



MEMORANDUM

TO: Deschutes County Board of Commissioners

FROM: Tanya Saltzman, AICP, Senior Planner

DATE: May 11, 2022

SUBJECT: Wildlife Inventory Update – Status Report

Staff is providing an update to the Board of County Commissioners (Board) concerning the mule deer wildlife inventory update project. First, staff will provide a brief overview of the project and will outline the draft amendment concepts that have emerged from Oregon Department of Fish and Wildlife (ODFW) recommendations as well as prior discussions with the Board. Next, staff will provide a tentative timeline of the project.

On August 30, 2021, staff provided the Board with a summary of the public outreach effort for the first phase of the wildlife inventory update project, which was funded by a Department of Land Conservation and Development (DLCD) Technical Assistance Grant.¹ In the fall, staff provided the Board with a “roadmap” of potential options pertaining to a wildlife inventory update,² and followed up several weeks later.³ Ultimately, the Board directed staff to pursue an update of one inventory, mule deer winter range, as a pilot project.

I. Wildlife Inventory Update Overview

As stated previously, the process for updating a Goal 5 wildlife inventory is prescribed by Oregon Administrative Rules (OARs). Oregon counties rarely, if ever, undergo the process to update existing wildlife inventories because, unlike cities, they are not required to comply with periodic review.⁴ By choosing to undertake a Goal 5 wildlife inventory update, Deschutes County is moving forward with a rarely-utilized and complex process that, while a significant effort, can hopefully provide an example of best practices for other jurisdictions as well as the County for future efforts.

¹ <https://www.deschutes.org/bcc/page/board-county-commissioners-meeting-12>

² <https://www.deschutes.org/bcc/page/board-county-commissioners-meeting-16>

³ <https://www.deschutes.org/bcc/page/board-county-commissioners-meeting-25>

⁴ Periodic Review is a term used in Oregon law to describe the periodic evaluation and revision of a local comprehensive plan. Prior to 2003, state law (ORS 197.628 – 636) called for counties to review their comprehensive plans according to a periodic schedule established by the Land Conservation and Development Commission (LCDC). The Oregon Legislature eliminated periodic review requirements for counties in 2003 (SB 920).

Over the last several months, staff has been constructing the draft amendments and corresponding findings. These will be provided to the Board prior to the hearings process as they are finalized; staff is providing a general overview here.

The amendments will:

- Update Deschutes County's Comprehensive Plan, Chapter 2, Resource Management, Section 2.6, Wildlife, by describing the mule deer winter range update.
- Update other sections of County Code to be consistent with proposed changes to the Wildlife Area (WA) Combining Zone.
- Create a new WA Combining Zone specifically related to mule deer winter range that corresponds to the boundaries determined by the Interagency Working Group (including ODFW and a wildlife biologist consultant) during the first phase of the project. The methodology for determining these boundaries was described in the Interagency Report and the Public Outreach Report provided to the Board last fall.
 - The boundaries of the existing WA Combining Zone remain unchanged.
- Allow, limit, or prohibit certain land uses determined to be "conflicting" with mule deer winter range. The decision to allow, limit, or prohibit each use is derived from an ESEE (Economic, Social, Environmental, Energy) analysis, a decision-making methodology outlined in [OAR 660-023-0040](#), which then becomes incorporated into the findings document for the amendments.
 - The existing WA Combining Zone already prohibits some uses. However, ODFW has subsequently recommended additional prohibitions which will now be applied to both the existing and new WA zone; the end result will be that both WA zones have the same use prohibitions/limitations/allowances, though there may be moderate differences between the existing and new WA zones to some of the proposed limitations.

The current WA Combining Zone for mule deer winter range covers approximately 315,847 acres, and the proposed additional area covers 188,132 acres, resulting in a total of 503,979 acres. Unincorporated communities (Tumalo, Terrebonne, Sunriver, Black Butte Resort, and Inn of 7th Mountain / Widgi Creek Resorts) remain exempt from the provisions of DCC Chapter 18.88.

Of the proposed 188,132 acres:

- 113,262 acres (61%) are on federal land
- 74,870 acres (39%) are on nonfederal land

Disaggregating the 74,870 acres on nonfederal land subject to Deschutes County's land use authority:

- 54,474 acres (3,619 tax lots) zoned Exclusive Farm Use
- 915 acres (12 tax lots) zoned Forest Use
- 9,358 acres (1,635 tax lots) zoned RR-10
- 7,597 acres (1,529 tax lots) zoned MUA-10

Conflicting Uses and ESEE Analysis

ODFW provided a list of conflicting land uses they recommended be prohibited in the existing and proposed winter deer ranges—these include the existing conflicting uses already prohibited in the current WA zone, as well as conflicting uses subsequently identified by ODFW and a 2009 Interagency Report. The human activity associated with these uses have various impacts on the winter range, ranging from noise to impediments to movement across land.

Staff has taken the ODFW recommendations and in some cases, “translated” or consolidated them to reflect current code language. For instance, due to changes in state law, the use referred to as “bed and breakfast inn” is now called “room and board arrangement” when located in the EFU zone.

The findings document and the ESEE analysis will provide an examination of each conflicting use based on the methodology outlined in OAR. Ultimately, the ESEE is a decision-making tool designed to weigh the positive and negative economic, social, environmental, and energy consequences of allowing a use, limiting a use, or prohibiting a use. The ESEE is not intended to require separate studies for aspects such as industry profits/loss, employment statistics, scientific data and the like. As stated in OAR 660-023-0040, ESEE Decision Process, “The ESEE analysis need not be lengthy or complex, but should enable reviewers to gain a clear understanding of the conflicts and the consequences to be expected.”

In addition to the use prohibitions and limitations established through the 1992 process that created the existing WA combining zone, staff’s draft ESEE analysis will list certain newly identified conflicting uses that should be prohibited, limited, or allowed fully, despite the possible impacts on the deer winter range. Staff is continuing to consult with the Department of Land Conservation and Development and ODFW prior to the initiation of the public process and reiterates that the draft concepts represent a starting point for the public process that the Board may ultimately refine. Based on recommendations from ODFW, the decisions made during the 1992 process, the relative prevalence of certain uses, and staff’s understanding of Board priorities, staff anticipates the draft amendments will include the following regulations:

Allowed with Limitations

Allowing the following use subject to restrictions during the time of year deer use the winter range (from December through April) offers the greatest net benefit for those land uses while still considering habitat needs:

- Guest ranch/dude ranch

Allowed Fully

Allowing the following uses in the deer winter range provide economic and social benefits that should not be limited in the mule deer winter range. This could help address the region's housing and houselessness challenges, which has been noted as a Board priority.

- Camping areas
- RV parks

Prohibited

Deschutes County finds that the significance of mule deer winter range compared to all other conflicting uses, listed below, warrants prohibiting them.

- Bed and Breakfast/Room and board arrangement
- BMX / Bike Course
- Commercial dog kennel
- Fishing lodge
- Golf course
- Model airplane park
- OHV course
- Paintball course
- Playground, recreational facility or community center
- Public or private school
- Shooting range
- Solar Farms
- Timeshare
- Veterinary clinic
- Wind farm development

II. Process and Timeline

Staff is aiming for a first evidentiary hearing with the Planning Commission on July 14, 2022, though acknowledges that this timeline is still subject to minor adjustments. Prior to the hearing, staff has several key tasks with target dates outlined below:

Planning Commission check-in (May 26): Staff will provide a general update to the Planning Commission, providing similar information to this update with the Board.

35-day notice filed with DLCD (June 9): Counties are required to provide DLCD with written notice of a land use change 35 days prior to the first evidentiary hearing. At this point, draft amendments are provided to DLCD and written comments may be provided to staff for incorporation into the record.

Website/StoryMap (early June): To coincide with the 35-day notice, staff will create a project StoryMap that provides relevant maps, draft amendments, and information on the public process.

Measure 56 mailings and notice of public hearing mailings: Measure 56 requires counties to provide notice to landowners between 20 and 40 days prior to the first public hearing when a land use change limits or prohibits previously allowed uses. Subject to verification by County legal counsel, Measure 56 notices with the required statutory language will be mailed to property owners in the zones where uses are proposed to be prohibited or limited (see above). Complementing the Measure 56 notices and with the goal of full transparency and public awareness, staff anticipates providing general notices to property owners in other areas that may fall into the existing or proposed WA zone but in which uses would not be newly prohibited or limited.

Public Information Sessions (late June): Given the high visibility as well as the complexity of this project, staff believes it will be helpful to conduct several public information sessions to provide an overview of the inventory update. This will enable members of the public as well as stakeholders to more fully digest the proposed amendments well in advance of the formal public process, and will allow staff to explain the project and answer questions. Staff anticipates that verbal comments provided at these sessions would not be part of the official record and will make that clear during all sessions. However, given that these sessions will occur after 35-day notice has been provided to DLCD, any written comments received would indeed be a part of the record. Staff aims to conduct three information sessions: one hybrid online/in-person meeting in Bend, one in person in Sisters, and one in-person in La Pine.

III. Next Steps

Staff is providing this general overview of the timeline and the major elements of the proposed amendments while many elements are still in progress. If requested, staff can return at a later date closer to the Planning Commission hearing to provide more details and/or discussion of specific elements. Lastly, it is important to note again that the amendments that will be provided for the public process effectively represent a starting point; the public process is designed to capture public and stakeholder input that may help further shape any proposed legislation decided by the Board.