Analysis.

(A) Economic Consequences

Restricting structural development within one quarter mile of the lek would have a negligible economic effect because there is land available outside of the sensitive habitat area for residences or other structural development.

Limiting the development of parks or campgrounds would have a negligible economic consequence as there are numerous private and public recreational facilities throughout the county.

Maintaining the lek and sensitive habitat area will help assure that the species does not become a federally threatened and endangered species. Should this happen, the protection criteria would be much more restrictive around the remaining lek sites.

(B) Social Consequences

The social consequence of allowing unregulated conflicting uses could be the abandonment of the lek site which would be a loss to the segment of society that enjoys viewing wildlife. The positive social consequences of limiting conflicting uses would be continuing opportunities for naturalists and bird watchers to study and enjoy the birds. However, because the site is on private land, access to the public may not be available.

Structural development within the sensitive habitat area could be prohibited with little social consequence as owners have the potential to develop their properties outside of the quarter mile sensitive habitat area.

(C) Environmental Consequences

The environmental consequences of allowing unregulated conflicting uses could be the destruction of the

characteristics which make the lek and the sensitive habitat area desirable to the birds which could cause abandonment of the site, failure of breeding and reduction in the sage grouse population. There are no identified negative environmental consequences of prohibiting conflicting uses.

(D) Energy Consequences

There are no identified significant energy consequences from either permitting or limiting conflicting uses.

5. Program To Meet Goal 5.

The Board of County Commissioners finds that, based on the ESEE consequences, both the resource site and the conflicting uses are important relative to each other and that the ESEE consequences should be balanced to allow conflicting uses in a limited way (OAR 660-16-010(3)).

In order to protect both the lek and the sensitive habitat area and allow limited conflicting uses, the following restrictions shall apply:

1. Site plan review under the Sensitive Bird and Mammal Habitat Combining zone shall be required for all land uses within the sensitive habitat area requiring a conditional use permit.
2. Structural development within the quarter mile sensitive habitat area shall be prohibited because there are alternative locations for structures outside of the sensitive habitat area.
3. Partitions creating a residential building site within the sensitive habitat area shall be prohibited.

In addition, the Bureau of Land Management is working with private property owners to develop grazing management plans to minimize grazing conflict with the lek site.

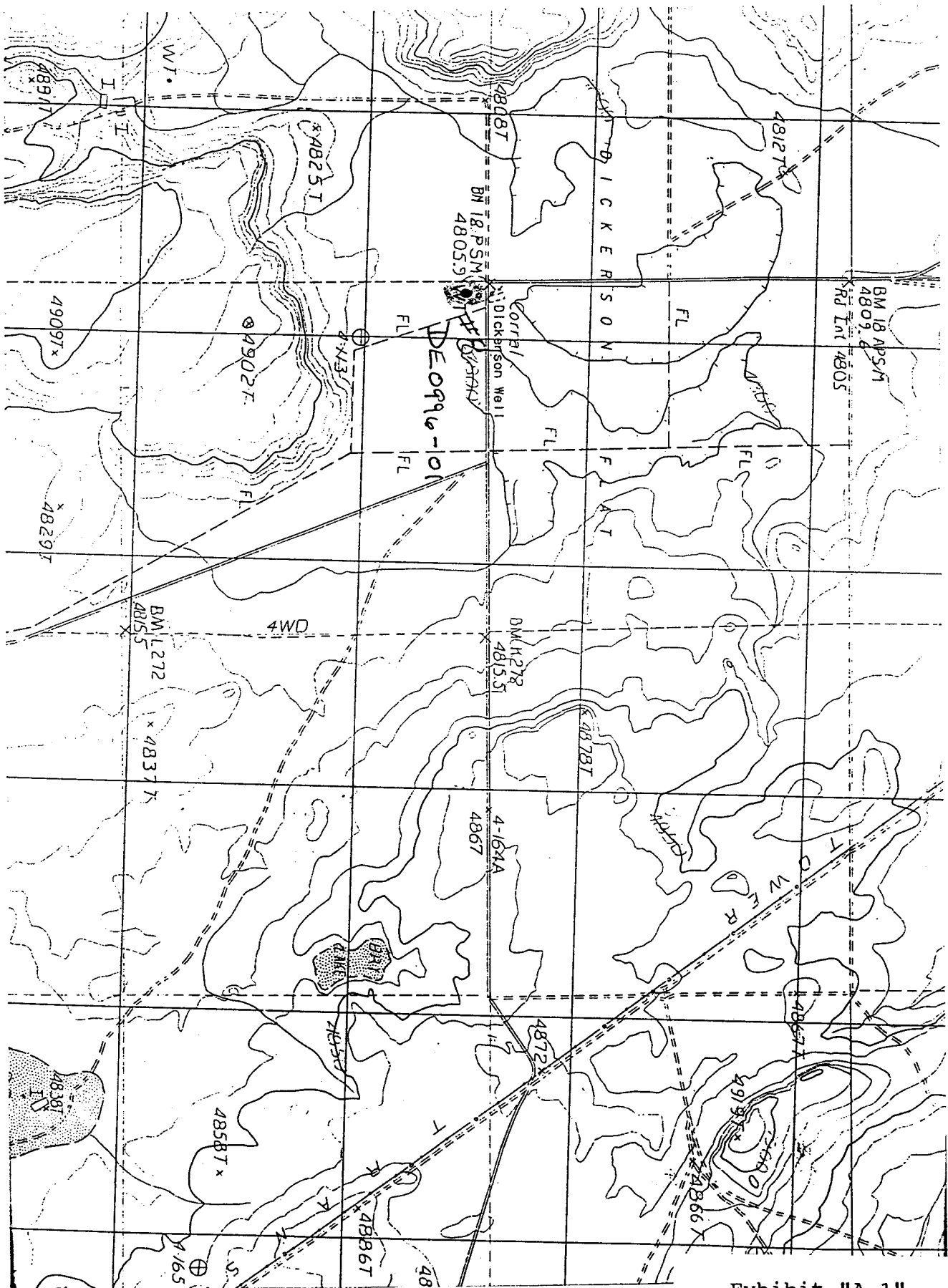
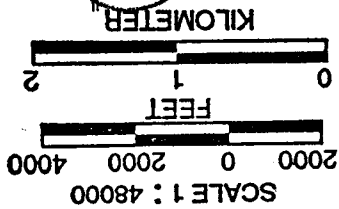


Exhibit "A-1"  
 Sage Grouse Lek  
 DE-0996-01  
 20-17-06/SWS





See Map 22 18

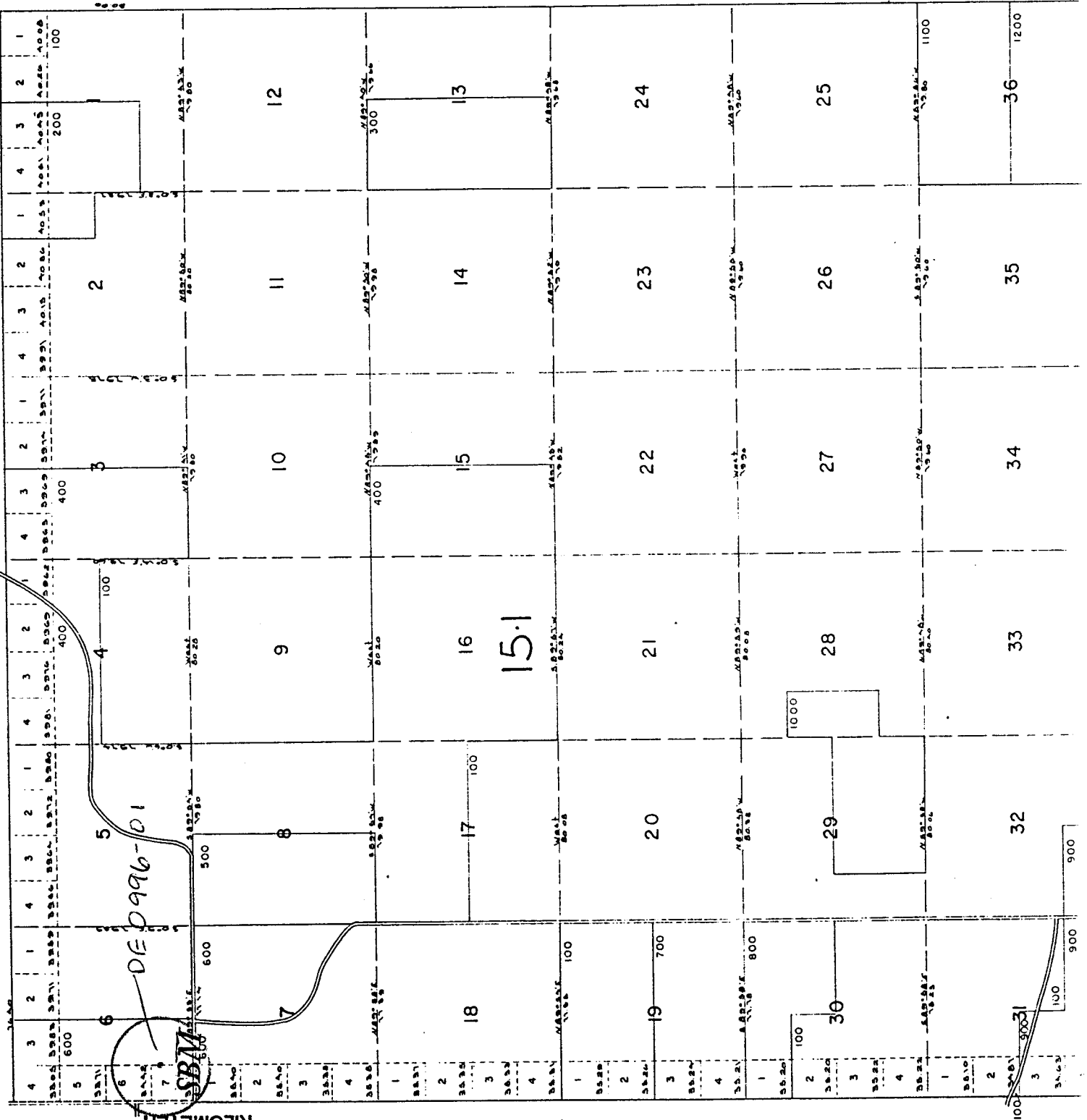


Exhibit "A-2"  
 Sage Grouse Lek  
 DE-0996-01  
 20-17-06/SWS

ESEE FINDINGS AND DECISION  
SAGE GROUSE SITES  
DE 0997-01 and DE 0997-02  
Moffit Ranch and Moffit Ranch Satellite

1. Inventory.

The Oregon Department of Fish and Wildlife (ODFW) has identified a two sage grouse leks in Township 20S, Range 16E. Site DE 0997-01, known as Moffit Ranch, is located in section 25 SENW. Site DE 0997-02, known as Moffit Ranch Satellite, is located in section 26 NENE. The sensitive habitat area includes the area within a 1/4 mile radius of each lek site. The quarter mile sensitive habitat area is necessary to buffer the lek site and protect the habitat used by the birds for day roosting and cover during the mating season. The habitat sites and sensitive habitat areas are designated on a map attached as Exhibit "A".

Sage grouse inhabit the sagebrush-grass areas in the eastern portion of the county. The population of sage grouse has shown considerable fluctuation over the years. The Bureau of Land Management estimates that the current population of adult birds in Deschutes County is 275. The Oregon Department of Fish and Wildlife in a 1992 report estimated the population as 775. Areas of particular concern for the sage grouse are the strutting grounds, known as leks. Strutting grounds are flat areas with vegetation less than six inches high on which the males exhibit a breeding display called strutting to attract the females.

2. Site Characteristics.

The lek site is used by the sage grouse for strutting display and mating grouse from February 1 through April 30, with the peak of activity in March and April. The leks are located a 3,018 acre tax lot that is part of the Moffit Ranch. The lek sites are zoned Exclusive Farm Use (EFU) and Sensitive Bird and Mammal Habitat Combining (SBM) and Wildlife Habitat Combining Zone. The wildlife combining zone is for antelope habitat. The minimum lot size for the area is 320 acres. A small amount of BLM land is included in the sensitive habitat area of the Moffit Ranch Satellite lek.

3. Conflicts Identification.

**Potentially Conflicting Uses With Habitat Site**

<u>Zone</u>	<u>Permitted Use</u>	<u>Conditional Use</u>
EFU	-Farm use	-Single family dwelling
	-Forest use	-Residential homes
	-Exploration for	-Private park,

minerals  
-Some road construction

campground  
-Personal use airstrip  
-Home occupation  
-Process forest products  
-Solid waste disposal site  
-Storage, crushing, processing of aggregate  
-Church or school  
-Certain road projects  
-Bed and breakfast

Sage grouse depend on large areas of undeveloped rangeland habitat. Conflicts with sage grouse habitat are reduced by the limitations on uses in the exclusive farm use zone, by the 320 acre minimum lot size, and by the predominance of Bureau of Land Management land throughout their range. However, because of their sensitivity and importance, the sage grouse leks or strutting grounds need additional protection.

Uses conflicting with the leks are any activity or development which would interfere with the lek during the breeding season, disturb or occupy the ground in the lek area which could displace the birds, or destroy the vegetation within the sensitive habitat area the birds use for roosting and cover. These activities could include road construction, surface mining, or any construction activity, structural development and associated use of structures within 1320 feet of the lek.

Surface mining is not a conflicting use as none of the sensitive habitat area is zoned for surface mining. New road construction through the habitat area is unlikely as the roads in the area are established public or ranch roads with no anticipated need for relocation or expansion.

Because the lek and sensitive habitat area are remote, it is unlikely that a church or school would be sited within the sensitive habitat area. Additional structural development on the ranch could occur outside of the sensitive habitat area elsewhere on the ranch and would not be a conflict.

Agriculture is a permitted use in the exclusive farm use zone. Grazing is the principal agricultural use in the sensitive habitat area. Grazing during the mating season can disrupt the breeding cycle. The Bureau of Land Management works with the grazing permittees to minimize the grazing conflicts with the sage grouse leks

during the breeding season.

Another potential conflicting use is recreational off-road vehicle use because it fragments habitat and can disrupt the birds during the breeding season. However, ODFW reports that, at this time, there is not a problem with off-road vehicle use at this site. The Bureau of Land Management has a seasonal off-road vehicle closure from March 15 through September 1 south of Highway 20.

A private park or campground would be a conflicting use because it would attract people and vehicles and alter the landscape.

4. Economic, Social, Environmental and Energy Consequences Analysis.

(A) Economic Consequences

Restricting structural development within one quarter mile of the lek would have a negligible economic effect because there is land available outside of the sensitive habitat area for residences or other structural development.

Limiting the development of parks or campgrounds would have a negligible economic consequence as there are numerous private and public recreational facilities throughout the county.

Maintaining lek sites will help assure that the species does not become a federally threatened and endangered species. Should this happen, the protection criteria would be much more restrictive around the remaining lek sites.

(B) Social Consequences

The social consequence of allowing unregulated conflicting uses could be the abandonment of the lek site which would be a loss to the segment of society that enjoys viewing wildlife. The positive social consequences of limiting conflicting uses would be continuing opportunities for naturalists and bird watchers to study and enjoy the birds. However, because the site is on private land access to the public may not be available.

Structural development within the sensitive habitat area could be prohibited with little social consequence as owners have the potential to develop their properties outside of the quarter mile sensitive habitat area.

## (C) Environmental Consequences

The environmental consequences of allowing unregulated conflicting uses could be the destruction of the characteristics which make the lek desirable to the birds which could cause abandonment of the site and failure of breeding and reduction in the sage grouse population. There are no identified negative environmental consequences of prohibiting conflicting uses.

## (D) Energy Consequences

There are no identified significant energy consequences from either permitting or limiting conflicting uses.

5. Program To Meet Goal 5.

The Board of County Commissioners finds that, based on the ESEE consequences, both the resource site and the conflicting uses are important relative to each other and that the ESEE consequences should be balanced to allow conflicting uses in a limited way (OAR 660-16-010(3)).

In order to protect both the lek and the sensitive habitat area and allow limited conflicting uses, the following restrictions shall apply:

1. Site plan review under the Sensitive Bird and Mammal Habitat Combining zone shall be required for all land uses within the sensitive habitat area requiring a conditional use permit.
2. Structural development within the quarter mile sensitive habitat area shall be prohibited because there are alternative locations for structures outside of the sensitive habitat area.
3. Partitions creating a residential building site within the sensitive habitat area shall be prohibited.

In addition the Bureau of Land Management is working with private property owners to develop grazing management plans to minimize grazing conflict with the lek site.

0135-2445

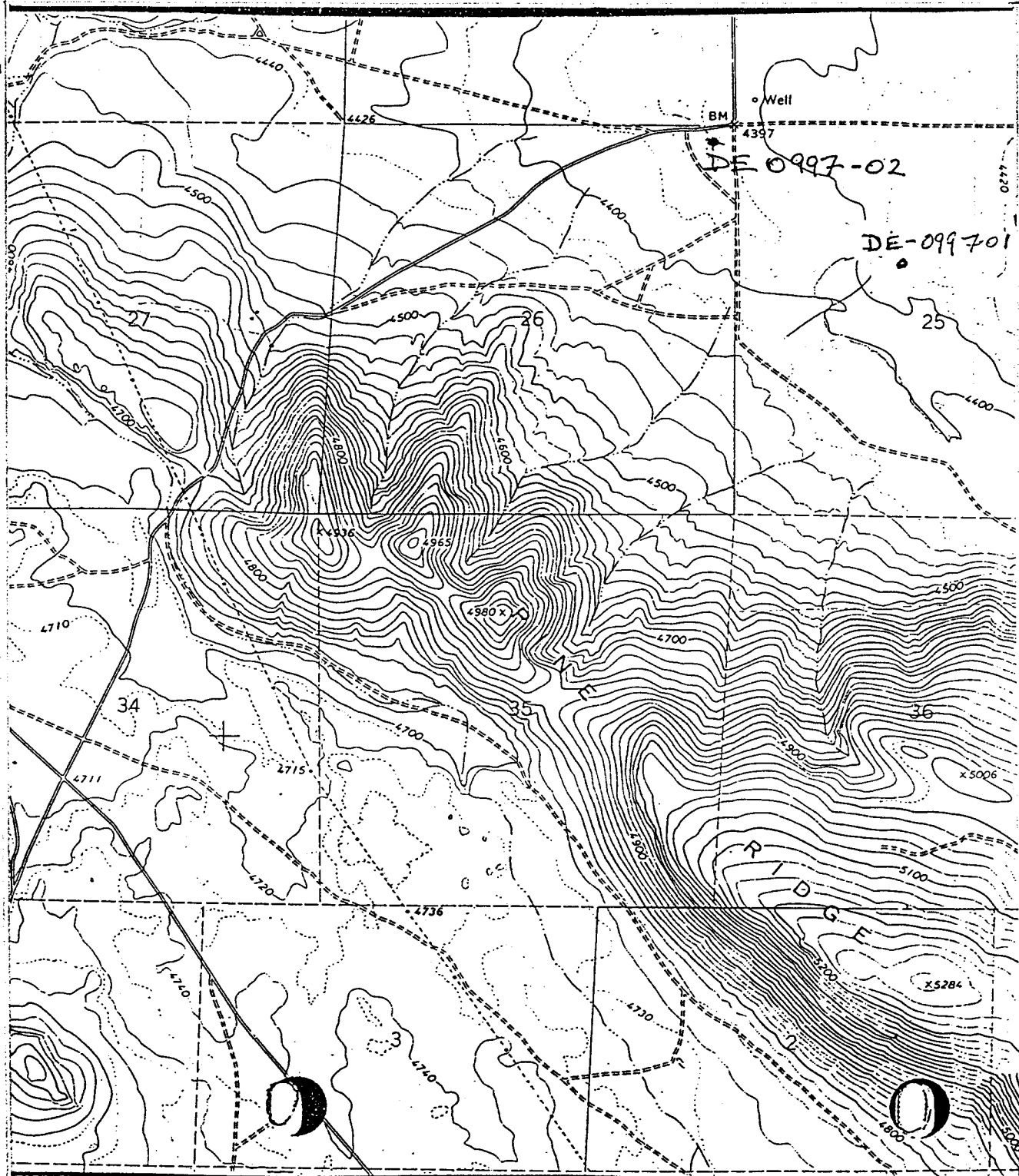


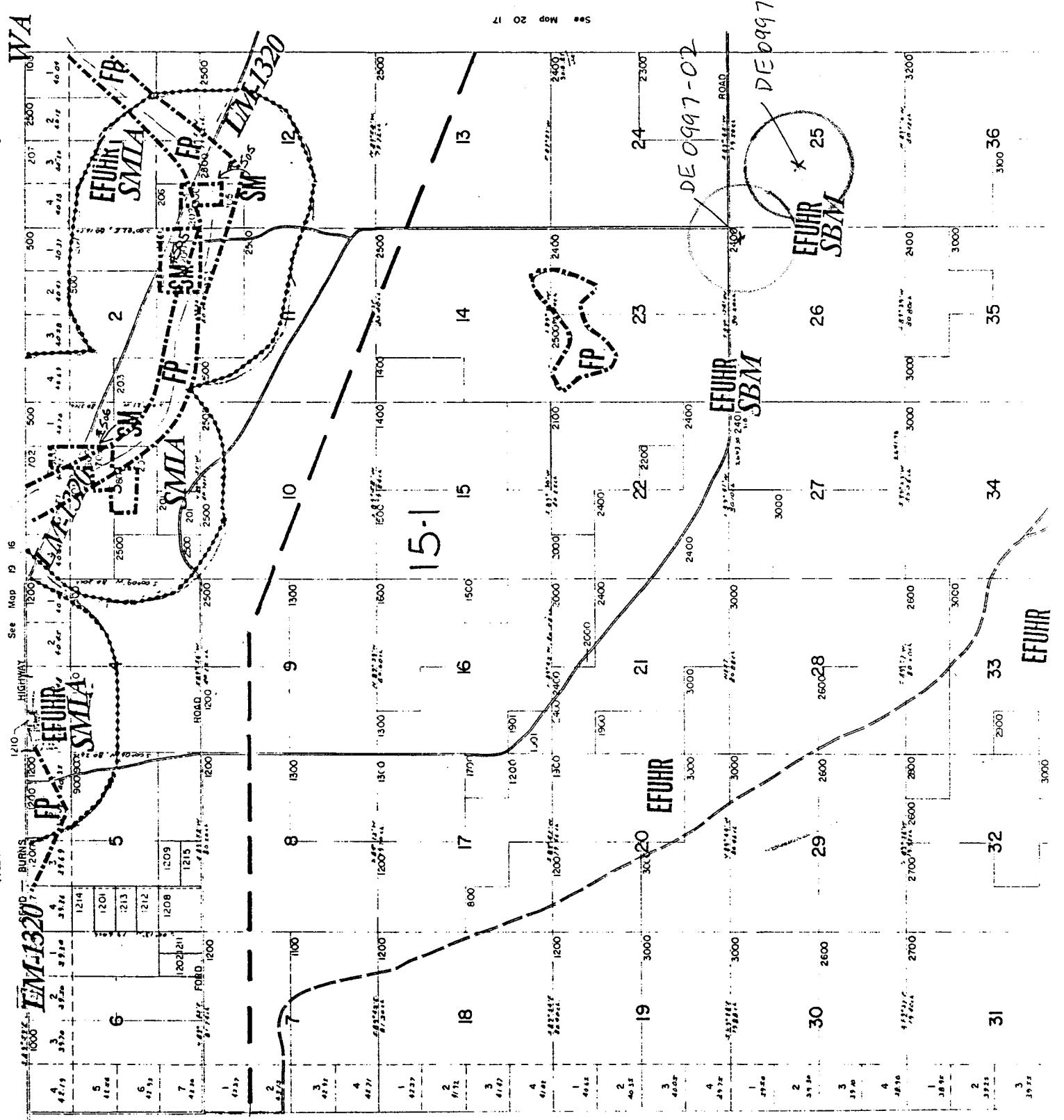
Exhibit "A-1"  
Sage Grouse Lek  
DE-0997-01/DE-0997-02  
20-16-25/SEW  
20-16-26/NENE

WETLAND

DESCHUTES COUNTY

20-16

0135-2446



See Map 20 17

See Map 20 15

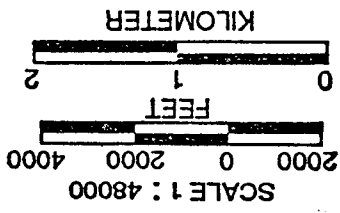


Exhibit "A-2"  
 Sage Grouse Lek  
 DE-0997-01/DE-0997-02  
 20-16-25/SENW  
 20-16-26/NENE

ESEE FINDINGS AND DECISION

SAGE GROUSE SITE

DE 0998-01 - Evans Well

DE 0998-02 - Evans Well Satellite

0135-2447

1. Inventory.

The Oregon Department of Fish and Wildlife (ODFW) has identified two sage grouse leks in Township 20S, Range 14E, Section 10 NENW (map number 20-14-00-400). The ODFW identifiers for the leks are DE 0998-01 and DE 0998-02. The sites are known as Evans Well. The sensitive habitat area includes the area within a 1/4 mile radius of each lek site. The quarter mile sensitive habitat area is necessary to buffer the lek site and protect the habitat used by the birds for day roosting and cover during the mating season. The habitat site and sensitive habitat area are designated on a map attached as Exhibit 1.

Sage grouse inhabit the sagebrush-grass areas in the eastern portion of the County. The population of sage grouse has shown considerable fluctuation over the years. The Bureau of Land Management estimates that the current population of adult birds in Deschutes County is 275. The Oregon Department of Fish and Wildlife in a 1992 report estimated the population as 775. Areas of particular concern for the sage grouse are the strutting grounds, known as leks. Strutting grounds are flat areas with vegetation less than six inches high on which the males exhibit a breeding display called strutting to attract the females.

2. Site Characteristics.

The lek site is used by the sage grouse for strutting display and mating grouse from February 1 through April 30, with the peak of activity in March and April. The lek is located on a private 317 acre parcel zoned Exclusive Farm Use (EFU) and Wildlife Area Combining Zone (WA). The wildlife combining zone is for antelope habitat. The minimum lot size for the area is 320 acres. There are two other tax lots partially within the sensitive habitat area which are Bureau of Land Management (BLM).

3. Conflicts Identification.

Potentially Conflicting Uses With Habitat Site

<u>Zone</u>	<u>Permitted Use</u>	<u>Conditional Use</u>
EFU	-Farm use	-Single family dwelling
	-Forest use	-Residential homes
	-Exploration for minerals	-Private park, campground
	-Some road construction	-Personal use airstrip



- Home occupation
- Process forest products
- Solid waste disposal site
- Storage, crushing, processing of aggregate
- Church or school
- Certain road projects
- Bed and breakfast

Sage grouse depend on large areas of undeveloped rangeland habitat. Conflicts with sage grouse habitat are reduced by the limitations on uses in the exclusive farm use zone, by the 320 acre minimum lot size, and by the predominance of Bureau of Land Management land throughout their range. However, because of their sensitivity and importance, the sage grouse leks or strutting grounds need additional protection.

Uses conflicting with the leks are any activity or development which would interfere with the lek during the breeding season, disturb or occupy the ground in the lek area which could displace the birds, or destroy the vegetation within the sensitive habitat area the birds use for roosting and cover. These activities could include road construction, surface mining, or any construction activity, structural development and associated use of structures within 1320 feet of the lek.

Surface mining is not a conflicting use as none of the sensitive habitat area is zoned for surface mining. New road construction through the habitat area is unlikely as the roads in the area are established public or ranch roads with no anticipated need for relocation or expansion.

Because the lek and sensitive habitat area are remote, it is unlikely that a church or school would be sited within the sensitive habitat area. Additional structural development on the ranch could occur outside of the sensitive habitat area elsewhere on the ranch and would not be a conflict.

Agriculture is a permitted use in the exclusive farm use zone. Grazing is the principal agricultural use in the sensitive habitat area. Grazing during the mating season can disrupt the breeding cycle. The Bureau of Land Management works with the grazing permittees to minimize the grazing conflicts with the sage grouse leks during the breeding season.

Another potential conflicting use is recreational off-road vehicle use because it fragments habitat and can disrupt the birds during the breeding season. However, ODFW reports that, at this time, there is not a problem with off-road vehicle use at this site. The Bureau of Land Management has a seasonal off-road vehicle closure from March 15 through September 1 south of Highway 20.

A private park or campground would be a conflicting use because it would attract people and vehicles and alter the landscape.

4. Economic, Social, Environmental and Energy Consequences Analysis.

(A) Economic Consequences

Construction costs could increase if building activity is restricted during the breeding season. Restricting structural development within one quarter mile of the lek would have a negligible economic effect because there is land available outside of the sensitive habitat area for residences or other structural development.

Limiting the development of parks or campgrounds would have a negligible economic consequence as there are numerous private and public recreational facilities throughout the county.

Maintaining the lek site and sensitive habitat area sites will help assure that the species does not become a federally threatened and endangered species. Should this happen, the protection criteria would be much more restrictive around the remaining lek sites.

(B) Social Consequences

The social consequence of allowing unregulated conflicting uses could be the abandonment of the lek site which would be a loss to the segment of society that enjoys viewing wildlife. The positive social consequences of limiting conflicting uses would be continuing opportunities for naturalists and bird watchers to study and enjoy the birds. However because the site is on private land opportunity for public access may be limited.

Structural development within the sensitive habitat area could be prohibited with little social consequence as owners have the potential to develop their properties outside of the quarter mile sensitive habitat area.

(C) Environmental Consequences

The environmental consequences of allowing unregulated conflicting uses could be the destruction of the characteristics which make the lek desirable to the birds which could cause abandonment of the site and failure of breeding and reduction in the sage grouse population. There are no identified negative environmental consequences of prohibiting conflicting uses.

(D) Energy Consequences

There are no identified significant energy consequences from either permitting or limiting conflicting uses.

5. Program To Meet Goal 5.

The Board of County Commissioners finds that, based on the ESEE consequences, both the resource site and the conflicting uses are important relative to each other and that the ESEE consequences should be balanced to allow conflicting uses in a limited way (OAR 660-16-010(3)).

In order to protect both the lek and the sensitive habitat area and allow limited conflicting uses, the following restrictions shall apply:

1. Site plan review under the Sensitive Bird and Mammal Habitat Combining zone shall be required for all land uses within the sensitive habitat area requiring a conditional use permit.
2. New structural development within the quarter mile sensitive habitat area shall be prohibited because there are alternative locations for structures outside of the sensitive habitat area.
3. Existing structures may be repaired and maintained.
4. Partitions creating a residential building site within the sensitive habitat area shall be prohibited.

In addition, the Bureau of Land Management is working with private property owners to develop grazing management plans to minimize grazing conflict with the lek site.

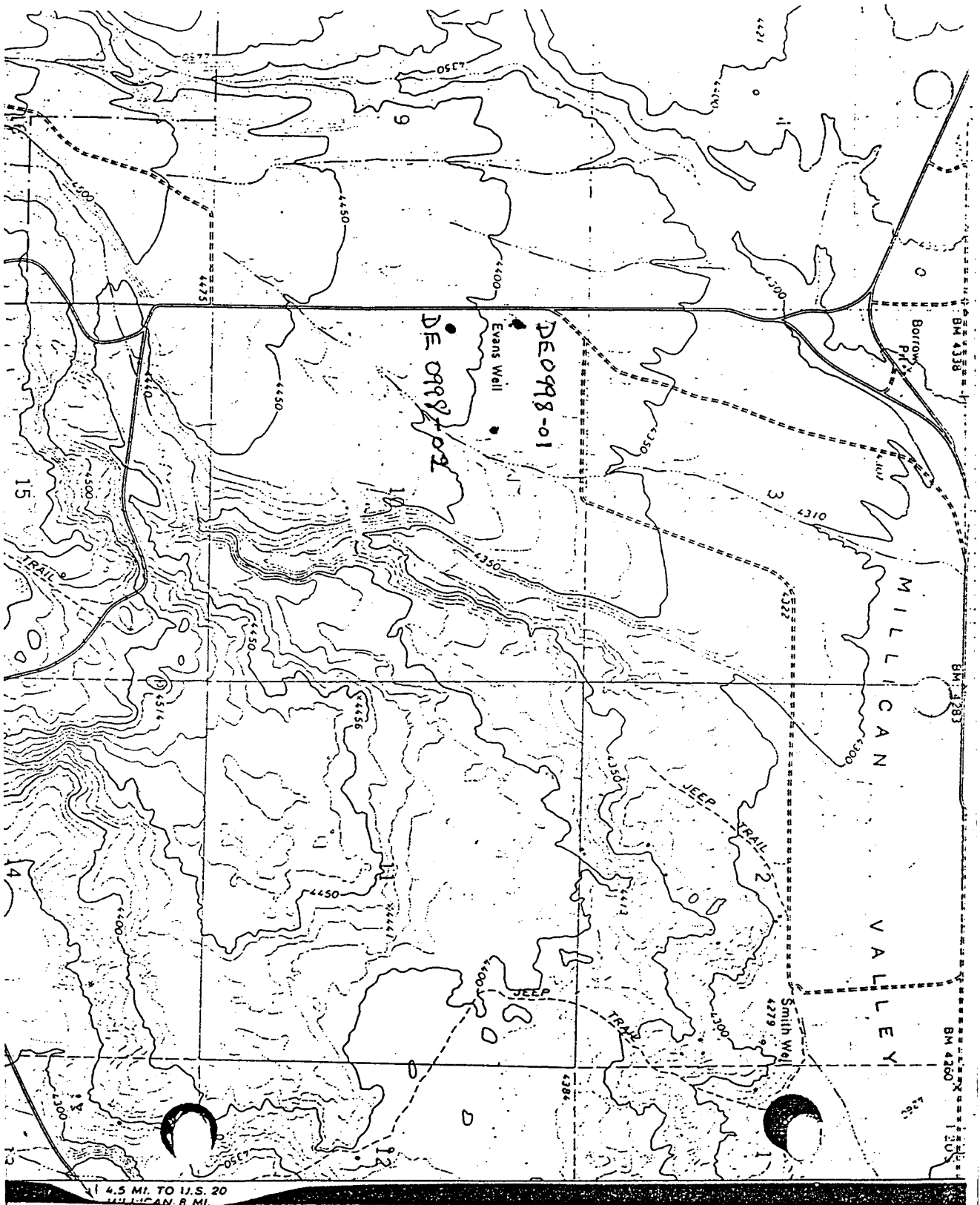
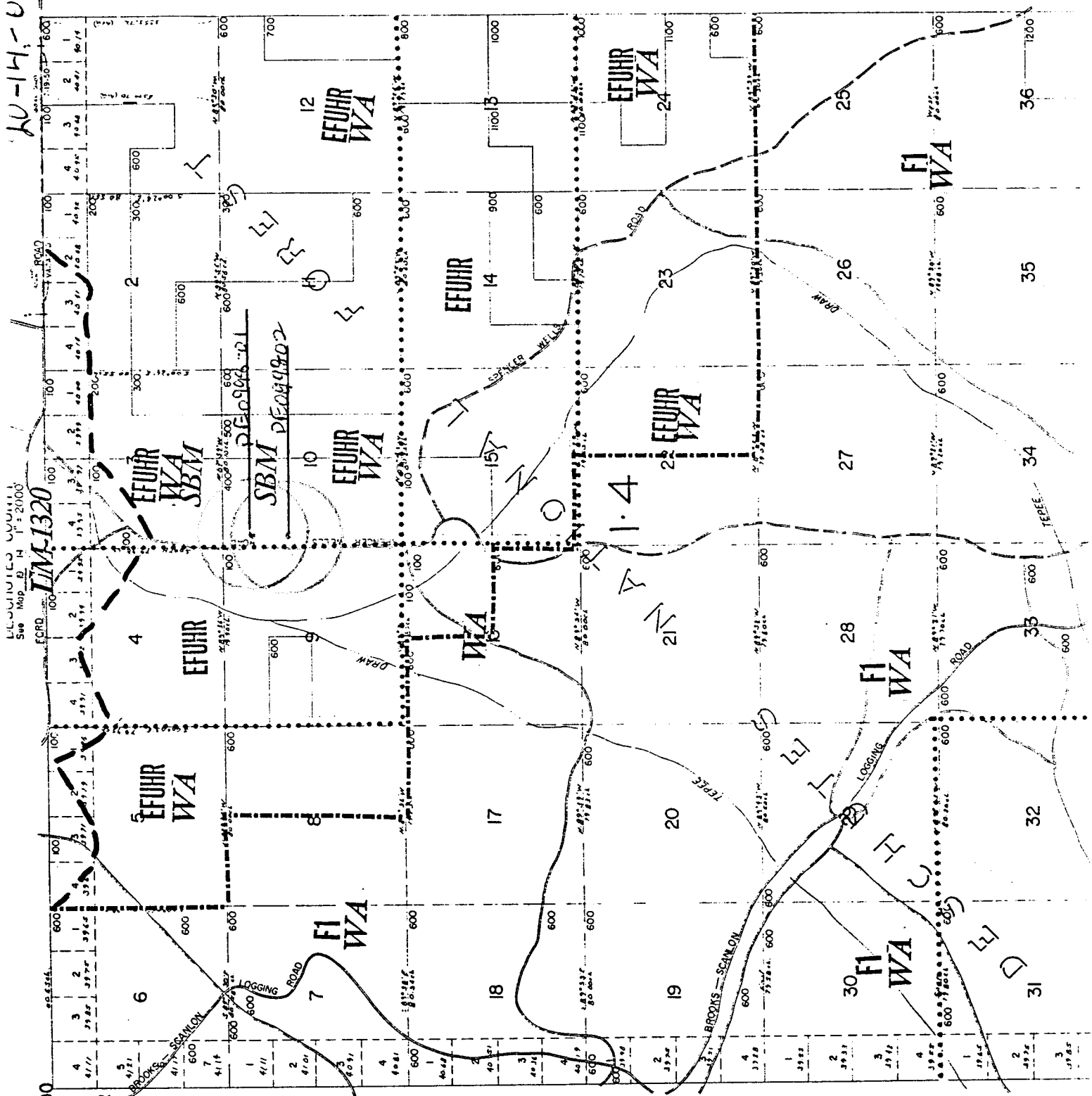


Exhibit "A-1"  
Sage Grouse Lek  
DE-0998-01  
20-14-10/NENW

20-14-10-00

See Map 20 13



See Map 20 13

Exhibit "A-2"  
Sage Grouse Lek  
DE-0998-01/DE-0998-02  
20-14-10/NENW

ESEE FINDINGS AND DECISION  
SAGE GROUSE SITE  
DE 0999-01 - Millican Pit

0135-2453

1. Inventory.

The Oregon Department of Fish and Wildlife (ODFW) has identified a Sage Grouse lek in Township 19S, Range 14E, Section 26 SESE (map number 19-14-00-2200). The ODFW identifier for the site is DE 0997-01. The site is also known as Millican Pit. The sensitive habitat area includes the area within a 1/4 mile radius of the lek site. The quarter mile sensitive habitat area is necessary to buffer the lek site and protect the habitat used by the birds for day roosting and cover during the mating season. The habitat site and sensitive habitat area are designated on a map attached as Exhibit "A".

Sage grouse inhabit the sagebrush-grass areas in the eastern portion of the county. The population of sage grouse has shown considerable fluctuation over the years. The Bureau of Land Management estimates that the current population of adult birds in Deschutes County is 275. The Oregon Department of Fish and Wildlife in a 1992 report estimated the population as 775. Areas of particular concern for the sage grouse are the strutting grounds, known as leks. Strutting grounds are flat areas with vegetation less than six inches high on which the males exhibit a breeding display called strutting to attract the females.

2. Site Characteristics.

The lek site is used by the sage grouse for strutting display and mating grouse from February 1 through April 30 with the peak of activity in March and April. The lek is located on a state owned parcel that is zoned for surface mining (SM, Site #498). The area around the surface mine site is zoned Exclusive Farm Use (EFU) and Surface Mining Impact Area (SMIA) and Landscape Management Combining zone (LM). The minimum lot size for the area is 320 acres. There are portions of two Bureau of Land Management tax lots within the sensitive habitat area. South of the lek site there is an unrecorded subdivision with about 60 mostly 10 acre lots. This area is zoned EFU and Flood Plain (FP). Portions of two of these 10 acre tax lots are within the quarter mile sensitive habitat area.

3. Conflicts Identification.

Potentially Conflicting Uses With Habitat Site

<u>Zone</u>	<u>Permitted Use</u>	<u>Conditional Use</u>
EFU	-Farm use	-Single family

- Forest use
- Exploration for minerals
- Some road construction
- dwelling
- Residential homes
- Private park, campground
- Personal use airstrip
- Home occupation
- Process forest products
- Solid waste disposal site
- Storage, crushing, processing of aggregate
- Church or school
- Certain road projects
- Bed and breakfast

<u>Zone</u>	<u>Permitted Use</u>	<u>Conditional Use</u>
FP	-Farm use (no structure) -Forest management -Open space	-Road or bridge -Single family dwelling -Agricultural accessory buildings -Recreation Uses

<u>Zone</u>	<u>Subject to Site Plan</u>	<u>Conditional Uses</u>
SM	-Extraction of minerals -Storage of minerals -Screening, washing -Structures necessary for extraction, storage	-Geothermal exploration -Crushing -Batching asphalt concrete

Sage grouse depend on large areas of undeveloped rangeland habitat. Conflicts with sage grouse habitat are reduced by the limitations on uses in the exclusive farm use zone, by the 320 acre minimum lot size, and by the predominance of Bureau of Land Management land throughout their range. However, because of their sensitivity and importance, the sage grouse leks or strutting grounds need additional protection.

Uses conflicting with the leks are any activity or development which would interfere with the lek during the breeding season, disturb or occupy the ground in the lek area which could displace the birds, or destroy the vegetation within the sensitive habitat area the birds use for roosting and cover. These activities could include road construction, surface mining, or any construction activity, structural development and associated use of structures within 1320 feet of the lek.

The primary conflict at this site is potential surface mining or mineral processing on the site zoned for surface

mining.

Because the lek and sensitive habitat area are remote, it is unlikely that a church or school would be sited within the sensitive habitat area.

Residential development on two lots within the sensitive habitat area is a possible conflict. Although the 60 lot subdivision is mostly outside of the sensitive habitat development of these 5 acre lots would alter the vegetation used as cover and roosting habitat and introduce conflict with noise, traffic and dogs.

Agriculture is a permitted use in the exclusive farm use zone. Grazing is the principal agricultural use in the sensitive habitat area. Grazing during the mating season can disrupt the breeding cycle. The Bureau of Land Management works with the grazing permittees to minimize the grazing conflicts with the sage grouse leks during the breeding season.

Another potential conflicting use is recreational off-road vehicle use because it fragments habitat and can disrupt the birds during the breeding season. However, ODFW reports that, at this time, there is not a problem with off-road vehicle use at this site. The Bureau of Land Management has a seasonal off-road vehicle closure from March 15 through September 1 south of Highway 20.

A private park or campground would be a conflicting use because it would attract people and vehicles and alter the landscape.

4. Economic, Social, Environmental and Energy Consequences Analysis.

(A) Economic Consequences

Surface mining costs could increase if the surface mining activities are restricted during the season the lek is in use. The amount of material available from the site might be reduced if the extraction of minerals would alter the characteristics of the site. Restricting structural development on the EFU zoned land within one quarter mile of the lek would have a negligible economic effect because most of the land is BLM and structural development is not anticipated in the BLM management plans for the area.

The economic consequences to the owners of the two private tax lots (19-14-35-101 and 19-14-35-100) to the south of the lek would be minor because nonfarm residential development could occur outside of the sensitive habitat area on the two private lots.



Residential development would also be restricted by the LM, SMIA and FP zones.

Limiting the development of parks or campgrounds would have a negligible economic consequence as there are numerous private and public recreational facilities throughout the county.

Maintaining lek sites and sensitive habitat area will help assure that the species does not become a federally threatened and endangered species. Should this happen, the protection criteria would be much more restrictive around the remaining lek sites.

(B) Social Consequences

The social consequence of allowing unregulated conflicting uses could be the abandonment of the lek site which would be a loss to the segment of society that enjoys viewing wildlife. The positive social consequences of limiting conflicting uses would be continuing opportunities for naturalists and bird watchers to study and enjoy the birds.

Structural development within the sensitive habitat area could be prohibited with little social consequence as owners have the potential to develop their properties outside of the quarter mile sensitive habitat area. Residential development is a conditional use and is also subject to the SMIA and LM site plan requirements.

(C) Environmental Consequences

The environmental consequences of allowing unregulated conflicting uses could be the destruction of the characteristics which make the lek desirable to the birds which could cause abandonment of the site and failure of breeding and reduction in the sage grouse population. There are no identified negative environmental consequences of prohibiting conflicting uses.

(D) Energy Consequences

There are no identified significant energy consequences from either permitting or limiting conflicting uses.

5. Program To Meet Goal 5.

The Board of County Commissioners finds that, based on the ESEE consequences, both the resource site and the conflicting uses are important relative to each other and that the ESEE consequences should be balanced to allow conflicting uses in a limited way (OAR

660-16-010(3)).

In order to protect both the lek and the sensitive habitat area and allow limited conflicting uses, the following restrictions shall apply:

1. Site plan review under the Sensitive Bird and Mammal Habitat Combining zone shall be required for all land uses within the sensitive habitat area requiring a land use permit.
2. Structural development within the quarter mile sensitive habitat area shall be prohibited because there are alternative locations for structures outside of the sensitive habitat area.
3. Partitions creating a residential building site within the sensitive habitat area shall be prohibited.
4. The amended ESEE analysis for the surface mine (Site #494) identifies the lek as a conflicting use and requires consultation with ODFW prior to operation or expansion of the site to determine what specific requirements are necessary to protect the lek from surface mining conflicts.

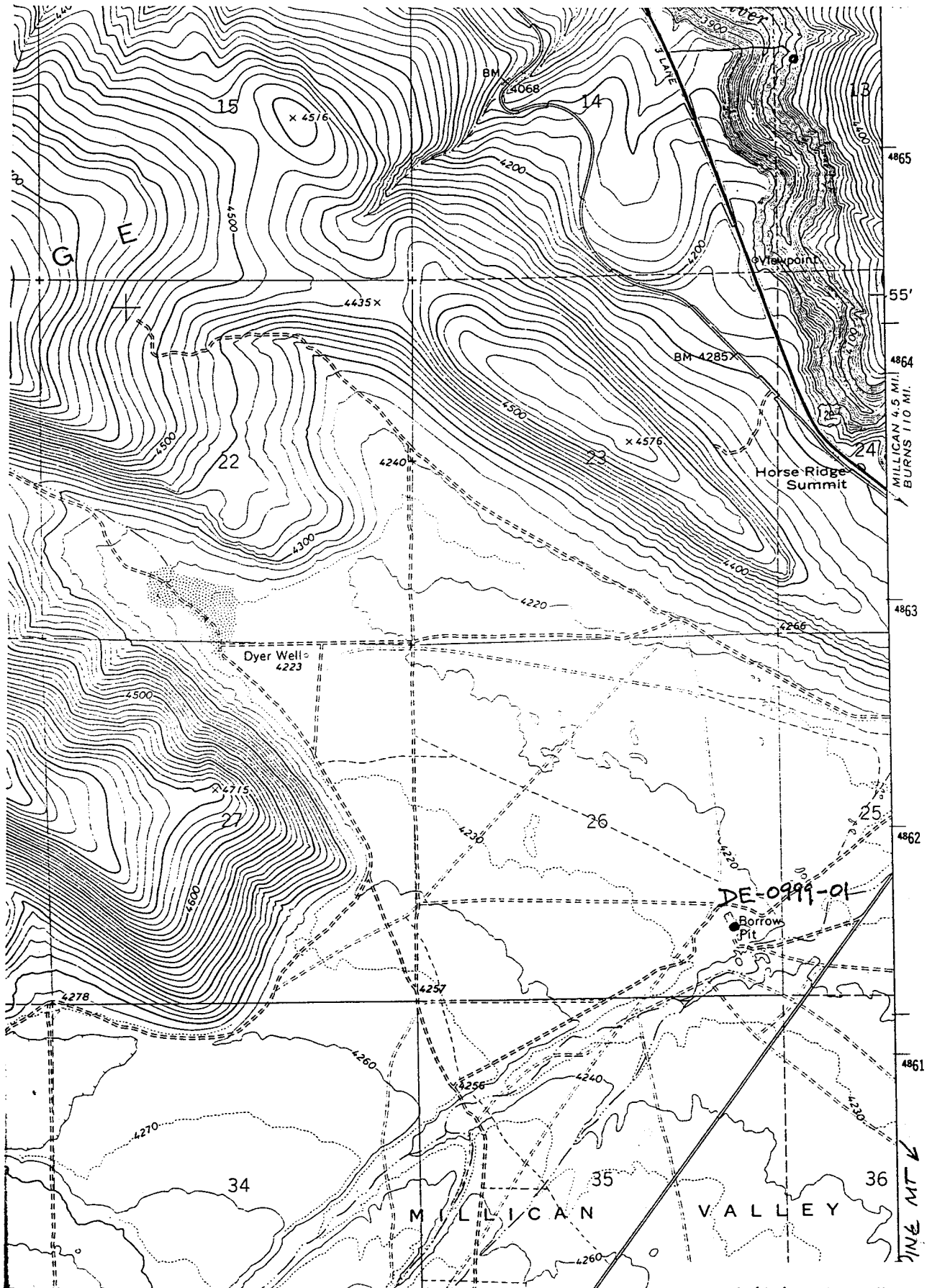
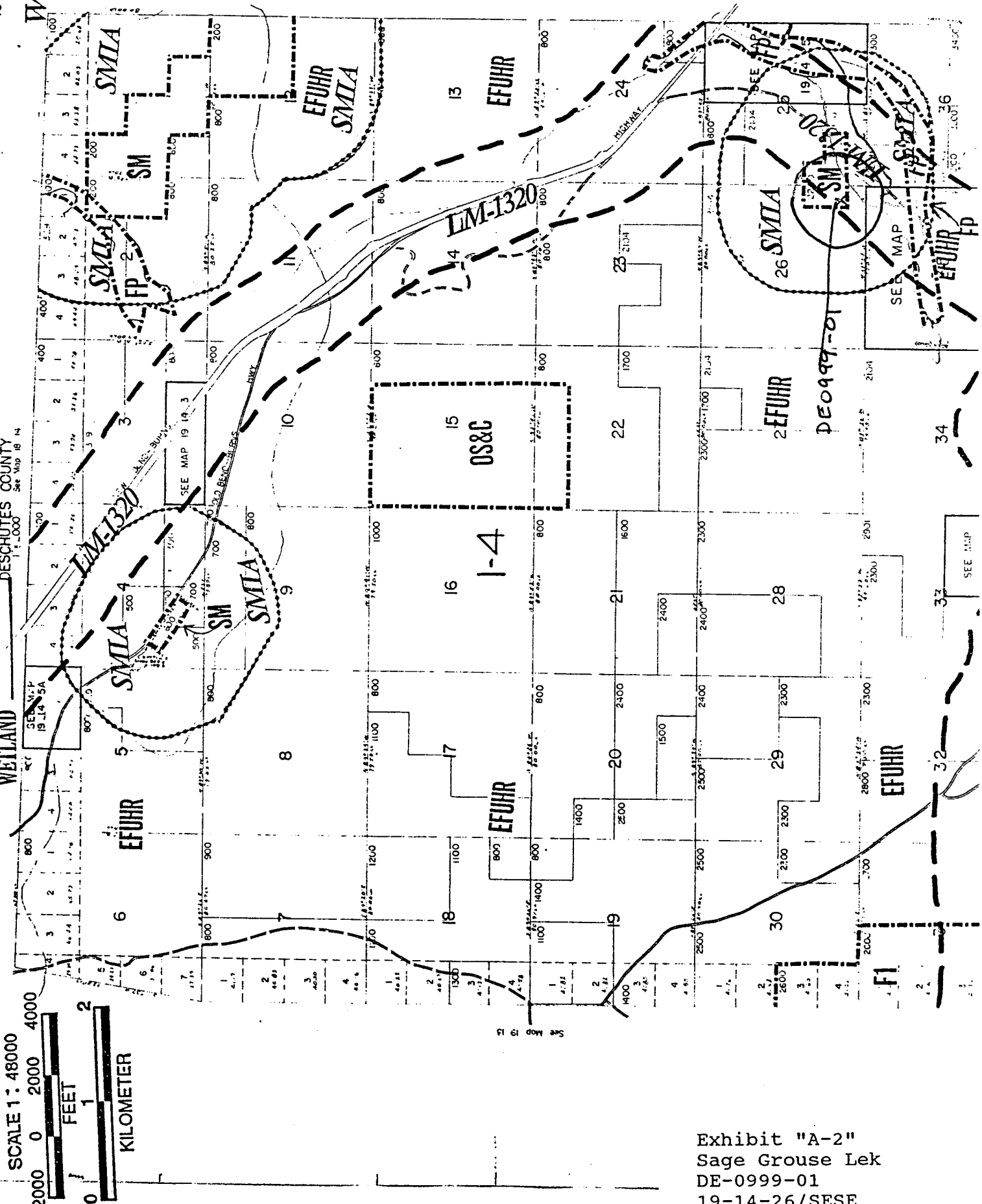


Exhibit "A-1"  
Sage Grouse Lek  
DE-0999-01  
19-14-26/SESE

dent numbers 301 thru 328, 350 thru 2009, 2102, 2403, 2500, 2902 thru 3007

FIRM MAP 275 C  
WETLAND  
T19S, R14E, W4M,  
DESCHUTES COUNTY  
1:1,000  
See Map 18 14



See Map 19 15

SEE MAP

SEE MAP

DE0999-01

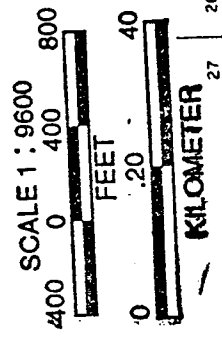
Exhibit "A-2"  
Sage Grouse Lek  
DE-0999-01  
19-14-26/SESE

WA

dead numbers 1502, 2000

SECTION 35 T19S. R.14E.W.M.  
DESCHUTES COUNTY  
1" = 400'

FIRM MAP 375  
WETLAND



DE0999-01

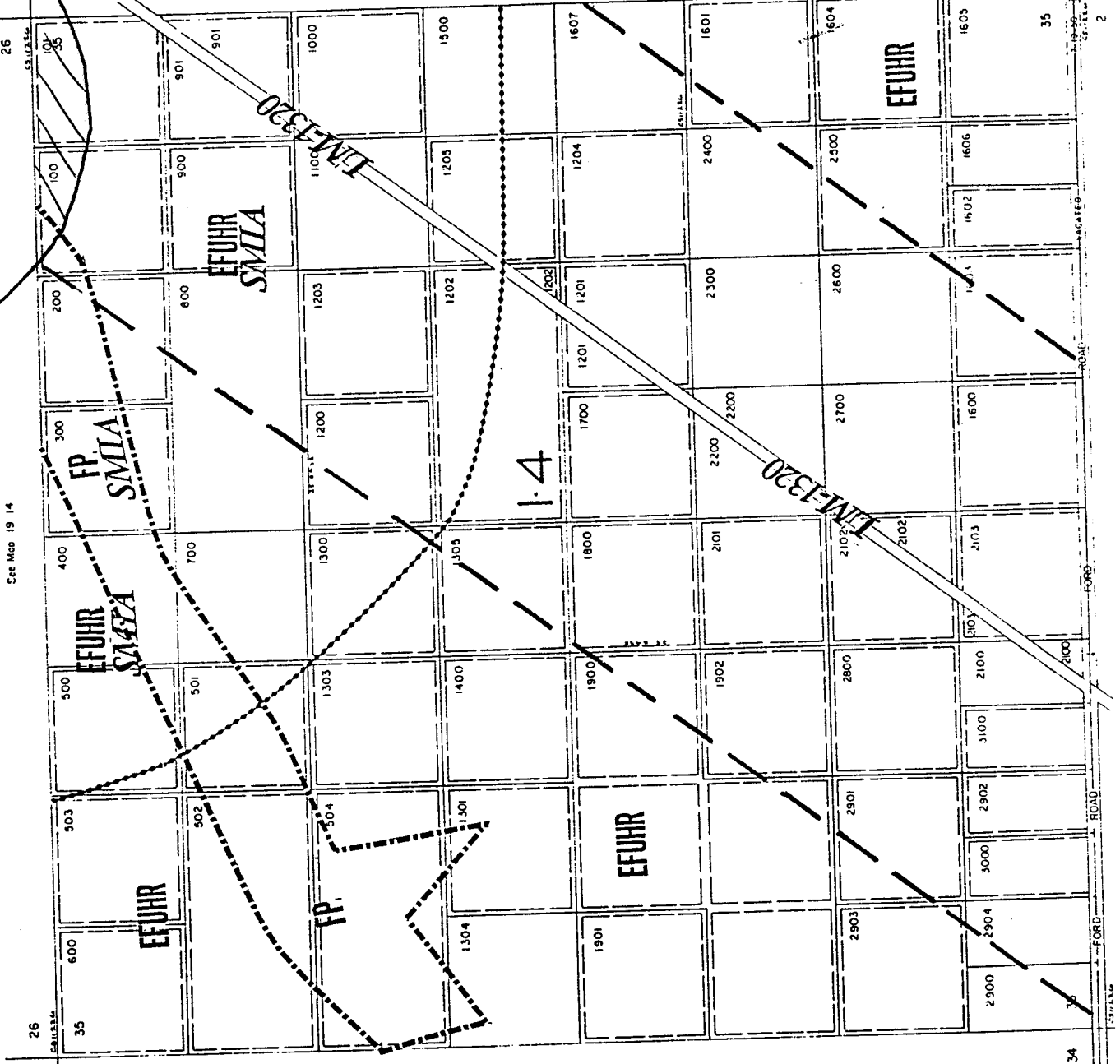


Exhibit "A-3"  
Sage Grouse Lek  
DE-0999-01  
19-14-26/SESE

EXHIBIT "5" FOR ORDINANCE NO. 94-004FINDINGS OF BOARD OF COUNTY COMMISSIONERS  
SUPPORTING ADOPTION OF AMENDMENTS TO THE  
FISH AND WILDLIFE CHAPTER OF THE  
RESOURCE ELEMENT OF PL-20 THE DESCHUTES  
COUNTY COMPREHENSIVE PLAN

Ordinance 92-041 adopted amendments to the Fish and Wildlife chapter of the Resource Element of the Deschutes County Comprehensive Plan. The ordinance was adopted as part of periodic review of the county comprehensive plan in order to comply with OAR 660-16, the Goal 5 administrative rule. The amendments adopted inventories, and economic, social, environmental and energy consequences analyses and decisions (ESEE) for fish and wildlife resources.

Oregonians in Action, a state land use organization, objected to the County's final periodic review order. The objections pertained to the Goal 5 ESEE analysis for sensitive bird and mammal species. The Land Conservation and Development Commission upheld the objections of Oregonians in Action and issued a periodic review remand order (93-RA-883). The remand order required the county to:

1. Identify specific conflicting uses and evaluate the ESEE consequences of those conflicting uses for the inventoried sensitive bird habitat sites.
2. Revise the Sensitive Bird and Mammal Habitat Combining Zone to: (1) require that any special condition resulting from the site-specific ESEE analysis (e.g., setbacks timing of activities, etc,) be applied as a condition of approval to the development approval; (2) clarify how a proposed action in the identified "sensitive" area triggers a review; and (3) delete the repetitive step in the review process (Section 18. 90.050 (A))

The Department of Land Conservation and Development approved a Periodic Review Work Plan (Order #00055) for Deschutes County. Work Task #3 of the approved work plan includes a requirement to adopt site specific ESEE analysis for each sensitive bird and mammal site.

During the spring and summer of 1993 the Oregon Department of Fish and Wildlife (ODFW) conducted field work to obtain more accurate inventory information on the precise location of certain sensitive bird sites and to determine if the sites were active. Based on this information, the county staff amended the inventory of sensitive bird and mammal sites and prepared site specific ESEE analyses and decisions for

sensitive bird and mammal sites on non-federal land and sites where the designated sensitive habitat area included non-federal land.

Site specific ESEEs were not prepared for federal sensitive bird and mammal sites where the sensitive habitat area is entirely on federal land. Federal sites are maintained on the county inventory as "2A" Goal 5 resources (OAR 660-16-005(1)). The Board finds that for federal sites there are no conflicting uses which can be regulated by the county. The federal sites are managed by either the Bureau of Land Management or the National Forest Service.

The Deschutes County Planning Commission conducted public hearings on File TA-94-2 and Ordinance 94-004, on March 30 and April 14, 1994. Notice of the public hearing was mailed to all property owners within the sensitive habitat area of the inventoried sensitive bird and mammal sites. Staff revised the site specific ESEEs based on testimony received and recommendations from the planning commission. The planning commission forwarded the revised site specific ESEE analyses and decisions to the Board of County Commissioners with a recommendation for adoption.

The Board of County Commissioners (Board) conducted a public hearing on the proposed amendment to Title 18.90 on May 23, 1994. Notice of the Board public hearing was mailed to all individuals or agencies who testified in writing or orally at the public hearing, who requested copies of site specific ESEEs or who requested notification. After consideration of the record and testimony at the public hearing, the Board finds that with the adoption of Ordinance No. 94-004 the county complies with the Periodic Review Remand Order requirement to identify specific conflicting uses and evaluate the ESEE consequences of those conflicting uses for the inventoried sensitive bird and mammal habitat sites.

The Board finds that the amendments to the Fish and Wildlife Chapter of the Resource Element of the Comprehensive Plan comply with the requirements of OAR 660-16.