July 18, 2014

TO: Land Conservation and Development Commission

FROM: Jon Jinings, Community Services Specialist
Jim Rue, Director

SUBJECT: Agenda Item 7, July 24-25, 2014, LCDC Meeting

RULEMAKING REGARDING YOUTH CAMPS ON CERTAIN AGRICULTURAL LANDS IN EASTERN OREGON

I. SUMMARY

A. Type of Action and Commission Role

The department is asking the Land Conservation and Development Commission (commission) to hold a public hearing on draft amendments to Oregon Administrative Rule (OAR) chapter 660, division 33, accept public testimony, and to continue the hearing until the next regular commission meeting scheduled for September 25 and 26, 2014.

The proposal would allow counties to authorize establishment of youth camps on land in Eastern Oregon zoned exclusive farm use (EFU) that are predominantly composed of Class VI, VII, or VIII soils. This rulemaking is required by legislation enacted during the 2013 legislative session. The draft proposal was developed with the assistance of a rules advisory committee (RAC).

For additional information about this report, please contact Jon Jinings at 541-322-2032, or by email at jon.jinings@state.or.us.

II. BACKGROUND

A bill enacted in the 2013 session (HB 3098) authorizes youth camps in EFU zones and requires the commission to adopt rules to provide for this use. The rules must be “based on” current rules authorizing youth camps in forest zones (Attachment C), but the bill does not specify to what extent those rules may be altered as they are translated into new rules for farmland. HB 3098 was proposed in response to a request for expansion of the Young Life development in Jefferson and Wasco counties, but the initial bill was adjusted considerably during legislative consideration. The final legislation is not necessarily intended to apply to the current Young Life development.
The commission initiated rulemaking and authorized the establishment of a RAC during its
regular March 2014 meeting. The following stakeholder groups and associated representatives
agreed to serve on the RAC and actively participated in the development of the draft rule:

- The Confederated Tribes of Warm Springs – Bobby Brunoe and Ellen Grover
- Wasco County – John Roberts, Planning Director
- Citizen Involvement Advisory Committee – Mollie Eder
- Young Life – Linda Swearingen
- 1000 Friends of Oregon – Steve McCoy
- Oregon Department of Agriculture – Jim Johnson
- Oregon Department of Fish & Wildlife – Joy Vaughan
- LCDC Liaison – Commissioner Catherine Morrow

A representative from the Oregon Cattlemen’s Association, Ray Sessler, was appointed but was
unable to participate. The department had also hoped to include at least one other member from
Oregon’s camping community but our search proved unsuccessful.

The proposed rule amendments are provided in Attachments A and B. Attachment A is the draft
language developed by the department with RAC input. Attachment B is a related amendment
adding youth camps as a permitted use in EFU zones on Table 1 of OAR chapter 660, division
33.

III. PROCESS AND ISSUES

HB 3098 sets forth several clear and objective requirements and directs the implementing rules
to be based on OAR 660-006-0031, which were adopted several years ago to allow youth camps
on forest land. The legislation also requires youth camps to pay particular attention to items of
archeological and cultural significance. HB 3098, section 2(2)(c).

The RAC initially held three meetings over the course of about six weeks:

- April 30, 2014 – Washington Family Ranch, Antelope, Oregon
- May 20, 2014 – Bend, Oregon
- June 10, 2014 – The Dalles, Oregon

Each meeting lasted for several hours and included frank discussion. Four key issues quickly
emerged:

1. Number of allowable youth camp participants
2. Types of allowable youth camp activities
3. Process for implementing section 2(2)(c) of the bill
4. Considerations for wildlife
The department’s original plan was to hold just three RAC meetings. However, after the third meeting it was clear that the issues were not sufficiently resolved and an additional meeting would be necessary. A fourth meeting was scheduled for July 1 in Madras. This was a very productive session, resulting in sufficient agreement that the department felt it could move forward with a recommendation to the commission.

However, because the unanticipated RAC meeting was added less than a month before the commission hearing, the draft rule will not be available to the public for an adequate period of time prior to the hearing on July 24, 2014. The department believes that postponing adoption until the commission’s September 2014 meeting will provide a more adequate timeframe for public review and comment, as well as allow the department an opportunity to further refine the text as needed.

Furthermore, after reaching the conclusion that targeting a September adoption would be an appropriate course of action, the department received comments indicating that what we had understood as agreement following the final RAC meeting was not shared by all parties (Attachment E). Specifically, a Young Life participant (who is not a RAC member) expressed that Young Life is not satisfied with one section of the proposed rule. This comment letter was received too late to address it in this report.

The department also received a letter commenting on the draft rule amendments from Representatives Clem, McLane, Huffman, Davis, Whisnant, and Johnson (Attachment E). The letter was received too late for the department to respond to it in this report. Department staff will be prepared to address the two comment letters at the hearing.

Each of the four issues that emerged at the RAC are discussed in the following sections.

A. **Number of allowable youth camp participants**

Provisions for youth camp participants are located at subsection (40)(c) of the draft rule. p. 1, lines 9–23. For purposes of this rule, the term “youth camp participant” is intended to mean campers, leaders, staff, volunteers and any other parties directly involved in youth camp functions and located on site. Numbers of allowable participants are measured in terms of sleeping quarters.

The forest rule addresses this issue by requiring the local government to determine the correct number of participants based on a case-by-case assessment of property-specific characteristics and sets the maximum number of youth camp participants that may be accommodated at 350. This approach has been carried forward into the current draft, but Young Life’s representative on the RAC strongly contended that the 350 cap is too low to meet their needs. The limit offered instead was 600 participants, which is assumed to be made up of 400 campers and 200 leaders, staff and volunteers.

The draft rule attempts to reconcile these differences by maintaining 350 as a baseline maximum while providing an opportunity for an applicant to add to that number, up to 600 participants, by
setting aside resource lands that would be permanently protected from future development by means of a conservation easement. As written, the “set aside” lands would be located in the same county as the proposed youth camp, zoned for either farm or forest use and be predominantly composed of class I-VI soils. The soils test has been included to help guarantee that lands with a genuine value for resource activities are protected in exchange for additional youth camp participants. The draft language does not require set aside lands to be located adjacent to the 1,000 acre lot or parcel on which the youth camp is located.

**B. Types of allowable youth camp activities**

The types of activities that may be allowed in a youth camp also received a large degree of discussion. Language in the forest rule emphasizes “passive” recreational activities and specifies the number and types of buildings that may be established to support youth camp functions.

The language recommended in the draft closely follows the forest rule. These provisions are included at subsection (40)(d) of the draft rule in Attachment A at p. 2, lines 28–35 and p. 3, lines 1–18. The relevant forest rule provisions are in Attachment C at p. 2, lines 21–34 and p. 3, lines 1–13. The Young Life representative on the RAC expressed concerns that strict adherence to the forest rule language regarding allowable activities could be more limiting than they preferred and could leave them vulnerable to legal challenges.

In response to these concerns, the draft rule in Attachment A proposes provisions that modestly revise the forest rule language regarding recreational activities. Tennis courts and gymnasiums are not listed as prohibited, as they are in the forest rule, and provisions regarding swimming pools are less restrictive in the proposal than exists for forest zones.

The draft also allows for bathing facilities in sleeping quarters. The commission made a deliberate choice when adopting the forest rules not to allow bathing facilities in sleeping quarters in order to guard against youth camps being converted to resorts or managed as hotels by future operators. The department believes this is sound policy. However, the RAC and the department feel it is worthwhile to explore different methods to achieve the same policy objective. A ratio of one shower per five beds is likely to result in a dormitory-style arrangement rather than a product resembling overnight accommodations at a destination resort.

Young Life’s representative also asked for language in the rule that would offer youth camps relief from the ordinary limitations of providing sewer service to rural lands. The department understands this request to be driven by Young Life’s interest in using the sewer system that serves their existing camp facilities for future youth camp projects. This sewer system was established to support the city of Rajneeshpuram and is designed to support 5,000 residents. However, rural sewer service is regulated by Goal 11, so policy changes should be discussed in the context of the Goal 11 rule rather than the Goal 3 rule.

**C. Process for implementing Section 2(2)(c) of the bill**

HB 3098 requires “strict adherence to the protection of archaeological objects, archaeological sites, burials, funerary objects, human remains, objects of cultural patrimony and sacred
objects…in the development and use of the youth camp.” The RAC agreed that providing guidance on how to accomplish this requirement would be helpful for local decision-makers and future applicants.

After a couple of drafts, lawyers representing Youth Life and the Confederated Tribes of Warm Springs worked out the language included in the draft rule at subsection (40)(f). Attachment A at p. 3, lines 22–34. The department recommends the commission agree with this language.

D. Considerations for wildlife

Over the course of the four RAC meetings, ODFW consistently renewed concerns they raised during the original solar rulemaking project in 2010-2011. In effect, ODFW is very concerned that local Goal 5 programs for protecting wildlife habitat are out-of-date to the extent that important wildlife resources may not receive adequate consideration.

Based on the choices the commission made with regard to commercial-scale photovoltaic solar projects, which have similar impacts on farmland as the projects subject to his rule, the department found it justified to include the wildlife habitat protection language in the draft youth camp rule as well. This language is located in subsection (40)(l). Paragraphs (40)(l)(A)–(C) are the same as language included in the solar rule. Attachment A at p. 5, lines 4–25.

The Young Life representative on the RAC is not entirely supportive of this inclusion and has offered alternative language (Attachment D).

Should the commission agree to include wildlife language in the youth camp rule, the department recommends using the language in the proposed draft in Attachment A, which deliberated on and approved during the solar rulemaking. Having differing language for the same issue would be awkward and confusing and could lead to challenging legal interpretations. The department also recommends that, should the commission agree to apply wildlife language to the youth camp rule, that this language be removed from the body of each rule and isolated in OAR 660-033-0130 as separate criteria, similar to the provisions of OAR 660-033-0130(5). This way it would apply equally to both solar and youth camp proposals (and perhaps others and some point) without having to be listed redundantly at multiple locations.

IV. DEPARTMENT RECOMMENDATION & DRAFT MOTION

The department recommends the commission hold a public hearing to accept testimony on the draft amendments to OAR 660-033-0130 and OAR 660-033-0120 as shown in Attachments A and B, respectively. After any testimony has concluded the department recommends that the hearing be continued until the commission’s next regular meeting September 25–26, 2014, for additional testimony and adoption.

Recommended motion: I move the commission continue the hearing regarding proposed amendments to OAR 660-033-0130(40) and OAR 660-033-0120 as recommended by the department and explained in the staff report.
V. ATTACHMENTS

A. Proposed draft rule amendment to OAR 660-033-0130
B. Proposed draft rule OAR 660-033-0120
C. OAR 660-006-0031
D. Alternative wildlife language offered by Young Life
E. July 17, 2014 letter of comment from Craig Kilpatrick representing Young Life
F. July 17, 2014 letter of comment from Representatives Clem, McLane, Huffman, Davis, Whisnant, and Johnson
OAR Chapter 660, Division 33

Uses Authorized on Agricultural Lands

Minimum Standards Applicable to the [Schedule] Table of Permitted and Conditional Uses. The following [standards] requirements apply to uses specified, and as listed in the table adopted by OAR 660-033-0120. [where t] For each section of this rule, the corresponding section number is shown [o]in the [chart] table [for a specific use under consideration]. Where no numerical reference is indicated on the [chart] table, this [division] rule does not specify any minimum review or approval criteria. Counties may [include] adopt procedures and conditions in addition to those listed in the [chart] table, as authorized by law[.]

...  

(40) A youth camp may be established on agricultural land under the requirements of this section. The purpose of this section is to allow for the establishment of youth camps that are generally self-contained and located on a lawfully established unit of land of suitable size and location sufficient to limit potential impacts on nearby land and to ensure compatibility with surrounding farm uses.

(a) Definitions: In addition to the definitions provided for this division in OAR 660-033-0020 and ORS 92.010, for purposes of this section the following definitions apply:

(A) “Youth camp” means a facility that is either owned or leased, and is operated by a state or local government or a nonprofit corporation as defined under ORS 65.001 and is established for the purpose of providing an outdoor recreational and educational experience primarily for the benefit of persons 21 years of age and younger. Youth camps do not include a juvenile detention center or juvenile detention facility or similar use.

(B) “Youth camp participants” means persons directly involved with providing or receiving youth camp services, including but not limited to, campers, group leaders, volunteers or youth camp staff.

(b) Location: A youth camp may be located only on a lawfully established unit of land suitable to ensure an outdoor experience in a private setting without dependence on the characteristics of adjacent and nearby public and private land. In determining the suitability of a site for a youth camp the county shall consider its size, topography, geographic features and other characteristics, the proposed number of overnight participants and the type and number of proposed facilities. A youth camp may be located only on property that is:

(A) At least 1,000 acres;

(B) In eastern Oregon;

(C) Composed predominantly of class VI, VII or VIII soils;

(D) Not within an irrigation district;
(E) Not within three miles of an urban growth boundary;

(F) Not in conjunction with an existing golf course;

(G) Suitable for the provision of protective buffers to separate the visual and audible aspects of youth camp activities from other nearby and adjacent lands and uses. Such buffers shall consist of natural vegetation, topographic or other natural features and shall include setbacks from adjacent public and private lands, roads, and riparian areas. Setbacks from roads and adjacent public and private property shall be at least 250 feet unless the county establishes a different setback distance based upon the criteria in this paragraph. Setbacks must be sufficient to:

(i) Prevent conflicts with commercial resource management practices,

(ii) Prevent a significant increase in safety hazards associated with vehicular traffic on adjacent roads; and

(iii) Minimize conflicts with resource uses on nearby resource lands;

(H) Suitable for the establishment of sewage disposal facilities without requiring a “sewer system” as defined in OAR 660-011-0060(1)(f). Prior to granting final approval, the county shall verify that a proposed youth camp will not result in the need for a sewer system;

(I) At least 1320 feet from any other lawfully established unit of land containing a youth camp approved pursuant to this section;

(J) Suitable to allow for youth camp development that will not interfere with the exercise of legally established water rights on nearby properties.

(c) Overnight Youth Camp Participants: The county shall establish the maximum number of overnight youth camp participants based on consideration of the size, topography, geographic features and other characteristics of the proposed youth camp site. A youth camp may not provide sleeping quarters for more than 350 youth camp participants, except as provided in paragraphs (A) through (C) of this subsection.

(A) A youth camp may provide sleeping quarters for more than 350 youth camp participants provided other resource lands that are located in the same county and that are in addition to the lawfully established unit of land approved for the youth camp are permanently protected from future development by a conservation easement as follows. Such resource lands shall be selected from among properties proposed by either the county or a local land trust and one or both of these entities shall hold the conservation easement. For each 160 acres of agricultural lands composed predominantly of class I-VI soils that are permanently protected from development, sleeping quarters for an additional 50 youth camp participants may be allowed. However, under no circumstances shall sleeping quarters for more than 600 youth camp participants be approved without an exception to statewide planning goal 3 and other applicable goals.
(B) The county may allow up to eight nights during the calendar year during which the number of overnight youth camp participants may exceed the total number of overnight participants allowed under paragraph (A) of this subsection.

(C) The county may allow overnight stays at a youth camp for participants of adult programs that are intended primarily for individuals over 21 years of age, not including staff, for up to 30 days in any one calendar year.

(d) Facilities: A youth camp may provide only the facilities described in paragraphs (A) through (I) of this subsection:

(A) Recreational facilities, provided such facilities shall be limited to passive improvements such as open areas, ball fields, volleyball courts, soccer fields, archery or shooting ranges, hiking and biking trails, horseback riding areas or swimming pools, and provided such passive improvements are developed in a manner consistent with the site's natural environment. Intensive developed facilities such as water parks and golf courses are not allowed;

(B) Cooking and eating facilities, provided they are within a building that accommodates youth camp activities but not in a building that includes sleeping quarters. Food services shall be limited to those provided in conjunction with the operation of the youth camp and shall be provided only for youth camp participants. The sale of individual meals may be offered only to family members or guardians of youth camp participants;

(C) Bathing and laundry facilities;

(D) Up to three camp activity buildings, not including a building for primary cooking and eating facilities.

(E) Sleeping quarters, including cabins, tents or other structures, for youth camp participants only, consistent with subsection (c) of this section. Sleeping quarters intended as overnight accommodations for persons not participating in youth camp activities or as individual rentals are not allowed. Sleeping quarters may include restroom facilities and, except for the caretaker's dwelling, may provide only one shower for every five beds. Sleeping quarters may not include kitchen facilities.

(F) Covered areas that are not fully enclosed for uses allowed in this section;

(G) Administrative, maintenance and storage buildings including permanent structures for administrative services, first aid, equipment and supply storage;

(H) An infirmary, which may provide sleeping quarters for medical care providers (e.g., a doctor, registered nurse, or emergency medical technician);

(I) A caretaker's residence, provided no other dwelling is on the youth camp property.
(e) A campground as described in ORS 215.283(2)(c), OAR 660-033-0120, and section (19) of this rule may not be established in conjunction with a youth camp.

(f) Conditions of Approval: In approving a youth camp application, a county must include conditions of approval as necessary to achieve the requirements of this section.

(A) With the exception of trails, paths and ordinary farm and ranch practices not requiring land use approval, youth camp facilities shall be clustered on a single development envelope of no greater than 40 acres.

(B) A youth camp shall adhere to standards for the protection of archaeological objects, archaeological sites, burials, funerary objects, human remains, objects of cultural patrimony and sacred objects, as provided in ORS 97.740 to 97.750 and ORS 358.905 to 358.961, as follows:

(i) If a particular area of the proposed youth camp site is proposed to be excavated, and if that area contains or is reasonably believed to contain resources protected by ORS 97.740 to 97.750 and ORS 358.905 to 358.961, the application shall include evidence that there has been coordination among the appropriate Native American Tribe, the State Historic Preservation Office (SHPO) and a qualified archaeologist, as described in ORS 390.235(6)(b).

(ii) The applicant shall obtain a permit required by ORS 390.235 before any excavation of an identified archaeological site begins.

(iii) The applicant shall monitor construction during the ground disturbance phase(s) of development if such monitoring is recommended by SHPO or the appropriate Native American Tribe.

(C) A fire safety protection plan shall be adopted for each youth camp that includes the following:

(i) Fire prevention measures;

(ii) On site pre-suppression and suppression measures; and

(iii) The establishment and maintenance of fire-safe area(s) in which camp participants can gather in the event of a fire.

(D) Except as determined under paragraph (E), a youth camp’s on-site fire suppression capability shall at least include:

(i) A 1000 gallon mobile water supply that can reasonably serve all areas of the camp;

(ii) A 60 gallon-per-minute water pump and an adequate amount of hose and nozzles;

(iii) A sufficient number of firefighting hand tools; and
(iv) Trained personnel capable of operating all fire suppression equipment at the camp during designated periods of fire danger.

(v) An equivalent level of fire suppression facilities may be determined by the governing body or its designate. The equivalent capability shall be based on the response time of the effective wildfire suppression agencies.

(E) The county may waive the requirements of paragraph (D), if the youth camp is located in an area served by a structural fire protection provider and that provider informs the governing body in writing that on-site fire suppression at the youth camp is not needed;

(F) The county shall require, as a condition of approval of a youth camp, that the land owner of the youth camp sign and record in the deed records for the county a document binding the land owner, or operator of the youth camp if different from the owner, and the land owner’s or operator’s successors in interest, prohibiting:

(i) a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937, or

(ii) future land divisions, and development on the subject property that is not related to the youth camp unless the county’s original approval of the camp is rescinded and the youth camp development is removed.

(G) Nothing in this rule relieves a county from complying with other requirements contained in the comprehensive plan or implementing land use regulations, such as the requirements addressing other resource values (e.g. resources identified in compliance with statewide planning Goal 5) that exist on agricultural lands.

(i) If a youth camp is proposed to be developed on lands that contain a Goal 5 resource protected under the county’s comprehensive plan, and the plan does not address conflicts between youth camp development and the resource, the applicant and the county, together with any state or federal agency responsible for protecting the resource or habitat supporting the resource, will cooperatively develop a specific resource management plan to mitigate potential development conflicts consistent with OAR chapter 660, division 23. If there is no program to protect the listed Goal 5 resource(s) included in the local comprehensive plan or implementing ordinances and the applicant and the appropriate resource management agency cannot successfully agree on a cooperative resource management plan, the county is responsible for determining appropriate mitigation measures in compliance with OAR chapter 660, division 23; and

(ii) If a proposed youth camp is located on lands where, after site specific consultation with a district state biologist, the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive) or habitat, or to big game winter range or migration corridors, golden eagle or prairie falcon nest sites, or pigeon springs), the applicant shall conduct a
site-specific assessment of the subject property in consultation with all appropriate state, federal, and tribal wildlife management agencies. A professional biologist shall conduct the site-specific assessment by using methodologies accepted by the appropriate wildlife management agency and shall determine whether adverse effects to special status species or wildlife habitats are anticipated. Based on the results of the biologist’s report, the site shall be designed to avoid adverse effects to state or federal special status species or to wildlife habitats as described above. If the applicant’s site-specific assessment shows that adverse effects cannot be avoided, the applicant and the appropriate wildlife management agency will cooperatively develop an agreement for project-specific mitigation to offset the potential adverse effects of the youth camp facility. Where the applicant and the resource management agency cannot agree on what mitigation will be carried out, the county is responsible for determining appropriate mitigation, if any, required for the youth camp facility.

(iii) The provisions of subparagraph (ii) are repealed on January 1, 2022.

(f) Applicability: The provisions of this section shall apply directly to any land use decision pursuant to ORS 197.646 and 215.427(3). A county may adopt provisions in its comprehensive plan or land use regulations that establish standards and criteria in addition to those set forth in this section, or that are necessary to ensure compliance with any standards or criteria in this section.
OAR 660-033-0120 Table

<table>
<thead>
<tr>
<th>USES</th>
<th>PARKS/PUBLIC/QUASI-PUBLIC</th>
</tr>
</thead>
<tbody>
<tr>
<td>HV Farmland</td>
<td>All Other</td>
</tr>
<tr>
<td>2.*18(a) or R2</td>
<td>R2,5,18(b-c)</td>
</tr>
<tr>
<td>18(b-c)</td>
<td>Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located.</td>
</tr>
<tr>
<td>2.*18(a) R2</td>
<td>Churches and cemeteries in conjunction with churches consistent with ORS 215.441.</td>
</tr>
<tr>
<td>R2,5,19</td>
<td>Private parks, playgrounds, hunting and fishing preserves, and campgrounds.</td>
</tr>
<tr>
<td>R2,5,31</td>
<td>Public parks and playgrounds. A public park may be established consistent with the provisions of ORS 195.120.</td>
</tr>
<tr>
<td>A A</td>
<td>Fire service facilities providing rural fire protection services.</td>
</tr>
<tr>
<td>R2,5,36</td>
<td>Community centers owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community.</td>
</tr>
<tr>
<td>R2,5</td>
<td>Golf courses on land determined not to be high-value farmland as defined in ORS 195.300.</td>
</tr>
<tr>
<td>18(a)</td>
<td>Golf courses on land determined not to be high-value farmland as defined in ORS 195.300.</td>
</tr>
<tr>
<td>R2,5,21</td>
<td>Living history museum.</td>
</tr>
<tr>
<td>R2</td>
<td>Firearms training facility as provided in ORS 197.770.</td>
</tr>
<tr>
<td>R2, 25</td>
<td>Armed forces reserve center as provided for in ORS 215.213(1).</td>
</tr>
<tr>
<td>A A</td>
<td>Onsite filming and activities accessory to onsite filming for 45 days or less as provided for in ORS 215.306.</td>
</tr>
<tr>
<td>R5</td>
<td>Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306.</td>
</tr>
<tr>
<td>A26</td>
<td>A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary.</td>
</tr>
<tr>
<td>R5</td>
<td>Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210.</td>
</tr>
<tr>
<td>R5</td>
<td>Operations for the extraction and bottling of water.</td>
</tr>
<tr>
<td>A11</td>
<td>Land application of reclaimed water, agricultural or industrial process water or biosolids.</td>
</tr>
<tr>
<td>R5</td>
<td>A county law enforcement facility that lawfully existed on August 20, 2002, and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135 as provided for in ORS 215.283(1).</td>
</tr>
<tr>
<td>18</td>
<td>Youth camps in Eastern Oregon on land that is composed predominantly of class VI, VII or VIII soils.</td>
</tr>
</tbody>
</table>
Youth Camps

1. A youth camp may be established in compliance with the provisions of this rule. The purpose of this rule is to provide for the establishment of a youth camp that is generally self-contained and located on a parcel suitable to limit potential impacts on nearby and adjacent land and to be compatible with the forest environment.

2. Changes to or expansions of youth camps established prior to the effective date of this rule shall be subject to the provisions of ORS 215.130.

3. A "youth camp" is a facility either owned or leased, and operated by a state or local government, or a nonprofit corporation as defined under ORS 65.001, to provide an outdoor recreational and educational experience primarily for the benefit of persons 21 years of age and younger. Youth camps do not include any manner of juvenile detention center or juvenile detention facility.

4. An application for a proposed youth camp shall comply with the following:
   a. The number of overnight camp participants that may be accommodated shall be determined by the governing body, or its designate, based on the size, topography, geographic features and any other characteristics of the proposed site for the youth camp. Except as provided by subsection (4)(b) of this rule a youth camp shall not provide overnight accommodations for more than 350 youth camp participants, including staff.
   b. The governing body, or its designated may allow up to eight (8) nights during the calendar year when the number of overnight participants may exceed the total number of overnight participants allowed under subsection (4)(a) of this rule.
   c. Overnight stays for adult programs primarily for individuals over 21 years of age, not including staff, shall not exceed 10 percent of the total camper nights offered by the youth camp.
   d. The provisions of OAR 660-006-0025 (5)(a).
   e. A campground as described in ORS 215.283(2)(c), 215.213(2)(e) and OAR 660-006-0025 (4)(e) shall not be established in conjunction with a youth camp.
   f. A youth camp shall not be allowed in conjunction with an existing golf course.
   g. A youth camp shall not interfere with the exercise of legally established water rights on adjacent properties.

5. The youth camp shall be located on a lawful parcel that is:
   a. Suitable to provide a forested setting needed to ensure a primarily outdoor experience without depending upon the use or natural characteristics of adjacent and nearby public and private land. This determination shall be based on the size, topography, geographic features and any other characteristics
of the proposed site for the youth camp, as well as, the number of overnight participants and type and
type and number of proposed facilities. A youth camp shall be located on a parcel of at least:

(A) 80-acres if located in eastern Oregon.

(B) 40-acres if located in western Oregon.

(b) Suitable to provide a protective buffer to separate the visual and audible aspects of youth camp
activities from other nearby and adjacent lands. The buffers shall consist of forest vegetation,
topographic or other natural features as well as structural setbacks from adjacent public and private
lands, roads, and riparian areas. The structural setback from roads and adjacent public and private
property shall be 250 feet unless the governing body, or its designate sets a different setback based
upon the following criteria that may be applied on a case-by-case basis:

(A) The proposed setback will prevent conflicts with commercial resource management practices;

(B) The proposed setback will prevent a significant increase in safety hazards associated with vehicular
traffic; and

(C) The proposed setback will provide an appropriate buffer from visual and audible aspects of youth
camp activities from other nearby and adjacent resource lands.

(c) Suitable to provide for the establishment of sewage disposal facilities without requiring a sewer
system as defined in OAR 660-011-0060 (1)(f). Prior to granting final approval, the governing body or its
designate shall verify that a proposed youth camp will not result in the need for a sewer system.

(d) Predominantly forestland if within a mixed agricultural/forest zone as provided for under OAR 660-
006-0050.

(6) A youth camp may provide for the following facilities:

(a) Recreational facilities limited to passive improvements, such as open areas suitable for ball fields,
volleyball courts, soccer fields, archery or shooting ranges, hiking and biking trails, horse back riding or
swimming that can be provided in conjunction with the site’s natural environment. Intensively
developed facilities such as tennis courts, gymnasiums, and golf courses shall not be allowed. One
swimming pool may be allowed if no lake or other water feature suitable for aquatic recreation is
located on the subject property or immediately available for youth camp use.

(b) Primary cooking and eating facilities shall be included in a single building. Except in sleeping quarters,
the governing body, or its designate, may allow secondary cooking and eating facilities in one or more
buildings designed to accommodate other youth camp activities. Food services shall be limited to the
operation of the youth camp and shall be provided only for youth camp participants. The sale of
individual meals may be offered only to family members or guardians of youth camp participants.

(c) Bathing and laundry facilities except that they shall not be provided in the same building as sleeping
quarters.
(d) Up to three camp activity buildings, not including primary cooking and eating facilities.

(e) Sleeping quarters including cabins, tents or other structures. Sleeping quarters may include toilets, but, except for the caretaker’s dwelling, shall not include kitchen facilities. Sleeping quarters shall be provided only for youth camp participants and shall not be offered as overnight accommodations for persons not participating in youth camp activities or as individual rentals.

(f) Covered areas that are not fully enclosed.

(g) Administrative, maintenance and storage buildings; permanent structure for administrative services, first aid, equipment and supply storage, and for use as an infirmary if necessary or requested by the applicant.

(h) An infirmary may provide sleeping quarters for the medical care provider (e.g. Doctor, Registered Nurse, Emergency Medical Technician, etc.).

(i) A caretaker's residence may be established in conjunction with a youth camp prior to or after June 14, 2000, if no other dwelling exists on the subject property.

(7) A proposed youth camp shall comply with the following fire safety requirements:

(a) The fire siting standards in OAR 660-006-0035;

(b) A fire safety protection plan shall be developed for each youth camp that includes the following:
   (A) Fire prevention measures;
   (B) On site pre-suppression and suppression measures; and
   (C) The establishment and maintenance of fire safe area(s) in which camp participants can gather in the event of a fire.

(c) Except as determined under subsection (7)(d) of this rule, a youth camp's on-site fire suppression capability shall at least include:
   (A) A 1000 gallon mobile water supply that can access all areas of the camp;
   (B) A 30 gallon-per-minute water pump and an adequate amount of hose and nozzles;
   (C) A sufficient number of fire fighting hand tools; and
   (D) Trained personnel capable of operating all fire suppression equipment at the camp during designated periods of fire danger.

(d) An equivalent level of fire suppression facilities may be determined by the governing body, or its designate. The equivalent capability shall be based on the Oregon Department of Forestry's (ODF) Wildfire Hazard Zone rating system, the response time of the effective wildfire suppression agencies,
and consultation with ODF personnel if the camp is within an area protected by ODF and not served by a
local structural fire protection provider.

(e) The provisions of OAR 660-006-0031 (7)(d) may be waived by the governing body, or its designate, if
the youth camp is located in an area served by a structural fire protection provider and that provider
informs the governing body in writing that on-site fire suppression at the camp is not needed.

(8) The governing body, or its designate, shall require as a condition of approval of a youth camp, that
the land owner of the youth camp sign and record in the deed records for the county a document
binding the land owner, or operator of the youth camp if different from the owner, and the land owner's
or operator's successors in interest, prohibiting them from pursuing a claim for relief or cause of action
alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936
or 30.937.

(9) Nothing in this rule relieves governing bodies from complying with other requirements contained in
the comprehensive plan or implementing land use regulations such as the requirements addressing
other resource values (e.g. Goal 5) that exist on forest lands.

(10) The provisions of this rule shall apply directly to any land use decision pursuant to ORS 197.646 and
215.427(3) commencing October 12, 2000. A county may adopt provisions in its comprehensive plan or
land use regulations that establish standards and criteria in addition to those set forth in this rule, or to
ensure compliance with any standards or criteria.
(C) A sufficient number of firefighting hand tools; and
(D) Trained personnel capable of operating all fire suppression equipment at the
   camp during designated periods of fire danger.

(E) An equivalent level of fire suppression facilities may be determined by the
governing body or its designate. The equivalent capability shall be based on the
response time of the effective wildfire suppression agencies.

(j) The provisions of OAR 660-033-130(40)(g) may be waived by the governing
body, or its designate, if the youth camp is located in an area served by a structural
fire protection provider and that provider informs the governing body in writing that
on-site fire suppression at the youth camp is not needed.

(k) The governing body, or its designate, shall require as a condition of approval of
   a youth camp, that the land owner of the youth camp sign and record in the deed
   records for the county a document binding the land owner, or operator of the youth
   camp if different from the owner, and the land owner's or operator's successors in
   interest, prohibiting them from pursuing a claim for relief or cause of action alleging
   injury from farming or forest practices for which no action or claim is allowed under
   ORS 30.936 or 30.937.

(l) The governing body, or its designate, shall require as a condition of approval of a
   youth camp, that the land owner of the youth camp sign and record in the deed
   records for the county a document binding the land owner, or operator of the youth
   camp if different from the owner, and the land owner's or operator's successors in
   interest, prohibiting the subject property from future land divisions and non youth
camp related development unless the youth camp is removed or the original
decision is otherwise superseded.

(m) Nothing in this rule relieves governing bodies from complying with other
   requirements contained in the comprehensive plan or implementing land use
   regulations such as the requirements addressing other resource values (e.g. Goal 5)
   that exist on farm lands.

(A) If a youth camp is proposed to be developed on lands that contain a Goal 5
   resource protected under the county's comprehensive plan, and the plan does not
   address conflicts between youth camp development and the resource, the applicant
   and the county, together with any state or federal agency responsible for protecting
   the resource or habitat supporting the resource, will cooperatively develop a specific
   resource management plan to mitigate potential development conflicts. If there is
   no program present to protect the listed Goal 5 resource(s) present in the local
   comprehensive plan or implementing ordinances, and the applicant and the
   appropriate resource management agency(ies) cannot successfully agree on a
   cooperative resource management plan, the county is shall determine responsible-
   for-determining-appropriate mitigation measures; and
(B) If a proposed youth camp is located on lands where, after site-specific consultation with a district state biologist determines, the potential exists for adverse effects to state or federal special status species (threatened, endangered, candidate, or sensitive) or their habitat, or to big game winter range or migration corridors, golden eagle or prairie falcon nest sites, or pigeon springs, the applicant shall conduct a site-specific assessment of the subject property in consultation with all appropriate state, federal, and tribal wildlife management agencies. A professional biologist shall conduct the site-specific assessment by using methodologies accepted by the appropriate wildlife management agency and shall determine whether adverse effects to special status species or wildlife habitats are anticipated to occur. Based on the results of the biologist’s report, the site shall be designed to avoid, to the extent reasonably possible, adverse effects to state or federal special status species or to wildlife habitats as described above. If the applicant’s site-specific assessment shows that adverse effects cannot reasonably be avoided, the applicant and the appropriate wildlife management agency will cooperatively develop an agreement for project-specific mitigation to offset the potential adverse effects of the youth camp facility to the extent reasonably possible and in full compliance with the Endangered Species Act. Where the applicant and the resource management agency cannot agree on what mitigation will be carried out, the county shall determine the appropriate mitigation, if any, required for the youth camp facility.

(C) The provisions of paragraph (b) are repealed on January 1, 2022.

(n) The provisions of this rule shall apply directly to any land use decision pursuant to ORS 197.646 and 215.427(3). A county may adopt provisions in its comprehensive plan or land use regulations that establish standards and criteria in addition to those set forth in this rule, or to ensure compliance with any standards or criteria.

(o) A youth camp established under this section cannot be used to justify a zone change or an exception to any statewide planning goal.
To: Land Conservation and Development Commission Members  
Ontario Meeting, July 24-25, 2014

July 17, 2014

Re: Testimony of Craig Kilpatrick representing Young Life

Good day Commission Members, my name is Craig Kilpatrick. I am a Land Use Consultant for Young Life’s Washington Family Ranch. Thank you for the opportunity to present this testimony.

It is my privilege to represent the Young Life organization. Several years ago I was asked by senior staff to begin work on devising a reliable means for gaining approval to build two additional summer camps on the old “Muddy Ranch” property in Jefferson and Wasco counties. These new camps are the vision of Dennis and Phyllis Washington who have pledged to fully fund all the capital improvements for these camps in the coming years. But first Young Life must gain approvals at the state and local levels.

We looked at numerous ways of achieving those approvals and quickly discovered that because there was no provision in state land use law for placing youth camps in the EFU zone, we would need to start from scratch. Of course we were told by some in government that we should “just take an exception.” Further research proved to us, beyond a doubt, that not only would Young Life need to ask for one exception but more likely two or three. Several experienced land use attorneys assured us that the justification for multiple exceptions would require a lot more reasons than simply owning the land. We were told that the presence of the existing camps, because they were in a different zone would not help our argument. Most importantly we were told that the system could be unreliable and unsupportive. Charging off in that direction would hardly be a responsible course for a non-profit organization whose limited resources are directed towards serving kids.

The more reliable course, though still difficult, was to ask our state legislators if they would sponsor legislation to amend Oregon land use law to enable the building of new camps. We consistently described the new Creekside Camp model as a template for building new facilities. The Creekside Camp was completed in the spring of 2011 at a cost of 34 million dollars, all of which was donated by the Dennis and Phyllis Washington Foundation.

A bill was crafted, introduced, amended, refined, and amended some more. HB3098 passed with solid support in both houses (70 of 90 possible votes) and with strong support from the Governor. To qualify a parcel must be at least 1,000 acres in size composed of predominantly Class VI, VII or VII soils. It must be outside of an irrigated district and more than three miles outside of any urban growth boundary. Provisions for the protection of tribal resources were included. Support for the bill was strong in large part because the counties would be given the necessary tools to consider youth camp applications. To insure that local participation could occur, the conditional use permit process would be employed at the county level.
Never during the planning and legislative process even through multiple amendments to the bill was it suggested that the addition of the phrase: (b) Be based on rules adopted under ORS 215.457 before the effective date of this 2013 act, would result in the kind of limitations being pursued throughout the meetings of the Rules Advisory Committee. Young Life contends that it was not the intent of the legislature to adopt rules that would not be used, as is the case with the youth camp rules for the forest and mixed farm and forest zones of the late 1990’s. We have not been able to identify a single instance in eastern Oregon where a youth camp has been approved under those forest rules.

None of the legislature’s committee hearings or other meetings involving representatives of Young Life included discussions about limiting the use of sewer systems or prohibiting bathrooms in cabins or dormitories. No mention of restricting camp size or number of campers occurred. This brings us directly to the unresolved issue; that of equating the old and unused forest rules of the past with the needs of youth camps for today and tomorrow.

In short, adopting rules that will not result in new youth camps was not the intent of the Oregon legislature.

In four meetings the Rules Advisory Committee has succeeded in come together on many workable ideas and thoughtful agreements even though much of the discussion revolved around the forest rules limitations. Young Life supports the following portions of the proposed rule:

1) Fire management planning with local participation.
2) A 40 acre limit on the development footprint (envelope).
3) Proposed language for protection of tribal and archeological resources.
4) Greater flexibility in the number of days for adult uses, family camps, etc.
5) Owner and future owner restrictions on justification of other Goal 3 areas.

These are all positive contributions to the proposed administrative rule and Young Life is grateful for the participation and support of the committee members on these items.

Young Life also has significant concerns about moving forward without provisions in the administrative rules that will enable the building of camps in the future. Some of those will require adoption of language in the rule that will allow for Goal 11 issues to be resolved without the need for taking an exception. A few examples of unresolved issues are listed as follows:

A) Provisions for sewer treatment facilities are necessary without the need for a Goal 11 exception. Young Life’s legal counsel Peter Livingston has suggested the following language be included in the rule:

(M) Notwithstanding the policies expressed in Goal 11 and the limitation expressed in OAR 660-001-0060(2), sewer treatment facilities or a connection to existing sewer treatment facilities located outside an urban growth boundary.”

Mr. Livingston further advises that “There should also be a reciprocal provision in OAR 660-011-0060(2) itself to the effect that it does not restrict sewer systems of sewer system
extensions to benefit youth camps developed under ORS 215.457(2) and OAR 660-033-0130(40). Since there is already a list of exceptions to the general rule following OAR 660-011-0060(2), adding one more should not be a problem.

B) Goal 5: The insistence of adopting the Goal 5 rules language adopted for solar projects at a commercial scale does not make sense. We would recommend further refinement in making this portion of the rule more flexible and more specific to the task at hand.

C) Camp activities and participant numbers: Following the forest rules creates a number of restrictions on camper activities, the number of allowable camp participants, staff and volunteers. Young Life does not agree with the DLCD approach of limiting those based on the forest rules. As previously stated the Creekside Camp model works and we have argued for the inclusion of more activities and a top limit of 600 camp participants including campers, adult leaders, staff and volunteers. The maximum number of beds at the Creekside Camp is presently 576. Limiting the number of buildings, building type or activity types on a 40 acre development footprint located within a 1,000 acre parcel is not consistent with the intent of the legislature.

There are a number of other items that have been eliminated or restricted through the rulemaking process that would not be unresolved if not for the fundamental problem of adjusting to the forest rules. This is quite literally a problem forcing of a square peg into a round hole.

The Young Life organization has been around for more than 72 years and in that time they have figured out what works with young people and what doesn’t. Many old church and scout camps are shutting down because of the inability to adjust to different needs and changing times. We are asking you to support our model for today’s youth camps and for those camps we will build for the future. Kids who have the opportunity to attend a Young Life camp are given the opportunity to connect with one another and to hear a message of love and redemption. Their week at camp is often described as “the best week of our lives.” Young Life is ready to move forward. Let’s get some rules in place that make sense.

On behalf of Young Life I would like thank this Commission for its consideration and would like to encourage you to delay a decision until your September meeting. We ask you to recommend that DLCD reconsider the constraints placed upon the Rules Advisory Committee by its adherence to the forest rules language.

Thank you,

Craig Kilpatrick
Land Use Consultant
Young Life’s Washington Family Ranch
July 17, 2014

To: Land Conservation & Development Commission Members

Re: Administrative Rules Advisory Committee, HB 3098, Youth Camps Bill

LCDC Commissioners,

We are writing to express concern about the direction taken by the DLCD led Rules Advisory Committee for HB 3098, the Youth Camps Bill. The intent of HB 3098 was to allow new youth camps to be established as outright permitted uses on EFU land in eastern Oregon. While the language of the bill states that the new rules are “to be based” on rules previously adopted under statute allowing youth camps in forest zones, it was not the intent of the legislature that those rules be interpreted so narrowly as to be considered “equal to” the forest rules. More importantly the youth camp bill’s supporters were aware of the successful model of Young Life’s Creekside youth camp and understood that it could act as a template for the future. By insisting the new rules narrowly follow the old ones, the Committee is attempting to fit new rules into a pre-existing concept that really don’t reflect the legislative intent. These need to be new rules that account for the unique differences between farm and forest lands.

For example, HB 3098 was crafted to include a number of site location protections that are far more restrictive than those in the forest youth camp rules including significantly larger minimum parcel sizes. A parcel of at least 1,000 acres that is not within an irrigation district or within three miles of an urban growth boundary is required. Camps are to be restricted to parcels predominately composed of Class VI, VII or VIII soils. A camp proponent must apply to the county for a conditional use permit ensuring the opportunity for citizen involvement and local planning processes to occur. These are all more restrictive and that is acceptable. However, we need a similar level of flexibility when analyzing areas where the forest rules are too restrictive to apply to eastern Oregon low quality soils with any precision.

We understand that there has been some very good work so far and that the Rules Advisory Committee have come to consensus on several important issues including: 1) Tribal resource protections; 2) Fire management planning including some local participation in the decision making process; 3) A development envelope size restriction – 40 acres on a minimum sized 1,000 acre parcel; 4) Language agreeing that the Youth Camp owner or future owner will not use a youth camp facility to justify other uses in Goal 3 areas. 5) Changes that allow more, but limited, adult camp usage as commonly occurs for family camps, church or governmental groups.

There is also a proposal suggested by DLCD’s Jon Jinings wherein the applicant can increase the 350 camp participant limit to a top limit of 600 provided that an additional 160 acres per 50 camp participants is restricted by legal covenant. The top size limit for 600 camp participants would be 1,800 acres. This needs some further conversation but this proposal has possibilities. However, without the artificial limits imposed by the old forest rules this would be unnecessary.
In the forest youth camp rule, bathing and laundry facilities are prohibited in the same building as sleeping quarters. A more reasoned approach is to allow restroom and bathing facilities in the cabins or dormitories provided that they are limited to include restrooms with up to one shower for every five beds. This is an example of where the committee was able to come to consensus after much hand-wringing about the forest rules limits.

The following are a few examples of where the Rules Advisory Committee’s current draft rules fail to adequately address essential areas of need:

1) Infrastructure issues - Sewer Treatment: By excluding sewer treatment facilities from the list of allowed uses an applicant has no hope of getting project approval without taking a Goal 11 exception. These fundamentally important facilities can be allowed under the new rules as they have been for destination resorts. They must be specifically included in the new rules with a Goal 11 reference.

2) Passive vs. Active improvements: The forest rules list a number of “passive improvements” or those that can be accurately described as having little or no permanent presence. The forest rule excludes more active improvements such as tennis courts and gymnasiums. Swimming pools may be allowed if no lake or other water feature is available. Potential applicants like Young Life host a number of special needs programs where lakes or ponds would be unsafe and impracticable. Transporting campers to and from lakes or ponds is cost prohibitive and makes little sense when a safer swimming pool can be built within the development envelope. Those restrictions serve as an example of the archaic nature of the forest rules. The Rules Advisory Committee made some forward progress on swimming pools restrictions.

3) There are number of other uses excluded by the forest rules limitations including but not limited to; 1) Fire suppression equipment and facilities; 2) Access roads, parking areas, utility corridors and utility facilities necessary to serve the camp; 3) Greenhouses; 4) Water treatment facilities; 5) Sewer treatment facilities as mentioned above; and 6) A number of popular activities currently in use at the Washington Family Ranch but not allowed by the forest rule, go-cart tracks, zip lines, etc.

4) Permitted uses: Camp activity buildings: The forest rules limit camp activity buildings to up to three buildings, not including primary cooking and eating facilities. There is no common sense reason to limit the number of buildings given that some their uses are not always compatible when in close proximity to each other. They can still be clustered provided that the available project footprint is adequate in size. The rules advisory committee has agreed to a 40 acre development envelope.

5) Allowable numbers of camp participants: The number of camp participants is very limited in the forest youth camp rule (350 total) and there is no practical reason to limit those numbers to anything less than is being suggested by the proponents. Young Life’s successful model of the Creekside Camp at the Washington Family Ranch presently houses a total of 576 including campers, adult leaders, staff and volunteers. 600 would be a workable number for the future.
6) Goal 5 – Wildlife: DLCD has insisted, to the point of discouraging further discussion, that the rules language adopted for commercial solar projects is appropriate for the youth camp rules. Young Life’s legal counsel has provided language better suited to this circumstance that will provide for greater flexibility and participation with local government in the event that parties cannot agree. The solar language could be better crafted for the EFU youth camp rule in order to avoid controversy and needless appeal. We would urge a serious look at the language proposed by Young Life.

In closing, the results of this rulemaking process remind us of the old adage that a faulty premise usually results in a poor conclusion. In large part our concern is that by restricting the new rules to the narrow scope, as defined by the old forest rules, an applicant is likely to be driven into exactly the situation this legislation sought to avoid - a difficult exceptions process. We recommend that the Director and the Commission give consideration to taking a broader interpretation as well as adopting the concept of including the needed multiple rule exceptions. As the reason for the legislation was to avoid the exceptions process, issues such as those in Goal 5 and Goal 11 should be dealt with proactively within the adopted rule.

Sincerely,

REP. BRIAN CLEM
REP. MIKE MCLANE
REP. JOHN HUFFMAN
REP. JOHN DAVIS
REP. GENE WHISNANT
REP. MARK JOHNSON