Testimony of Craig Kilpatrick
on behalf of Young Life
to the
Land Conservation and Development Commission

September 26, 2014

Commissioners:

I am here today to testify on behalf of Young Life on the proposed Youth Camp Rule, and to ask you to defer a decision on the Rule until your November meeting to allow the Rules Advisory Committee and the Department to consider a few areas of the proposed Rule where we think clarifications and refinements are appropriate.

The current version of the Rule goes a long way toward meeting Young Life’s key objectives.

- Young Life supports the Rule’s approach to providing for sewer extensions through a Goal 11 exception process, although we would like language added allowing such an extension to be obtained prior to applying for youth camp approval.
- Young Life supports the Rule’s approach to providing for increases in overnight youth camp participants, although we believe the specific language relating to what land deed restrictions are imposed on needs to be clarified.
- Young Life supports the Rule’s approach to what activities are allowed, but would like language allowing go-kart tracks of a restricted nature.

In addition to the minor changes I just mentioned, we believe the proposed Rule would benefit from changes for clarity, changes to qualify some absolute standards, changes to set a clearer framework for County consideration of youth camp applications, and changes to better meet the purpose of the Rule. We prepared a redlined revision to the proposed Rule with our questions, comments, and proposed changes, which I have attached for your information. We have discussed our proposal with the Department, but ran out of time to complete those discussions.

To provide time to address the minor additions we would like in the three aspects of the Rule we discussed above, and some other issues and questions we raised in our proposed revision, we ask that you defer your decision until your November meeting so the RAC and the Department can consider these matters.

Thank you for your consideration.

Craig Kilpatrick
(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.

NOTE: THIS PHRASING IS SLIGHTLY DIFFERENT THAN THE FOREST RULE.

(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) "Low impact recreational facilities" means activities-facilities that have a limited amount of permanent disturbance on the landscape and are not likely to create significant off-site impacts. Low impact recreational facilities include, but are not limited to, open areas, ball fields, volleyball courts, soccer fields, archery or shooting ranges, hiking and biking trails, horseback riding areas, swimming pools, and zip lines and go-cart tracks (provided they are constructed within a total area not to exceed 1.5 acres, the facility envelope is not to exceed 350 feet in length in any direction and the track does not extend beyond the development envelope of the youth camp). Low impact recreational facilities are designed and developed in a manner consistent with the site's natural environment.

(B) "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.

(C) "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 site 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. A site is suitable if it is:

- 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) A site that suitable-for-the-provision-of-can provide 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 of at least 250 feet shall be deemed sufficient to provide a protective buffer unless the county establishes on a case-by-case basis a different setback distance based upon the following criteria: in this paragraph. Setbacks must be sufficient to:
   (i) Prevent significant 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) At least 1320 feet from any other lawfully established unit of land containing a youth camp approved pursuant to this section [PLEASE IDENTIFY WHERE AND WHY IF YOU THINK THIS IS PROHIBITED BY THE STATUTE.]; and
(I) A site that suitable-to allows 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, not to exceed 350 participants, based on consideration of the size, topography, geographic features and other characteristics of the proposed youth camp site. [THIS SEEMS TO GIVE THE COUNTY BROAD DISCRETION IN THE MAXIMUM NUMBER IT CHOOSES. WE THINK IT IS APPROPRIATE AND REASONABLE TO REDUCE THIS DISCRETION. WE WOULD LIKE YOUR IDEAS ON THIS.] A county may approve a youth camp for more than 350 overnight youth camp participants if other resource lands that are located in the same county or adjacent counties that are in addition to the lawfully established unit of land approved for the youth camp are permanently protected from future development by a deed restriction or conservation easement and subject to the following provisions [THE DEED RESTRICTIONS SHOULD NOT BE TIED TO LAWFULLY ESTABLISHED UNITS OF LAND "IN ADDITION TO" THE UNIT OF LAND APPROVED FOR THE YOUTH CAMP, BUT RATHER TO AN AREA NOT USED FOR THE YOUTH CAMP WHICH COULD BE ON THE SAME UNIT OF LAND THE YOUTH CAMP IS ON FOR LARGE UNITS OF LAND,
(A) For each 160 acres of agricultural lands predominantly composed of class I-V soils that are permanently protected from development, an additional 50 overnight youth camp participants may be allowed; or

(B) For each 160 acres of wildlife habitat, regardless of soil types and resource land designation that are permanently protected from development, an additional 50 overnight youth camp participants may be allowed; or
(C) For each 160 acres of agricultural lands predominantly composed of class VI-VIII soils that are permanently protected from development, an additional 25 overnight youth camp participants may be allowed; or

(D) A youth camp sited on a tract of at least 1,920 acres may have up to 600 overnight youth camp participants when 920 acres of the tract that portion of the tract not needed to satisfy paragraph (b)(A) of this section is permanently protected from development; and

(E) Under no circumstances shall more than 600 overnight youth camp participants be allowed without an exception to statewide planning goal 3 and any other applicable statewide planning goals.

(d) The applicant for an increased number of overnight youth camp participants authorized by paragraphs (c)(A), (B), (C) or (D) of this section that requires other lands to be permanently protected from development shall provide evidence, prior to occupancy of such increased number, that the deed restriction or conservation easement has been recorded with the county clerk of the county or counties where the property subject to the deed restriction or conservation easement is located.

(A) The deed restriction or conservation easement is irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the deed restriction or conservation easement is located.

(B) Enforcement of the deed restriction or conservation easement may be undertaken by the department or by the county or counties where the property subject to the deed restriction or conservation easement is located.

(C) The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property that is subject to the deed restriction or conservation easement required by this subsection.

(D) The county planning director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting tracts that do not qualify for the siting of a dwelling under the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.
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Attachment A

(e) In addition, the county may—shall allow [USING “MAY” OPENS THE DOOR FOR ALL SORTS OF
QUESTIONS ABOUT WHAT STANDARDS SHOULD APPLY TO THE COUNTY’S DECISION. FOR SOMETHING THIS
MINOR ISN’T IT OK TO JUST SAY “SHALL”?]

(A) Up to eight nights during the calendar year during which the number of overnight youth camp
participants may exceed the total number of overnight youth camp participants allowed under
subsection (c) of
this section.

(B) 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.

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

(A) Low impact recreational facilities. 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 allowed under this section 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 and a gift shop available to youth camp participants but not open to the general public;

(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;

(j) Water and sewer treatment systems and other infrastructure to support the allowed facilities.

With regard to the siting of youth camps:

(A) A campground as described in ORS 215.283(2)(c), OAR 660-033-0120, and section (19) of this rule
(B) More than one youth camp may be sited on a lawfully established unit of land as long as all other provisions of this section are met.

(C) The siting of a youth camp on a lawfully established unit of land does not preclude the use of that lawfully established unit of land for other allowed uses except as specifically stated in the approval of the youth camp.

(D) A youth camp parcel cannot be partitioned below the minimum site size of 1,000 acres or in a manner that results in any land needed to comply with this section (except as explicitly allowed by this section) to be located on a separate parcel.

(h) 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 archeological 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) 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 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, the 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.

(F) 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 contains 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 in identifying whether there are any conflicts related to the proposed youth camp, and if there are, developing a specific resource management plan to mitigate potential development-conflicts consistent with OAR chapter 660, division 23.

(ii) If a proposed youth camp is proposed on lands where the state biologist, that the proposed youth camp may have potential exists for material adverse effects onto 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 engage a
A professional biologist shall conduct a site-specific assessment of the land affected by the youth camp proposal subject property in consultation with all appropriate state, federal, and tribal wildlife management agencies. The assessment shall be conducted by a professional biologist who shall conduct the site-specific assessment by using methodologies accepted by the appropriate wildlife management agency (which agency?) and shall determine whether adverse effects to special status species or the wildlife habitats listed above are likely to occur/anticipated.

Based on the results of the biologist’s report assessment, the site shall be designed to avoid, to the extent reasonably possible, adverse effects to state or federal special status species or to the wildlife habitats listed above 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. Where the applicant and the resource-wildlife management agency cannot agree on what mitigation should be carried out, the county shall be responsible for determining appropriate mitigation, if any, required for the youth camp facility, which determination shall mitigate any potential adverse effects and allow the development of the youth camp unless mitigation is not possible.

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

(i) Extension of Sewer to a Youth Camp. A Goal 11 exception to authorize the extension of a sewer system to serve a youth camp shall be taken pursuant to ORS 197.732(1)(c), Goal 2, and this section. The exceptions standards in OAR chapter 660, division 4 and OAR chapter 660, division 11 shall not apply. Exceptions adopted pursuant to this section shall be deemed to fulfill the requirements for goal exceptions under ORS 197.732(1)(c) and Goal 2.

(A) A Goal 11 exception shall determine the general location for the proposed sewer extension and shall require that necessary infrastructure be no larger than necessary to accommodate the approved youth camp.

(B) To address Goal 2, Part II(c)(1), the exception shall provide reasons justifying why the state policy in the applicable goals should not apply. Goal 2, Part II(c)(1) may be found to be satisfied if the proposed sewer extension will serve a youth camp approved for 600 youth camp participants. [WE WOULD LIKE TO HAVE THE "MAY" IN THIS AND THE FOLLOWING SECTIONS BE "SHALL," OR AT LEAST SOME LANGUAGE REDUCING A COUNTY’S ABSOLUTE DISCRETION TO SAY "NO" IF THE FACTS EXIST.]

(C) To address Goal 2, Part II(c)(2), the exception shall demonstrate that areas which do not require a new extension cannot reasonably accommodate the proposed sewer extension. Goal 2, Part II(c)(2) may be found to be satisfied if the sewer system to be extended was in existence as of January 1, 1990 and is located outside of an urban growth boundary on lands for which an exception to Goal 3 has been taken.

(D) To address Goal 2, Part II(c)(3), the exception shall demonstrate that the long term environmental, economic, social, and energy consequences resulting from the proposed extension of sewer with measures to reduce the adverse effects of adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Goal 2, Part II(c)(3) may be found to be satisfied if the proposed sewer extension will serve a youth camp located on a tract of at least 1,920 acres.
(E) To address Goal 2, Part II(c)(4), the exception shall demonstrate that the proposed sewer extension is compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts. Goal 2, Part II(c)(4) may be found to be satisfied if the proposed sewer extension is conditioned to only will serve a youth camp that has been approved pursuant to the criteria at section 5(a) of this rule [WE WANT TO BE ABLE TO OBTAIN THE EXCEPTION FIRST, AND NOT EXPEND THE TIME, MONEY, AND EFFORT TO GO THROUGH THE YOUTH CAMP APPROVAL PROCESS IF WE DON'T GET A SEWER SYSTEM EXCEPTION].

(F) An exception taken pursuant to this section does not authorize extension of sewer beyond what is justified in the exception.
(j) 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.
If the Commission Chooses to Adopt a Rule Today

If you decline our request for additional time to refine the Rule, and choose to adopt a Rule today, we have several changes to the proposed Rule that are very important to us and that we ask that you make:

1. Add the word “significant” to qualify “off-site impacts” in Section 40(a)(A) (Line 14) in the definition of “Low impact recreational facilities.” While we believe “significant” is the appropriate qualifier, we would accept “material.”

2. Add the word “significant” to qualify “conflicts with commercial resource management activities” in Section 40(b)(G)(i) (Line 13) in the criterion for evaluating buffers. Here again, while we believe “significant” is the appropriate qualifier, we would accept “material.”

3. Substitute the phrase “specific site” for the phrase “lawfully established unit of land” in Section 40(c) (Lines 30-31) to make it clear that land on which deed restrictions are placed to support a higher number of overnight youth camp participants can be on the same parcel or lot that the youth camp is on.

4. Substitute “920 acres of the tract” for “that portion of the tract” in Section 40(c)(D) (Line 5) to clarify that only the additional acreage needed to “earn” the 600 participants need be restricted from development and not the entire remainder of the tract.

5. Add “prior to occupancy of such increased number” after the word “evidence” in Section 40(d) (Line 14), to allow the recording of deed restrictions to wait until after an increase in youth camp participant numbers is approved.

6. Add the following new sentence after the sentence ending with the word “located” in Section 40(d) (Line 14) to provide greater clarity about the form and content of the deed restriction: “The deed restriction shall be sufficient if it is in a form comparable to the form in 660-006a (the Declaration of CC&R form in the Forest Rule) and limits development to accepted farm and forest practices and restoration/conservation activities.”

7. Replace Section 40 (h)(E)(ii) (Lines 15) with the following to clarify limitations on the partitioning of parcels containing youth camps: “A youth camp parcel cannot be partitioned below the minimum site size of 1,000 acres or in a manner that results in any land needed to comply with this section (except as explicitly allowed by this section) to be located on a separate parcel.”

8. Replace the word “will” in Section 40(i)(E) (Line 39) with the following to allow a Goal 11 exception to be obtained prior to a youth camp approval: “is conditioned to only.”