



Oregon

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November 20, 2015

TO: Land Conservation and Development Commission

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

SUBJECT: **Agenda Item 3, December 3-4, 2015, LCDC Meeting**

GREATER SAGE-GROUSE RULEMAKING ESTABLISHING THE BASELINE FOR EXISTING HUMAN DISTURBANCE

I. AGENDA ITEM SUMMARY

A. Type of Action and Commission Role

The Department of Land Conservation and Development (DLCD or department) is asking the Land Conservation and Development Commission (LCDC or commission) to hold a public hearing on draft amendments to Oregon Administrative Rule (OAR) chapter 660, division 23, accept public testimony, and to adopt the proposed amendments (Attachments A and B).

B. Staff Contact Information

For additional information about this report, please contact Jon Jinings, Community Services Specialist, at 541-325-6928, or at jon.jinings@state.or.us.

II. BACKGROUND

Limiting the amount of human-caused disturbance in core areas of sage-grouse habitat has been a foundational part of Oregon's approach to conservation of the species. This strategy has been rigorously discussed by affected stakeholders and it is supported by Oregon's Sage-Grouse Conservation Partnership as well as the United States Fish & Wildlife Service.

On July 24, 2015 the commission adopted OAR 660-023-0115, otherwise known as the "Sage-Grouse Rule." The new rule identifies significant sage-grouse habitat, identifies conflicting uses, and directs counties to apply a program of mitigation to land use proposals. The rule also establishes a metering mechanism that allows only one percent of each core area to be developed per 10-year increment and establishes a hard ceiling that would not allow human caused development to ever occupy more three percent of any core area.

Information regarding existing disturbance levels was presented at the July 23-24, 2015, LCDC hearing in Burns. However, some counties felt that they had not had sufficient time to review the figure and the methodology supporting the figures. Based on the testimony of local governments,

the commission declined to adopt a disturbance baseline with the understanding that the conversation would continue and the matter would be taken up again shortly.

Establishing the disturbance baseline is critical to the rule because, until that happens, counties will be unable to approve new large-scale development in core habitat without their disturbance estimates being vulnerable to challenge. Once the commission adopts a disturbance baseline and the rule becomes operative, the figures are set and cannot be argued in the context of a local land use proceeding. That is, once the commission adopts a baseline there is no longer the ability for project opponents to successfully challenge the disturbance baseline.

The Institute for Natural Resources (INR) has been charged with calculating disturbance totals and has coordinated with the Bureau of Land Management (BLM). Final INR tallies awaited BLM road data information, which was made available on November 6, 2015. INR ran the figures with the new information and provided the results to the seven counties on November 15, 2015. The results were discussed with county elected officials and planning directors, the Governor’s Office, and BLM on November 18, 2015. The final INR figures are noticeably lower than earlier estimates, which is directly attributable to the new road data being more refined. BLM created an objective method of distinguishing between roads that should be counted as disturbance and those that should not. Size, maintenance, and amounts of traffic were among the factors used to make this distinction. The result is a product that the analysts refer to as “reasonable and defensible.”

The new lower numbers received a favorable reception from county officials. The recommended rule revision will establish the disturbance baseline and allow counties to consider large-scale development in core area with the confidence that they cannot suffer an appeal based on a disagreement about the amount of existing development.

III. PROPOSED RULE REVISION

The department proposes to add revised language to subsection OAR 660-023-0115(15) of the existing rule. The proposed language is located on page 8, lines 17-20 of Attachment A and reads as follows:

(15) Central Registry. The department will work with the counties identified in section (5), ODFW, the Bureau of Land Management (BLM), and USFWS to maintain a central registry, tracking human disturbance from existing (baseline) and all new development affecting core areas. In addition to serving as partners in maintaining the central registry, counties must report all development land use permits for all uses within a core area to the department. The registry will include baseline calculations of direct impact levels consistent with the approach identified by the BLM. **The percentage figures included in Exhibit D establish the baseline for human disturbance existing on the effective date of this rule. If better information becomes available the baseline may be revised subject to a rule amendment that is coordinated with all affected counties and other interested parties.** Counties may establish more refined, project specific data to

replace the baseline figures so long as all counties utilize a common methodology. Each year the department shall report to the commission the amount of new direct impacts in each PAC. The report shall be coordinated with and made available to all affected counties.”

The “Exhibit D” referred to by the draft language above is included with this report as Attachment B.

IV. CONCLUSION

Oregon’s Action Plan for Sage-Grouse is a remarkable document that is supported by the commission’s Sage-Grouse Rule. Oregon’s efforts were critical to the federal government’s determination that listing the Greater Sage-grouse under the Endangered Species Act is not necessary. Work to implement the Action Plan is now beginning. Adopting this rule revision is one of the first pieces of that work and represents another step forward for Oregon.

V. DEPARTMENT RECOMMENDATION AND DRAFT MOTIONS

The department recommends the commission hold a public hearing to accept testimony on the draft amendments to OAR 660-023-0115(15) as shown in Attachments A and B.

Recommended motion: I move the commission adopt the proposed amendments to OAR 660-023-0115(15) as recommended by the department and explained in the staff report.

Optional motion: I move the commission adopt amendments to OAR 660-023-0115(15) as recommended by the department with the following changes: [specify section number and language of deviations from staff recommendation].

VI. VI. ATTACHMENTS

- A. Proposed revision to OAR 660-023-0115(15)
- B. Proposed Exhibit D to be included as part of OAR 660-023-0115

1 **660-023-0115**

2 **Greater Sage-Grouse**

3 (1) Introduction. Greater Sage-Grouse (hereafter “sage-grouse”) habitat is a unique wildlife
4 resource subject to a variety of threats across a broad, multi-state region. Oregon’s sage-grouse
5 habitat is comprised of a combination of public land managed by the federal government and
6 nonfederal land generally in private ownership. Managing private and other nonfederal land for
7 the best possible outcomes requires partnership and cooperation among many stakeholders.
8 Accordingly, private and other nonfederal lands are strongly encouraged to participate in a
9 Candidate Conservation Agreement with Assurances program. Voluntary conservation efforts of
10 this nature are recognized by the State of Oregon as a critical part in recovering the breeding
11 population targeted by Oregon’s Greater Sage-Grouse Conservation Assessment and Strategy
12 for Oregon. Beyond voluntary efforts it remains necessary to provide a regulatory framework
13 that offers fairness, predictability and certainty for all involved parties. Engagement on the part
14 of county government is critical to Oregon’s efforts to address possible impacts from future
15 development.

16 (2) Exempt activities.

17 (a) Those activities that do not require governmental approval, including farm use as defined in
18 ORS 215.203(2), are exempt from the provisions of this rule. State agency permits necessary to
19 facilitate a farm use, including granting of new water right permits by the Oregon Water
20 Resources Department (OWRD), are also exempt from the provisions of this rule.

21 (b) Any energy facility that submitted a preliminary application for site certificate pursuant to
22 ORS 469.300 et seq. on or before the effective date of this rule is exempt from the provisions of
23 this rule. Notwithstanding ORS 197.646(3), this rule shall not be directly applicable to any land
24 use decision regarding that facility unless the applicant chooses otherwise. Similarly, any
25 changes to a local government’s acknowledged comprehensive plan or land use ordinances
26 developed to achieve consistency with this rule shall not constitute “applicable substantive
27 criteria” pursuant to OAR 345-022-0030(3), unless they are in effect on the date the applicant
28 submits a preliminary application for site certificate, unless the applicant chooses otherwise.

29 (c) Private and other nonfederal lands are strongly encouraged to participate in a Candidate
30 Conservation Agreement with Assurances (CCAA) program. Voluntary conservation efforts of
31 this nature are recognized by the State of Oregon as a critical part in recovering the breeding
32 population targeted by the Greater Sage-Grouse Conservation Assessment and Strategy for
33 Oregon. Uses identified in CCAA agreements are relieved from the provisions of this rule except
34 that conflicting uses identified in section (7) will be subject to sections (9) to (11) in all instances
35 regardless of enrollment status.

- 1 (3) Definitions. For purposes of this rule, the definitions in OAR 635-140-0002 and in the
2 glossary of the “Greater Sage-Grouse Conservation Assessment and Strategy for Oregon”
3 adopted by the Oregon Fish and Wildlife Commission on April 22, 2011 (copies of the plan are
4 available through the Oregon Department of Fish and Wildlife (ODFW)) shall apply. In addition,
5 the following definitions shall apply:
- 6 (a) “Areas of High Population Richness” means mapped areas of breeding and nesting habitat
7 within core habitat that support the 75th percentile of breeding bird densities (i.e. the top 25
8 percent). Please see Exhibit A.
- 9 (b) “Candidate Conservation Agreement with Assurances” means a formal agreement between
10 the United States Fish and Wildlife Service (USFWS) and one or more parties to address the
11 conservation needs of proposed or candidate species, or species likely to become candidates,
12 before they become listed as endangered or threatened. Landowners voluntarily commit to
13 conservation actions that will help stabilize or restore the species with the goal that listing
14 under the Federal Endangered Species Act will become unnecessary.
- 15 (c) “Core areas” means mapped sagebrush types or other habitats that support sage-grouse
16 annual life history requirements that are encompassed by areas:
- 17 (A) Of very high, high, and moderate lek density strata;
- 18 (B) Where low lek density strata overlap local connectivity corridors; or
- 19 (C) Where winter habitat use polygons overlap with either low lek density strata, connectivity
20 corridors, or occupied habitat. Core area maps are maintained by ODFW.
- 21 (d) “Development action” means any human activity subject to regulation by local, state, or
22 federal agencies that could result in the loss of significant sage-grouse habitat. Development
23 actions may include but are not limited to, construction and operational activities of local,
24 state, and federal agencies. Development actions also include subsequent repermitting of
25 existing activities proposing new impacts beyond current conditions.
- 26 (e) “Direct impact” means an adverse effect of a development action upon significant sage-
27 grouse habitat which is proximal to the development action in time and place.
- 28 (f) “Disturbance” includes natural threats to sage-grouse habitat such as: wildfire, juniper
29 infestation and the spread of noxious weeds or human activities that can negatively affect sage-
30 grouse use of habitat either through changing the vegetation type or condition, or
31 displacement of sage-grouse use of an area. For purposes of this rule only disturbance from
32 human activities are considered.
- 33 (g) “General habitat” means occupied (seasonal or year-round) sage-grouse habitat outside
34 core and low density habitats.

- 1 (h) "Indirect impacts" means adverse effects to significant sage-grouse habitat that are caused
2 by or will ultimately result from an affected development activity. Indirect impacts usually occur
3 later in time or are removed in distance compared to direct effects.
- 4 (i) "Large-scale development" means uses that are: over 50 feet in height; have a direct impact
5 in excess of five acres; generate more than 50 vehicle trips per day; or create noise levels of at
6 least 70 dB at zero meters for sustained periods of time. Uses that constitute large-scale
7 development also require review by county decision makers and are listed in one of the
8 following categories identified in the table attached to OAR 660-033-0120.
- 9 (A) Commercial Uses.
- 10 (B) Mineral, Aggregate, Oil and Gas Uses.
- 11 (C) Transportation Uses.
- 12 (D) Utility/Solid Waste Disposal Facilities.
- 13 (E) Parks/Public/Quasi-Public.
- 14 (j) "Lek" means an area where male sage-grouse display during the breeding season to attract
15 females (also referred to as strutting-ground).
- 16 (k) "Low density areas" means mapped sagebrush types or other habitats that support sage-
17 grouse that are encompassed by areas where:
- 18 (A) Low lek density strata overlapped with seasonal connectivity corridors;
- 19 (B) Local corridors occur outside of all lek density strata;
- 20 (C) Low lek density strata occur outside of connectivity corridors; or
- 21 (D) Seasonal connectivity corridors occur outside of all lek density strata. Low density area
22 maps are maintained by ODFW.
- 23 (l) "Mitigation hierarchy" means an approach used by decision makers to consider development
24 proposals and is ordinarily comprised of a three step process:
- 25 (A) "Avoidance" is the first step in the mitigation hierarchy and is accomplished by not taking a
26 certain development action or parts of that action.
- 27 (B) "Minimization" is the second step in the mitigation hierarchy and is accomplished by limiting
28 the degree or magnitude of the development action and its implementation.
- 29 (C) "Compensatory mitigation" is the third step in the mitigation hierarchy and means the
30 replacement or enhancement of the function of habitat capable of supporting sage-grouse in
31 greater numbers than predicted to be impacted by a development.
- 32 (m) "Occupied Lek" means a lek that has been regularly visited by ODFW and has had one or
33 more male sage-grouse counted in one or more of the last seven years.

- 1 (n) "Occupied Pending Lek" means a lek that has not been counted regularly by ODFW in the
2 last seven years, but sage-grouse were present at ODFW's last visit.
- 3 (o) "Priority Areas for Conservation" (PACs) means key habitats identified by state sage-grouse
4 conservation plans or through other sage-grouse conservation efforts (e.g., BLM Planning). In
5 Oregon, core area habitats are PACs.
- 6 (4) Local program development and direct applicability of rule. Local governments may develop
7 a program to achieve consistency with this rule by following the standard process in OAR 660-
8 023-0030, 660-023-0040 and 660-023-0050 and submitting the amendment to the commission
9 in the manner provided for periodic review under ORS 197.628 to 197.650 and OAR 660-025-
10 0175. Until the commission has acknowledged a county amendment to its comprehensive plan
11 and land use regulations to be in compliance with Goal 5 and equivalent to this rule with regard
12 to protecting sage-grouse habitat, sections (5) to (12) shall apply directly to county land use
13 decisions affecting significant sage-grouse habitat. Once the commission has acknowledged a
14 local government program under this section, that program becomes the controlling county
15 land use document and sections (5) to (12) of this rule no longer apply directly.
- 16 (5) Quality, Quantity and Location. For purposes of this rule, sage-grouse habitat is only present
17 in Baker, Crook, Deschutes, Harney, Lake, Malheur and Union Counties. The location of sage-
18 grouse habitat within these counties shall be determined by following the map produced by
19 ODFW included as Exhibit B.
- 20 (6) Determination of Significance. Significant sage-grouse habitat includes only lands protected
21 under Statewide Planning Goals 3 or 4 as of July 1, 2015 that are identified as:
- 22 (a) Core areas;
- 23 (b) Low density areas; and
- 24 (c) Lands within a general habitat area located within 3.1 miles of an occupied or occupied-
25 pending lek.
- 26 (d) The exact location of sage-grouse habitat may be refined during consideration of specific
27 projects but must be done in consultation with ODFW.
- 28 (7) Conflicting uses. For purposes of protecting significant sage-grouse habitat, conflicting uses
29 are:
- 30 (a) Large-scale development; and
- 31 (b) Other activities, which require review by county decision makers pursuant to OAR 660-033-
32 0120 table and are proposed:
- 33 (A) In a core area within 4.0 miles of an occupied or occupied-pending lek;
- 34 (B) In a low density area within 3.1 miles of an occupied or occupied-pending lek; or

- 1 (C) In general habitat within 3.1 miles of an occupied or occupied-pending lek.
- 2 (8) Pre-Application Conference. A county should convene a pre-application conference prior to
3 accepting an application for a conflicting use in significant sage-grouse habitat. The pre-
4 application conference should include, at a minimum, the applicant, county planning staff and
5 local ODFW staff.
- 6 (9) Program to achieve the goal of protecting significant sage grouse habitat in a core area.
- 7 (a) A county may consider a large-scale development in a core area upon applying disturbance
8 thresholds and the mitigation hierarchy as follows:
- 9 (A) A county may consider a large-scale development that does not cause the one-percent
10 metering threshold described in section (16) or the three-percent disturbance threshold
11 described in section (17) to be exceeded.
- 12 (B) Avoidance. Before proceeding with large-scale development activity that impacts a core
13 area, the proponent must demonstrate that reasonable alternatives have been considered and
14 that the activity or other action cannot avoid impacts within core area habitat. If the proposed
15 large-scale development can occur in another location that avoids both direct and indirect
16 impacts within core area habitat, then the proposal must not be allowed unless it can satisfy
17 the following criteria.
- 18 (i) It is not technically feasible to locate the proposed large-scale development outside of a core
19 area based on accepted engineering practices, regulatory standards or some combination
20 thereof. Costs associated with technical feasibility may be considered, but cost alone may not
21 be the only consideration in determining that development must be located such that it will
22 have direct or indirect impacts on significant sage-grouse areas; or
- 23 (ii) The proposed large-scale development is dependent on a unique geographic or other
24 physical feature(s) that cannot be found on other lands; and
- 25 (iii) If either subparagraph (9)(a)(B)(i) or (9)(a)(B)(ii) is found to be satisfied the county must also
26 find that the large-scale development will provide important economic opportunity, needed
27 infrastructure, public safety benefits or public health benefits for local citizens or the entire
28 region.
- 29 (C) Minimization. If the proposed use cannot be sited by avoiding a core area altogether,
30 including direct and indirect impacts, it shall be located to minimize the amount of such habitat
31 directly or indirectly disturbed, and to minimize fragmentation of the core area(s) in question
32 by locating the development adjacent to existing development and at the edge of the core area
33 when possible. Uses should minimize impacts through micro-siting, limitations on the timing of
34 construction or use, or both, and methods of construction. Minimizing impacts from large-scale
35 development in core habitat shall also ensure direct and indirect impacts do not occur in known
36 areas of high population richness within a given core area, unless a project proponent

1 demonstrates, by a preponderance of the evidence, that such an approach is not feasible. Costs
2 associated with minimization may be considered, but cost alone may not be the only
3 consideration in determining that location of development cannot further minimize direct or
4 indirect impacts to core areas.

5 (D) Compensatory Mitigation. To the extent that a proposed large-scale development will have
6 direct or indirect impacts on a core area after application of the avoidance and minimization
7 standards and criteria, above, the permit must be conditioned to fully offset the direct and
8 indirect impacts of the development to any core area. The required compensatory mitigation
9 must comply with OAR chapter 635, division 140.

10 (b) A county may approve a conflicting use as identified at subsection (7)(b) above upon either:

11 (A) Receiving confirmation from ODFW that the proposed conflicting use does not pose a threat
12 to significant sage-grouse habitat or the way sage-grouse use that habitat; or

13 (B) Conditioning the approval based on ODFW recommendations, including minimization
14 techniques and compensatory mitigation, if necessary, to resolve threats to significant sage-
15 grouse habitat.

16 (10) Program to achieve the goal of protecting significant sage-grouse habitat in a low density
17 area.

18 (a) A county may approve a large-scale development in a low density area upon applying the
19 mitigation hierarchy as follows:

20 (A) Avoidance. Before proceeding with large-scale development activity that impacts a low
21 density area, the proponent must demonstrate that reasonable alternatives have been
22 considered and that the activity or other action cannot avoid impacts within a low density area.
23 If the proposed large-scale development can occur in another location that avoids both direct
24 and indirect impacts within a low density area, then the proposal must not be allowed unless it
25 can satisfy the following criteria:

26 (i) It is not technically or financially feasible to locate the proposed large-scale development
27 outside of a low density area based on accepted engineering practices, regulatory standards,
28 proximity to necessary infrastructure or some combination thereof; or

29 (ii) The proposed large-scale development is dependent on geographic or other physical
30 feature(s) found in low density habitat areas that are less common at other locations, or it is a
31 linear use that must cross significant sage-grouse habitat in order to achieve a reasonably direct
32 route.

33 (B) Minimization. If the proposed use cannot be sited by avoiding a low density area altogether,
34 including direct and indirect impacts, it shall be located to minimize the amount of such habitat
35 directly or indirectly disturbed, and to minimize fragmentation of the low density area(s) in
36 question by locating the development adjacent to existing development and at the edge of the

1 low density area when possible. Uses should minimize impacts through micro-siting, limitations
2 on the timing of construction or use, or both, and methods of construction.

3 (C) Compensatory Mitigation. Required consistent with the provisions of paragraph (9)(a)(D)
4 above.

5 (b) A county may approve a conflicting use as identified at subsection (7)(b) above when found
6 to be consistent with the provisions of subsection (9)(b).

7 (11) Program to achieve the goal of protecting significant sage-grouse habitat on general
8 habitat.

9 (a) A county may approve a large-scale development on significant sage-grouse habitat in
10 general habitat upon requiring:

11 (A) General Habitat Consultation. Minimizing impacts from development actions in general
12 habitat shall include consultation between the development proponent and ODFW that
13 considers and results in recommendations on how to best locate, construct or operate the
14 development action so as to avoid or minimize direct and indirect impacts on significant sage-
15 grouse habitat within the area of general habitat. A county shall attach ODFW
16 recommendations as a condition of approval; and

17 (B) Compensatory Mitigation. Required consistent with the provisions of paragraph
18 (9)(a)(D)above.

19 (b) A county may approve a conflicting use identified in subsection (7)(b) above when found to
20 be consistent with the provisions of subsection (9)(b).

21 (12) Especially Unique Local Economic Opportunity. A county may approve a large-scale
22 development proposal that does not meet the avoidance test for significant sage-grouse
23 habitat if the county determines that the overall public benefits of the proposal outweigh the
24 damage to significant sage-grouse habitat. Requirements for minimization and compensatory
25 mitigation continue to apply and attempts should be made to avoid areas of high population
26 richness, if possible. The county shall make this balancing determination only when the
27 proposal involves an economic opportunity that will provide a number of permanent, full-time
28 jobs, not including construction activities, paying at least 150 percent of average county wages
29 sufficient to increase the amount of total private nonfarm payroll employment by at least 0.5
30 percent over the figure included in the most recent data available from the Oregon Department
31 of Employment rounded down to the nearest whole number. The applicant has the burden to
32 show that the overall public benefits outweigh the damage to the significant sage-grouse
33 habitat. This provision may be exercised by each effected county once during every ten-year
34 period beginning on the effective date of this rule. A county is also free not to approve a
35 proposal submitted under this section.

- 1 (13) A proposal to up-zone lands containing significant sage-grouse habitat to a greater
2 development potential than otherwise allowed under Goals 3 and 4 shall follow the ordinary
3 Goal 5 process at OAR 660-023-0030 to 660-023-0050. Furthermore, up-zoning lands in a core
4 area shall be considered a direct impact and count towards the three percent disturbance
5 threshold pursuant to section (17) below.
- 6 (14) Landscape-Level Consideration. The standards in sections (9), (10) and (11) above, are
7 designed to minimize the amount of future impacts from human sources to significant sage-
8 grouse habitat areas. Consistent with available science concerning the relation between human
9 activities and sage-grouse population levels, the department will monitor direct impacts in core
10 areas in each of the PACs shown in Exhibit (C).
- 11 (15) Central Registry. The department will work with the counties identified in section (5),
12 ODFW, the Bureau of Land Management (BLM), and USFWS to maintain a central registry,
13 tracking human disturbance from existing (baseline) and all new development affecting core
14 areas. In addition to serving as partners in maintaining the central registry, counties must
15 report all development land use permits for all uses within a core area to the department. The
16 registry will include baseline calculations of direct impact levels consistent with the approach
17 identified by the BLM. **The percentage figures included in Exhibit D establish the baseline for**
18 **human disturbance existing on the effective date of this rule. If better information becomes**
19 **available the baseline may be revised subject to a rule amendment that is coordinated with**
20 **all affected counties and other interested parties.** Counties may establish more refined, project
21 specific data to replace the baseline figures so long as all counties utilize a common
22 methodology. Each year the department shall report to the commission the amount of new
23 direct impacts in each PAC. The report shall be coordinated with and made available to all
24 affected counties.
- 25 (16) Metering. This rule is intended to ensure that the area of direct impact levels in any PAC,
26 including energy facilities exempted under subsection (2)(b), does not increase by an amount
27 greater than 1.0 percent of the total area of the PAC in any ten-year period. The initial period
28 shall commence upon the effective date of this rule and continue for ten consecutive years,
29 where upon the process shall be successively repeated. The commission will consider revisions
30 to this rule if the department's yearly reports required by section (15) indicate that the
31 development trends in any PAC indicate that the 1.0 percent direct impact threshold is in
32 jeopardy of being exceeded before the ten-year period has expired. Any proposal to amend this
33 rule undertaken by the department shall be developed in coordination with all affected
34 counties and other stakeholders.
- 35 (17) Disturbance Threshold. This rule is intended to ensure that direct impact level, including
36 energy facilities exempted under subsection (2)(b), does not exceed three percent of the total
37 area in any PAC. If this three-percent threshold is approached, then the department must

1 report that situation to the commission along with a proposal to amend this rule to adapt the
2 standards and criteria such that the threshold is not exceeded.

3 (18) State agency coordination programs. All state agencies that carry out or that permit
4 conflicting uses in core area, low density area, or significant general habitat including but not
5 limited to OWRD, Oregon Department of Transportation, Department of State Lands,
6 Department of Geology and Mineral Industries, Oregon Department of Energy and the Energy
7 Facility Siting Council, and Department of Environmental Quality must report the proposed
8 development to the department, along with an estimate of the direct impact of the
9 development. In addition, to the extent not regulated by a county, such development, other
10 than the issuance of water rights, the expansion of cultivation, and other farm uses under ORS
11 215.203(2), must meet the requirements of paragraph (9)(a)(D) of this rule.

12 (19) Scheduled Review. The department shall commence a review of these rules no later than
13 June 30, 2020 and, if determined to be necessary, recommend revisions to achieve the policy
14 objectives found herein. Furthermore, should the species become listed under the Federal
15 Endangered Species Act, the commission shall consider whether continued application of this
16 rule is necessary. Should the rule remain applicable and the species is de-listed the commission
17 shall consider whether continued application of this rule is necessary.

18

Baseline – Existing Human Disturbance

Core Area/PAC	County(ies)	PAC Size (acres)	Existing Disturbance (acres)	Existing Disturbance (percentage)
Baker	Baker, Union	336,415	3,188	0.95%
Beatys	Lake, Harney	841,398	1,262	0.15%
Brothers/N Wagontire	Crook, Deschutes, Lake	293,344	1,682	0.57%
Bully Creek	Malheur	279,723	572	0.20%
Burns	Harney	35,756	36	0.10%
Cow Lakes	Malheur	249,705	804	0.32%
Cow Valley	Baker, Malheur	368,442	1,697	0.46%
Crowley	Harney, Malheur	490,890	1,963	0.40%
Drewsey	Harney, Malheur	368,560	1,258	0.34%
Dry Valley/Jack Mountain	Harney	449,423	1,216	0.27%
Folly Farm/Saddle Butte	Harney, Malheur	251,574	401	0.16%
Louse Canyon	Malheur	672,453	833	0.12%
Paulina/12 Mile/Misery Flat	Crook, Deschutes, Harney, Lake	441,745	1,101	0.25%
Picture Rock	Lake	42,588	440	1.03%
Pueblos/S Steens	Harney	208,940	545	0.26%
Soldier Creek	Malheur	295,486	390	0.13%
Steens	Harney	185,773	729	0.39%
Trout Creeks	Harney, Malheur	393,822	1,191	0.30%
Tucker Hill	Lake	31,545	78	0.25%
Warners	Harney, Lake	330,249	2,126	0.64%