

BEFORE THE DEPARTMENT OF ADMINISTRATIVE SERVICES,  
THE DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT OF  
THE STATE OF OREGON

|                                |   |                   |
|--------------------------------|---|-------------------|
| IN THE MATTER OF THE CLAIM FOR | ) | FINAL ORDER A     |
| COMPENSATION UNDER ORS 197.352 | ) | CLAIM NO. M130017 |
| (BALLOT MEASURE 37) OF         | ) |                   |
| Glenn Woodbury, CLAIMANT       | ) |                   |

Claimant: Glenn Woodbury (the Claimant)

Property: Township 40S, Range 9W, Section 25A, Tax lot 2000, Josephine County  
(the Property)

Claim: The demand for compensation and any supporting information received from the  
Claimant by the State of Oregon (the Claim).

Claimant submitted the Claim to the State of Oregon under ORS 197.352. Under OAR 125-145-0010 *et seq.*, the Department of Administrative Services (DAS) referred the Claim to the Department of Land Conservation and Development (DLCD) as the regulating entity. This order is based on the record herein, including the Findings and Conclusions set forth in the Final Staff Report and Recommendation of DLCD (the DLCD Report) attached to and by this reference incorporated into this order.

ORDER

The Claim is approved as to laws administered by DLCD and the Land Conservation and Development Commission (LCDC) for the reasons set forth in the DLCD Report, and subject to the following terms:

1. In lieu of compensation under ORS 197.352, the State of Oregon will not apply the following laws to Glenn Woodbury's division of the 14.95-acre subject property into one 3.61-acre parcel and eleven approximately 1-acre parcels and to his development of an RV park on the 3.61-acre parcel and a dwelling on each 1-acre parcel: applicable provisions of Goal 14 and OAR 660-004-0040, adopted after January 4, 1995. These land use regulations will not apply to the Glenn Woodbury to the extent necessary to allow him to use the subject property for the use described in this report, and only to the extent that use was permitted when he acquired the property on January 4, 1995.
2. The action by the State of Oregon provides the state's authorization to Glenn Woodbury to use the subject property for the use described in this report, subject to the standards in effect on January 4, 1995. On that date, the property was subject to applicable provisions of Goal 14, as implemented by Josephine County's acknowledged comprehensive plan, then in effect.

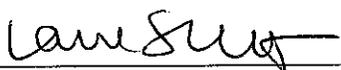
3. To the extent that any law, order, deed, agreement or other legally enforceable public or private requirement provides that the property may not be used without a permit, license or other form of authorization or consent, the order will not authorize the use of the property unless Glenn Woodbury first obtains that permit, license or other form of authorization or consent. Such requirements may include, but are not limited to: a building permit, a land use decision, a "permit" as defined in ORS 215.402 or 227.160, other permits or authorizations from local, state or federal agencies and restrictions on the use of the property imposed by private parties.

4. Any use of the property by Glenn Woodbury under the terms of the order will remain subject to the following laws: (a) those laws not specified in (1) above; (b) any laws enacted or enforced by a public entity other than the Commission or the department; and (c) those laws not subject to ORS 197.352 including, without limitation, those laws exempted under ORS 197.352(3).

5. Without limiting the generality of the foregoing terms and conditions, in order for Glenn Woodbury to use the property, it may be necessary for him to obtain a decision under ORS 197.352 from a city and/or county and/or metropolitan service district that enforces land use regulations applicable to the property. Nothing in this order relieves Glenn Woodbury from the necessity of obtaining a decision under ORS 197.352 from a local public entity that has jurisdiction to enforce a land use regulation applicable to his use of the property.

This Order is entered by the Director of the DLCD as a final order of DLCD and the Land Conservation and Development Commission under ORS 197.352, OAR 660-002-0010(8), and OAR 125, division 145, and by the Administrator for the State Services Division of the DAS as a final order of DAS under ORS 197.352, OAR 125, division 145, and ORS 293.

FOR DLCD AND THE LAND  
CONSERVATION AND  
DEVELOPMENT COMMISSION:

  
\_\_\_\_\_  
Lane Shetterly, Director  
DLCD  
Dated this 6<sup>th</sup> day of March, 2007.

FOR the DEPARTMENT OF  
ADMINISTRATIVE SERVICES:

  
\_\_\_\_\_  
David Hartwig, Administrator  
DAS, State Services Division  
Dated this 6<sup>th</sup> day of March, 2007.

## **NOTICE OF RIGHT TO APPEAL OR OTHER JUDICIAL RELIEF**

You are entitled, or may be entitled, to judicial remedies including the following:

1. Judicial review under ORS 183.484: Judicial review under ORS 183.484 may be obtained by filing a petition for review within 60 days from the service of this order. A petition for judicial review under ORS 183.484 may be filed in the Circuit Court for Marion County or the Circuit Court in the county in which you reside.
2. A cause of action under ORS 197.352 (Measure 37 (2004)): If a land use regulation continues to apply to the subject property more than 180 days after the present owner of the property has made written demand for compensation under ORS 197.352, the present owner of the property, or any interest therein, shall have a cause of action in the circuit court in which the real property is located.

(Copies of the documents that comprise the record are available for review at the Department's office at 635 Capitol Street NE, Suite 150, Salem, Oregon 97301-2540)

### **FOR INFORMATION ONLY**

The Oregon Department of Justice has advised the Department of Land Conservation and Development that “[i]f the current owner of the real property conveys the property before the new use allowed by the public entity is established, then the entitlement to relief will be lost.”

BEFORE THE DEPARTMENT OF ADMINISTRATIVE SERVICES,  
THE DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT OF  
THE STATE OF OREGON

IN THE MATTER OF THE CLAIM FOR )      FINAL ORDER B  
COMPENSATION UNDER ORS 197.352 )      CLAIM NO. M130017  
(BALLOT MEASURE 37) OF )  
Lori Woodbury, CLAIMANT )

Claimant:      Lori Woodbury (the Claimant)

Property:      Township 40S, Range 9W, Section 25A, Tax lot 2000  
                    Josephine County (the property)

Claim:          The demand for compensation and any supporting information received  
                    from the Claimant by the State of Oregon (the Claim).

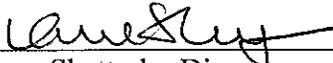
Claimant submitted the Claim to the State of Oregon under ORS 197.352. Under OAR 125-145-0010 *et seq.*, the Department of Administrative Services (DAS) referred the Claim to the Department of Land Conservation and Development (DLCD) as the regulating entity. This order is based on the record herein, including the Findings and Conclusions set forth in the Final Staff Report and Recommendation of DLCD (the DLCD Report) attached to and by this reference incorporated into this order.

ORDER

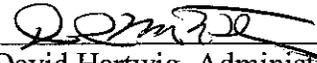
The Claim is denied as to laws administered by DLCD and the Land Conservation and Development Commission (LCDC) for the reasons set forth in the DLCD Report.

This Order is entered by the Director of the DLCD as a final order of DLCD and the Land Conservation and Development Commission under ORS 197.352, OAR 660-002-0010(8), and OAR chapter 125, division 145, and by the Administrator for the State Services Division of the DAS as a final order of DAS under ORS 197.352, OAR chapter 125, division 145, and ORS chapter 293.

FOR DLCD AND THE LAND  
CONSERVATION AND  
DEVELOPMENT COMMISSION:

  
\_\_\_\_\_  
Lane Shetterly, Director  
DLCD  
Dated this 6<sup>th</sup> day of March, 2007.

FOR THE DEPARTMENT OF  
ADMINISTRATIVE SERVICES:

  
\_\_\_\_\_  
David Hartwig, Administrator  
DAS, State Services Division  
Dated this 6<sup>th</sup> day of March, 2007.

**NOTICE OF RIGHT TO APPEAL OR OTHER JUDICIAL RELIEF**

You are entitled, or may be entitled, to the following judicial remedies:

1. Judicial review under ORS 183.484: Judicial review under ORS 183.484 may be obtained by filing a petition for review within 60 days from the service of this order. A petition for judicial review under ORS 183.484 may be filed in the Circuit Court for Marion County or the Circuit Court in the county in which you reside.
2. A cause of action under ORS 197.352 (Measure 37 (2004)): If a land use regulation continues to apply to the subject property more than 180 days after the present owner of the property has made written demand for compensation under ORS 197.352, the present owner of the property, or any interest therein, shall have a cause of action in the circuit court in which the real property is located.

(Copies of the documents that comprise the record are available for review at the Department's office at 635 Capitol Street NE, Suite 150, Salem, Oregon 97301-2540)

**ORS 197.352 (BALLOT MEASURE 37) CLAIM FOR COMPENSATION**  
**OREGON DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT**  
**Final Staff Report and Recommendation**

March 6, 2007

**STATE CLAIM NUMBER:** M130017

**NAMES OF CLAIMANTS:** Glenn and Lori Woodbury

**MAILING ADDRESS:** 172 Ross Lane  
Medford, Oregon 97501

**PROPERTY IDENTIFICATION:** Township 40S, Range 9W, Section 25A  
Tax lot 2000  
Josephine County

**DATE RECEIVED BY DAS:** September 11, 2006

**180-DAY DEADLINE:** March 10, 2007

**I. SUMMARY OF CLAIM**

The claimants, Glenn and Lori Woodbury, seek compensation in the amount of \$1.2 million for the reduction in fair market value as a result of land use regulations that are alleged to restrict the use of certain private real property. The claimants desire compensation or the right to divide the 14.95-acre subject property into one 3.61-acre parcel and eleven approximately 1-acre parcels and to develop an RV park on the 3.61-acre parcel and a dwelling on each 1-acre parcel.<sup>1</sup> The subject property is located at 469 Lone Mountain Road, near O'Brien, in Josephine County. (See claim.)

**II. SUMMARY OF STAFF RECOMMENDATION**

findings and conclusions set forth below, the Department of Land Conservation and Development (the department) has determined that the claim is valid in part. Department staff recommends that, in lieu of compensation, the requirements of the following state laws enforced by the Land Conservation and Development Commission (the Commission) or the department not apply to Glenn Woodbury's division of the 14.95-acre subject property into one 3.61-acre parcel and eleven approximately 1-acre parcels and to his development of an RV park on the 3.61-acre parcel and a dwelling on each 1-acre parcel: applicable provisions of Statewide

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<sup>1</sup> The claim also indicates that the claimants desire to transfer the newly created parcels for development. In effect, the claimants request that a decision of the department to "not apply" (waive) certain laws as set forth in this report be transferable with the property. ORS 197.352 only authorizes a state agency to waive a law in order to allow the current owner a use of the property permitted at the time that owner acquired the property. A determination of transferability is beyond the scope of relief that the department may grant under ORS 197.352. The Oregon Department of Justice has advised the department that "[i]f the current owner of the real property conveys the property before a new use allowed by the public entity is established, then the entitlement to relief will be lost."

Planning Goal 14 (Urbanization) and Oregon Administrative Rule (OAR) 660-004-0040, adopted after January 4, 1995. These land use regulations will not apply to Glenn Woodbury to the extent necessary to allow him to use the subject property for the use described in this report, and only to the extent that use was permitted when he acquired the property on January 4, 1995.

The department has further determined that this claim is not valid as to Lori Woodbury because the claimants have not established her ownership of the subject property. (See the complete recommendation in Section VI. of this report.)

### **III. COMMENTS ON THE CLAIM**

#### **Comments Received**

On December 12, 2006, pursuant to OAR 125-145-0080, the Oregon Department of Administrative Services (DAS) provided written notice to the owners of surrounding properties. According to DAS, three written comments were received in response to the 10-day notice.

The comments do not address whether the claim meets the criteria for relief under ORS 197.352. Comments concerning the effects a use of the subject property may have on surrounding areas are generally not something that the department is able to consider in determining whether to waive a state law. If funds do become available to pay compensation, then such effects may become relevant in determining which claims to pay compensation for instead of waive a state law. (See the comment letters in the department's claim file.)

### **IV. TIMELINESS OF CLAIM**

#### **Requirement**

ORS 197.352(5) requires that a written demand for compensation be made:

1. For claims arising from land use regulations enacted prior to the effective date of Measure 37 (December 2, 2004), within two years of that effective date, or the date the public entity applies the land use regulation as an approval criteria to an application submitted by the owner, whichever is later; or
2. For claims arising from land use regulations enacted after the effective date of Measure 37 (December 2, 2004), within two years of the enactment of the land use regulation, or the date the owner of the property submits a land use application in which the land use regulation is an approval criteria, whichever is later.

#### **Findings of Fact**

This claim was submitted to DAS on September 11, 2006, for processing under OAR 125, division 145. The claim identifies OAR 660-004-0040 and Josephine County Code Article 61.060(B)(1) as the basis for the claim. Only laws that were enacted or adopted prior to December 2, 2004, are the basis for this claim.

## **Conclusions**

The claim has been submitted within two years of the effective date of Measure 37 (December 2, 2004), based on land use regulations enacted or adopted prior to December 2, 2004, and is therefore timely filed.

## **V. ANALYSIS OF CLAIM**

### **1. Ownership**

ORS 197.352 provides for payment of compensation or relief from specific laws for “owners” as that term is defined in ORS 197.352. ORS 197.352(11)(C) defines “owner” as “the present owner of the property, or any interest therein.”

### **Findings of Fact**

Claimant Glenn Woodbury acquired the subject property on January 4, 1995, as reflected by a bargain and sale deed included with the claim. The claim alleges that claimant Lori Woodbury acquired an interest in the subject property in 1996, but does not include any documentation to establish when she acquired the property or that she is a present owner of the subject property. The Josephine County Assessor’s Office confirms Glenn Woodbury’s current ownership of the subject property.

### **Conclusions**

Claimant Glenn Woodbury is an “owner” of the subject property as that term is defined by ORS 197.352(11)(C) as of January 4, 1995. Claimant Lori Woodbury has not established that she is an “owner” of the subject property as that term is defined by ORS 197.352(11)(C).

### **2. The Laws That are the Basis for This Claim**

In order to establish a valid claim, ORS 197.352(1) requires, in part, that a law must restrict the claimants’ use of private real property in a manner that reduces the fair market value of the property relative to how the property could have been used at the time the claimants or a family member acquired the property.

### **Findings of Fact**

The claim indicates that the claimants desire to divide the 14.95-acre subject property into one 3.61-acre parcel and eleven approximately 1-acre parcels and to develop an RV park on the 3.61-acre parcel and a dwelling on each 1-acre parcel, and that the desired use is not allowed under current land use regulations.

The claim is based on the provisions of state law that regulate rural residential zoning. The subject property is zoned RR1 (Rural Residential) by Josephine County, consistent with Goal 14, which generally requires that land outside of urban growth boundaries be used for rural uses. The county’s RR1 zone was adopted on December 9, 1985, and currently requires a minimum of two acres for the creation of a new lot or parcel.

Goal 14 was effective on January 25, 1975, and requires that local comprehensive plans identify and separate urbanizable land from rural land in order to provide for an orderly and efficient transition from rural to urban land use. In 2000, as a result of a 1986 Oregon Supreme Court decision,<sup>2</sup> the Commission amended Goal 14 and adopted OAR 660-004-0040 (Application of Goal 14 to Rural Residential Areas), which was effective on October 4, 2000.

The rule states that if a county rural residential zone in effect on October 4, 2000, specifies a minimum lot size of two acres or more, the area of any new lot or parcel shall equal or exceed the minimum lot size that is already in effect (OAR 660-004-0040(7)(c)). Some relief from this provision is available for lots or parcels having more than one permanent habitable dwelling pursuant to OAR 660-004-0040(7)(h). The rule also provides that a county's minimum lot size requirement in a rural residential zone shall not be amended to allow a smaller minimum lot size without approval of an exception to Goal 14 (OAR 660-004-0040(6)). Because Josephine County's rural residential zone was in effect on October 4, 2000, and requires a minimum lot size of two acres, the minimum lot size for any new lot or parcel must equal or exceed two acres.

When Glenn Woodbury acquired the subject property on January 4, 1995, it was subject to Josephine County's acknowledged comprehensive plan. At that time, Josephine County's RR-1 zone required a minimum of one acre for the creation of a new lot or parcel. Residential development of the subject property at that time would have been subject to the provisions of the county's comprehensive plan and land use ordinances, including the provision of Goal 14 implemented by those regulations.

### **Conclusions**

The minimum lot size requirements for rural residential lots or parcels established by amendments to Goal 14 and OAR 660-004-0040 were adopted after Glenn Woodbury acquired the subject property in 1995, and do not allow the desired division of the property. However, the claim does not establish whether or to what extent Glenn Woodbury's desired level of development would have been permitted under the laws in effect in 1995 when he acquired the property.

As explained in Section V.(1) above, claimant Lori Woodbury has not established that she is an owner of the subject property as that term is defined in ORS 197.352(11)(C). Without such demonstration, the department cannot determine that any laws enforced by the Commission or the department restrict her use of private real property with the effect of reducing the fair market value of the property.

This report addresses only those state laws that are identified in the claim, or that the department is certain apply to the property based on the uses that the claimants have identified. There may be other laws that currently apply to Glenn Woodbury's use of the property, and that may continue to apply to his use of the property, that have not been identified in the claim. In some cases, it will not be possible to know which laws apply to a use of property until there is a specific proposal for that use. When Glenn Woodbury seeks a building or development permit to carry out a specific use, it may become evident that other state laws apply to that use.

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<sup>2</sup> *1000 Friends of Oregon v. LCDC (Curry County)*, 301 Or 447 (1986).

### **3. Effect of Regulations on Fair Market Value**

In order to establish a valid claim, ORS 197.352(1) requires that the land use regulation(s) (described in Section V.(2) of this report) must have “the effect of reducing the fair market value of the property, or any interest therein.”

#### **Findings of Fact**

The claim includes an estimate of \$1.2 million as the reduction in the property’s fair market value due to the regulations that restrict the claimants’ desired use of the property. This amount is based on a comparative market analysis included with the claim.

#### **Conclusions**

As explained in Section V.(1) of this report, the claimants are Glenn and Lori Woodbury. Claimant Glenn Woodbury acquired the subject property on January 4, 1995. As explained in Section V.(1), claimant Lori Woodbury has not established her ownership of the subject property. Without such demonstration, Lori Woodbury has not established that she is entitled to compensation under ORS 197.352. Under ORS 197.352, Glenn Woodbury is due compensation for land use regulations that restrict the use of the subject property and have the effect of reducing its fair market value. Based on the findings and conclusions in Section V.(2) of this report, laws adopted since Glenn Woodbury acquired the subject property restrict his desired use of the property. The claimants estimate that the effect of the regulations on the fair market value of the subject property is a reduction of \$1.2 million.

Without an appraisal or other documentation, and without verification of whether or the extent to which the claimants’ desired use of the property would have been permitted when Glenn Woodbury acquired it in 1995, it is not possible to substantiate the specific dollar amount by which the land use regulations have reduced the fair market value of the property. Nevertheless, based on the evidence in the record for this claim, the department determines that the fair market value of the subject property has been reduced to some extent as a result of land use regulations enforced by the Commission or the department.

### **4. Exemptions Under ORS 197.352**

ORS 197.352 does not apply to certain land use regulations. In addition, under ORS 197.352(3), certain types of laws are exempt from ORS 197.352.

#### **Findings of Fact**

The claim is based on state land use regulations that restrict the use of the subject property, including Goal 14 and OAR 660-004-0040, which Josephine County has implemented through its RR1 zone. With the exception of provisions of Goal 14 in effect when Glenn Woodbury acquired the subject property on January 4, 1995, these land use regulations were adopted after Glenn Woodbury acquired the property.

## **Conclusions**

Without a specific development proposal for the property, it is not possible for the department to determine all the laws that may apply to a particular use of the property, or whether those laws may fall under one or more of the exemptions under ORS 197.352. It appears that the general goal and rule restrictions on residential division of the subject property are not exempt under ORS 197.352(3)(E) to the extent they were adopted after Glenn Woodbury acquired the property. Provisions of Goal 14 in effect when Glenn Woodbury acquired the property in 1995 are exempt under ORS 197.352(3)(E) and will continue to apply to the property.

Other laws in effect when Glenn Woodbury acquired the subject property are also exempt under ORS 197.352(3)(E) and will continue to apply to his use of the property. In addition, Josephine County notes that a portion of the property is located in a flood plain zone. ORS 197.352(3)(B) specifically exempts regulations “restricting or prohibiting activities for the protection of public health and safety. . . .” To the extent the county’s flood plain regulations are based on state law, these regulations would be exempt under ORS 197.352(3)(B). There may be other laws that continue to apply to Glenn Woodbury’s use of the subject property that have not been identified in the claim. In some cases, it will not be possible to know which laws apply to a use of property until there is a specific proposal for that use. When Glenn Woodbury seeks a building or development permit to carry out a specific use, it may become evident that other state laws apply to that use. In some cases, some of these laws may be exempt under ORS 197.352(3)(A) to (D).

As explained in Section V.(1) of this report, claimant Lori Woodbury has not established that she is an “owner” of the subject property as that term is defined in ORS 197.352(11)(C). Without such demonstration, the department can make no determination that any land use laws are exempt from ORS 197.352.

This report addresses only those state laws that are identified in the claim, or that the department is certain apply to the property based on the uses that the claimants have identified. Similarly, this report only addresses the exemptions provided for under ORS 197.352(3) that are clearly applicable, given the information provided to the department in the claim. The claimants should be aware that the less information they have provided to the department in the claim, the greater the possibility that there may be additional laws that will later be determined to continue to apply to the use of the property.

## **VI. FORM OF RELIEF**

ORS 197.352(1) provides for payment of compensation to an owner of private real property if the Commission or the department has enforced one or more laws that restrict the use of the property in a manner that reduces its fair market value. In lieu of compensation, the department may choose to not apply the law in order to allow the present owner to carry out a use of the property permitted at the time the present owner acquired the property. The Commission, by rule, has directed that if the department determines a claim is valid, the Director of the department must provide only non-monetary relief unless and until funds are appropriated by the legislature to pay claims.

## **Findings of Fact**

Based on the findings and conclusions set forth in this report, the claimants have not established Lori Woodbury's ownership of the subject property and therefore, have not established that any laws enforced by the Commission or the department restrict her use of the subject property. The department further finds that laws enforced by the Commission or the department restrict Glenn Woodbury's desired use of the subject property. The claim asserts that existing state land use regulations enforced by the Commission or the department have the effect of reducing the fair market value of the subject property by \$1.2 million. However, because the claim does not provide an appraisal or other relevant evidence demonstrating that the land use regulations described in Section V.(2) reduce the fair market value of the property, a specific amount of compensation cannot be determined. In order to determine a specific amount of compensation due for this claim, it would also be necessary to verify whether or the extent to which Glenn Woodbury's desired use of the property was allowed under the standards in effect when he acquired the property. Nevertheless, based on the record for this claim, the department has determined that the laws on which the claim is based have reduced the fair market value of the subject property to some extent.

No funds have been appropriated at this time for the payment of claims. In lieu of payment of compensation, ORS 197.352 authorizes the department to modify, remove or not apply all or parts of certain land use regulations to allow Glenn Woodbury to use the subject property for a use permitted at the time he acquired the property on January 4, 1995.

## **Conclusions**

Based on the record, the department recommends that the claim be denied as to Lori Woodbury because the claimants have not demonstrated her ownership of the subject property. The department further recommends that the claim be approved for Glenn Woodbury, subject to the following terms:

1. In lieu of compensation under ORS 197.352, the State of Oregon will not apply the following laws to Glenn Woodbury's division of the 14.95-acre subject property into one 3.61-acre parcel and eleven approximately 1-acre parcels and to his development of an RV park on the 3.61-acre parcel and a dwelling on each 1-acre parcel: applicable provisions of Goal 14 and OAR 660-004-0040, adopted after January 4, 1995. These land use regulations will not apply to the Glenn Woodbury to the extent necessary to allow him to use the subject property for the use described in this report, and only to the extent that use was permitted when he acquired the property on January 4, 1995.
2. The action by the State of Oregon provides the state's authorization to Glenn Woodbury to use the subject property for the use described in this report, subject to the standards in effect on January 4, 1995. On that date, the property was subject to applicable provisions of Goal 14, as implemented by Josephine County's acknowledged comprehensive plan, then in effect.
3. To the extent that any law, order, deed, agreement or other legally enforceable public or private requirement provides that the property may not be used without a permit, license or other form of authorization or consent, the order will not authorize the use of the property unless Glenn Woodbury first obtains that permit, license or other form of authorization or consent.

Such requirements may include, but are not limited to: a building permit, a land use decision, a "permit" as defined in ORS 215.402 or 227.160, other permits or authorizations from local, state or federal agencies and restrictions on the use of the property imposed by private parties.

4. Any use of the property by Glenn Woodbury under the terms of the order will remain subject to the following laws: (a) those laws not specified in (1) above; (b) any laws enacted or enforced by a public entity other than the Commission or the department; and (c) those laws not subject to ORS 197.352 including, without limitation, those laws exempted under ORS 197.352(3).

5. Without limiting the generality of the foregoing terms and conditions, in order for Glenn Woodbury to use the property, it may be necessary for him to obtain a decision under ORS 197.352 from a city and/or county and/or metropolitan service district that enforces land use regulations applicable to the property. Nothing in this order relieves Glenn Woodbury from the necessity of obtaining a decision under ORS 197.352 from a local public entity that has jurisdiction to enforce a land use regulation applicable to his use of the property.

## **VII. COMMENTS ON THE DRAFT STAFF REPORT**

The department issued its draft staff report on this claim on February 12, 2007. OAR 125-145 0100(3), provided an opportunity for the claimants or the claimants' authorized agent and any third parties who submitted comments under OAR 125-145-0080 to submit written comments, evidence and information in response to the draft staff report and recommendation.