

1 BEFORE THE LAND USE BOARD OF APPEALS

2 OF THE STATE OF OREGON

3
4 DEPARTMENT OF LAND CONSERVATION)

5 AND DEVELOPMENT,)

6)
7 Petitioner,)

8)
9 vs.)

10) LUBA Nos. 93-181 and 93-182

11 FARGO INTERCHANGE SERVICE)

12 DISTRICT and MARION COUNTY,)

13) FINAL OPINION

14 Respondents,)

 AND ORDER

15)
16 and)

17)
18 BRENT LEATHERS, ED MONTECUCCO,)

19 and CBM DEVELOPMENT,)

20)
21 Intervenors-Respondent.)

22
23
24 Appeal from Fargo Interchange Service District and
25 Marion County.

26
27 Celeste J. Doyle, Assistant Attorney General, Salem,
28 filed the petition for review and argued on behalf of
29 petitioner. With her on the brief was Theodore R.
30 Kulongoski, Attorney General; Thomas A. Balmer, Deputy
31 Attorney General; and Virginia L. Linder, Solicitor General.

32
33 Robert C. Cannon, County Counsel and Jane Ellen
34 Stonecipher, Assistant County Counsel, Salem; Edward J.
35 Sullivan and Timothy S. Sercombe, Portland, filed the
36 response brief. With them on the brief was Preston Gates &
37 Ellis. Jane Ellen Stonecipher argued on behalf of
38 respondent and Edward J. Sullivan argued on behalf of
39 intervenor-respondent Leathers and Montecucco.

40
41 KELLINGTON, Chief Referee; HOLSTUN, Referee,
42 participated in the decision.

43
44 REMANDED 04/22/94

1 You are entitled to judicial review of this Order.
2 Judicial review is governed by the provisions of ORS
3 197.850.

1 Opinion by Kellington.

2 **NATURE OF THE DECISION**

3 Petitioner appeals a decision of the Fargo Interchange
4 Service District (district) approving the construction of
5 sewerage facilities that will connect the district with the
6 City of Donald sewage treatment plant. Petitioner also
7 appeals a county decision determining the district's
8 decision is consistent with the county comprehensive plan.

9 **MOTION TO INTERVENE**

10 Brent Leathers, Ed Montecucco, and CBM Development move
11 to intervene on the side of respondent in this appeal
12 proceeding. There is no opposition to the motions, and they
13 are allowed.

14 **FACTS**

15 The area to be served by the proposed district sewerage
16 facilities consists of approximately 117 acres of land,
17 developed with a variety of freeway service uses.¹ The
18 district is within the county's acknowledged Interchange
19 District (ID). Exceptions to Statewide Planning Goals
20 (Goals) 3 (Agricultural Lands) and 4 (Forest Lands) were
21 acknowledged for the Fargo interchange area in 1981 and
22 1983. The district's service area and the exception area
23 are coterminous.

24 In 1992, the district was formed to develop and provide

¹This Board affirmed the county decision approving the formation of the district in DLCD v. Marion County, 23 Or LUBA 619 (1992).

1 a public sewerage system to serve the Fargo interchange
2 area. The area is currently served by private sewerage
3 facilities which utilize lagoons located within the
4 district. The current sewerage facilities are inadequate.
5 See DLCD v. Marion County, supra.

6 The district evaluated various alternatives for
7 provision of public sewerage facilities to the Fargo
8 interchange exception area. The district ultimately
9 approved an underground pressure line running between the
10 district and the City of Donald Sewage Treatment Plant.

11 The City of Donald is located some distance from the
12 district. The underground pressure line will traverse
13 several miles of rural land zoned Exclusive Farm Use (EFU).
14 The district's approval of the proposal to construct and
15 provide sewer service through the underground pressure line
16 to the City of Donald is reflected in the challenged
17 district decision.²

18 The county decision approving the proposal is separate
19 from the district decision. The challenged county decision
20 determines that both the proposal to construct the facility,
21 and for the City of Donald to provide sewerage service to
22 the Fargo Interchange exception area through an agreement
23 with the district, is consistent with the Marion County

²The challenged district decision is entitled "In the matter of adopting a facilities order for construction, operation and financing of sewer service facilities." Record 290.

1 Zoning Ordinance (MCZO) and the Marion County Comprehensive
2 Plan (plan).

3 **JURISDICTION OVER DISTRICT DECISION**

4 LUBA has exclusive jurisdiction to review "land use
5 decisions" and "limited land use decisions."³
6 ORS 197.015(10); ORS 197.015(12). ORS 197.015(10)(a)
7 defines "Land use decision" as follows:

8 "(A) A final decision or determination made by a
9 * * * special district that concerns the
10 adoption, amendment or application of:

11 "(i) The goals;

12 "(ii) A comprehensive plan provision;

13 "(iii) A land use regulation; or

14 "(iv) A new land use regulation;

15 "* * * * *"

16 Intervenor argues this Board lacks jurisdiction to
17 review the challenged district decision because it is not a
18 "land use decision."⁴

19 The district has no comprehensive plan or land use
20 regulations to apply to the proposal. Therefore, for the
21 challenged district decision to be a statutory land use
22 decision, there must be some statutory or other authority
23 requiring application of the goals to the challenged

³No party contends that the challenged decision is a limited land use decision, and we do not believe that it is.

⁴Intervenor does not dispute that the challenged county decision is a land use decision subject to our review.

1 decision. See Olson v. Neahkahnie Water District, 25 Or
2 LUBA 792 (1993); Miller v. City of Dayton, 22 Or LUBA 661
3 (1992), aff'd 113 Or App 300 (1992). That authority is
4 ORS 195.020(1), which provides:

5 "Special districts shall exercise their planning
6 duties, powers and responsibilities and take
7 actions that are authorized by law with respect to
8 programs affecting land use, * * * in accordance
9 with [the statewide planning] goals * * *."
10 (Emphases supplied.)

11 The challenged district decision finally determines
12 policy questions concerning how the district will provide
13 sewerage service to the Fargo interchange area, where that
14 service will occur, and the level of that service.⁵ We
15 believe the challenged decision is an exercise of the
16 district's planning duties and responsibilities, and is a
17 land use decision over which we have review authority.

18 This Board has jurisdiction over the challenged
19 district decision.

20 **ASSIGNMENTS OF ERROR**

21 Under the assignments of error, petitioner argues the
22 challenged district and county decisions are erroneous for a
23 number of reasons addressed below.

⁵The challenged decision is not, as intervenors contend, simply a decision concerning the financing aspects of a facilities plan. We agree that if it were simply this, we would lack jurisdiction to review such a decision. This is because ORS 197.712(2)(e) excludes from the definition of land use decision "* * * project timing and financing provisions of public facility plans * * *."

1 **A. District Decision**

2 Petitioner argues the challenged district decision is
3 inadequate because it fails to establish compliance with
4 Goals 11 (Public Facilities) and 14 (Urbanization).

5 There is no real dispute that the challenged district
6 decision is legislative in nature. No statute, statewide
7 planning goal or administrative rule requires that local
8 governments adopt findings to support legislative land use
9 decisions. Von Lubken v. Hood River County, 22 Or LUBA 307
10 (1991). Neither is there any statutory requirement that
11 such decisions be supported by substantial evidence.
12 Alexiou v. Curry County, 22 Or LUBA 639 (1992).
13 Nevertheless, we have explained on several occasions that
14 findings may be necessary to permit this Board to perform
15 its review function. See Von Lubken v. Hood River County,
16 supra; League of Women Voters v. Klamath County, 16 Or LUBA
17 909, 913, (1988); Tides Unit Owners Assoc. v. City of
18 Seaside, 11 Or LUBA 84, 89-90 (1984); 1000 Friends of Oregon
19 v. Marion County Board of Commissioners, 1 Or LUBA 33, 37
20 (1980). Where the local government does not adopt findings
21 explaining why a challenged legislative land use regulation
22 amendment complies with applicable approval criteria, LUBA
23 relies upon the responding parties to provide argument and
24 citations to the record to assist the resolution of
25 petitioners' allegations.

26 Under ORS 195.020(1), the challenged district decision

1 must be consistent with the statewide planning goals.
2 Petitioner contends Goals 11 and 14 apply to the proposal,
3 and we agree that they do. The challenged district decision
4 contains no findings of compliance with these goals.
5 Further, the challenged district decision does not purport
6 to take an exception to Goals 11 and 14.⁶ Respondents do
7 not purport to establish compliance with Goals 11 and 14 in
8 their brief. Therefore, we conclude the challenged decision
9 does not satisfy the requirement of ORS 195.020(1), that the
10 district's exercise of its planning responsibilities be
11 consistent with the statewide planning goals.⁷

12 This assignment of error is sustained.

13 **B. County Decision**

14 As stated above, the challenged county decision
15 approves the extension of sewer services from the City of
16 Donald to the Fargo interchange exception area through an
17 agreement between the city and the district. Petitioner
18 challenges the county's decision on a number of different
19 bases. Petitioner argues that (1) the challenged decision
20 violates Goals 11 and 14, (2) new or amended exceptions to
21 Goals 3 and 4, and exceptions to Goals 11 and 14 are

⁶The previous exceptions for the Fargo interchange area were exceptions to Goals 3 and 4, only.

⁷We note that to the extent the district relies upon the challenged county decision to make the required findings, for the reasons explained below, the county decision does not establish the proposal is consistent with Goals 11 and 14.

1 required to authorize the proposed sewerage service, and (3)
2 the proposal violates various county comprehensive plan
3 policies. We address each of these arguments separately
4 below.

5 **1. Goals 11 and 14**

6 The county's comprehensive plan and land use
7 regulations are acknowledged by the Land Conservation and
8 Development Commission pursuant to ORS 197.251. Therefore,
9 the goals are only directly applicable to the challenged
10 decision if the decision amends the county plan. Foland v.
11 Jackson County, 311 Or App 167, 807 P2d 801 (1991);
12 1000 Friends of Oregon v. Jackson County, 79 Or App 93, 718
13 P2d 753 (1986), rev den 301 Or 445 (1987); Murray v. Marion
14 County, 23 Or LUBA 268 (1992).

15 The challenged decision does not amend the county's
16 comprehensive plan.⁸ The challenged decision is simply a
17 determination that the provision of sewer service, from the
18 City of Donald treatment facility to the district, is
19 consistent with the county plan. Assuming the county
20 comprehensive plan permits such a service extension, we are
21 aware of no legal standard requiring direct application of
22 the statewide planning goals to the challenged decision.

23 This subassignment of error is denied.

⁸While petitioner advances various arguments that the county should have amended its plan in adopting the challenged decision, the county did not amend its plan, and we are not aware of any legal requirement that it do so in determining a proposal complies with the plan.

1 **2. New Exceptions to Goals 3 and 4 and exceptions to**
2 **Goals 11 and 14**

3 Goal 3 and Goal 4 exceptions were approved for the
4 Fargo interchange area in the early 1980's. No exceptions
5 to Goals 11 or 14 were taken at the time the exceptions to
6 Goals 3 and 4 were approved and acknowledged. Nevertheless,
7 the county's acknowledged comprehensive plan and land use
8 regulations plan and zone the Fargo interchange area ID.
9 The ID plan and zone designation permits a level of activity
10 that requires sewer service. In fact, the goal exceptions
11 for the Fargo interchange area specifically allow a sewerage
12 system to serve the exception area. As previously noted,
13 the Fargo interchange exception area is currently served by
14 privately owned sewer facilities, although the existing
15 sewerage system is inadequate.

16 In Murray v. Marion County, supra, we determined that
17 once county plan and land use regulations are acknowledged,
18 a petitioner may not challenge proposed development allowed
19 by the plan and land use regulations on the basis that the
20 allowed development violates the goals. Acknowledgment
21 forecloses such challenges. Byrd v. Stringer, 295 Or 311,
22 666 P2d 1332 (1983).

23 Finally, petitioner contends the approved exceptions
24 expressly forbid the construction of an off-site sewerage
25 facility. Nothing cited by petitioner establishes the
26 approved goal exceptions contained any such restriction on
27 the construction of off-site facilities to serve the Fargo

1 interchange exception area.

2 This subassignment of error is denied.

3 **3. Plan Policies**

4 Petitioner contends the proposal violates various
5 county plan provisions. As a preliminary matter, we note
6 our scope of review over land use decisions was altered in
7 one significant respect by the 1993 legislature, under
8 ORS 197.829(4). Prior to the enactment of ORS 197.829(4) in
9 1993, LUBA was required to defer to a local government's
10 interpretation of its own enactment, unless the
11 interpretation was contrary to the express words, policy or
12 context of the enactment. Clark v. Jackson County, 313 Or
13 508, 836 P2d 710 (1992). While ORS 197.829 generally
14 carries forward this rule of LUBA deference to a local
15 government's interpretation of its own enactments,
16 ORS 197.829(4) adds an important exception. ORS 197.829(4)
17 provides that LUBA is required to defer to a local
18 interpretation of its own plan and land use regulations
19 unless the interpretation:

20 "Is contrary to a * * * land use goal or rule that
21 the comprehensive plan provision or land use
22 regulation implements."

23 Therefore, while the goals do not directly apply to a land
24 use decision that simply applies acknowledged plan and land
25 use regulation provisions, the goals are relevant to a local
26 government interpretation of plan or land use regulation
27 provisions that implement a goal or goals.

1 With this in mind, we address petitioner's arguments
2 concerning the proposal's compliance with various county
3 plan provisions, below.

4 **a. Plan Urban Growth Policy 7**

5 Plan Urban Growth Policy 7 provides as follows:

6 "Urban Densities and urban services shall only be
7 established within recognized urban growth
8 boundaries."

9 Petitioner contends plan Urban Growth Policy 7
10 implements Goals 11 and 14. Petitioner argues that under
11 ORS 197.829(4), we are required to interpret plan Urban
12 Growth policy 7 to be consistent with Goals 11 and 14 that
13 the plan policy implements. Petitioner points out that
14 Goals 11 and 14 together prohibit the extension of urban
15 level services outside of urban growth boundaries, unless a
16 goal exception is taken. Petitioner points out the City of
17 Donald sewerage treatment facility is an urban public
18 facility serving the urban population within the City of
19 Donald urban growth boundary (UGB). Petitioner argues,
20 therefore, that the county's interpretation of plan Urban
21 Growth Policy 7 is inconsistent with Goals 11 and 14 that
22 the policy was designed to implement.

23 The challenged decision states plan Urban Growth
24 Policy 7 is not violated by the proposal because the subject
25 Fargo interchange area is acknowledged to be in compliance
26 with the goals, notwithstanding that it is outside a UGB.
27 The decision reasons that because the Fargo interchange area

1 is outside of any UGB, and the existing level of development
2 is acknowledged to be in compliance with the goals, it is
3 necessarily a "rural" area. The decision further reasons
4 that if the Fargo interchange area is "rural," then the
5 proposed extension of sewer service is also a rural level of
6 service. The county maintains Goals 11 or 14 contain no
7 prohibition against the extension of a rural level of sewer
8 service outside a UGB.

9 We agree with petitioner. It is clear that plan Urban
10 Growth Policy 7 implements Goals 11 and 14. Therefore,
11 under ORS 197.829(4), we may not defer to the county's
12 interpretation of plan Urban Growth Policy 7, unless the
13 county's interpretation is consistent with those goals.
14 Because the proposal will extend sewer service to the Fargo
15 interchange from the City of Donald urban sewerage treatment
16 plant, the proposal will extend an urban service outside of
17 an urban growth boundary. This is inconsistent with Goals
18 11 and 14. The county's interpretation of plan Urban Growth
19 Policy 7 to allow such an extension of urban services
20 outside of the City of Donald UGB, is incorrect.

21 It may be that there is nothing inherently urban about
22 a central sewerage system. As noted earlier, the Fargo
23 interchange exception area was acknowledged with express
24 authorization for such a central sewerage facility, even

1 though it is not within a UGB.⁹ In any event, it is clear
2 that a determination of whether the type and intensity of
3 development allowed within the Fargo interchange exception
4 area under existing acknowledged plan and land use
5 regulations is "urban," is foreclosed by acknowledgment of
6 those provisions without requiring exceptions to Goals 11
7 and 14. Thus, under the acknowledged plan and land use
8 regulations applied within the district, allowed development
9 may occur under those provisions, and any such development
10 may be served by the sewerage system currently authorized
11 within the district. However, the district now seeks to
12 treat and dispose of sewage generated by the development
13 allowed under the acknowledged county provisions, not within
14 the district as is permitted under the acknowledged plan and
15 land use regulations, but rather by extending the urban
16 sewerage collection and treatment facilities of the City of
17 Donald to the district. Under the county plan, it must be
18 established that such a proposal is consistent with Urban
19 Growth Policy 7. Under ORS 197.829(4), plan Urban Growth
20 Policy 7 must be interpreted and applied consistently with
21 Goals 11 and 14.

22 In interpreting plan Urban Growth Policy 7 consistently
23 with Goals 11 and 14, which the policy is designed to

⁹We note, however, that we have explained that "sewerage facilities and the higher developmental densities such facilities allow, are one of the clearer indicia of urban, as opposed to rural, development." Parmenter v. Wallowa County, 21 Or LUBA 490, 495 (1991).

1 implement, it is unreasonable to ignore that the proposed
2 sewerage treatment service is from the City of Donald
3 treatment facility, an indisputably urban facility. There
4 is some facial appeal to respondents' contention that the
5 district serves only a "rural" area and, therefore, the
6 proposed service is a rural service. However, we reject it
7 as focusing exclusively and improperly on the district, as
8 service user, while ignoring the urban nature of the
9 sewerage service itself. That the district itself may
10 legally lay claim to being "rural," is immaterial. The
11 extension of the urban service from the City of Donald to
12 the district violates plan Urban Growth Policy 7, if that
13 policy is interpreted consistently with Goals 11 and 14.¹⁰
14 ORS 197.829(4).

15 This subassignment of error is sustained.

16 **b. Plan Rural Service Policies 2, 3 and 4**

17 Petitioner argues the proposal violates plan Rural
18 Service Policies 2 and 3, which provide:

19 "(2) It is the intent of Marion County to maintain
20 the rural character of the areas outside of
21 urban growth boundaries by only allowing

¹⁰The flaw in the county decision and in respondents' arguments in support of that decision is the reasoning allows the City of Donald to extend its sewerage facilities outside its UGB to serve any use or user desiring to obtain such service, so long as that use or user could successfully claim to be "rural." Such action would violate Goals 11 and 14 if the goals applied directly, because those goals prohibit the extension of urban services onto rural lands. Such action would also violate plan Urban Growth Policy 7 which implements those Goals and imposes an identical prohibition.

1 those uses that do not increase the potential
2 for urban services.

3 "(3) Only those facilities and services that are
4 necessary to accommodate planned rural land
5 uses should be provided unless it can be
6 shown that the proposed service will not
7 encourage development inconsistent with
8 maintaining the rural density and the
9 character of the area."

10 The challenged decision states the following concerning
11 the proposal's compliance with plan Rural Service Policies 2
12 and 3:

13 "[These policies] state the general intent that
14 Marion County maintain the rural character of the
15 areas outside of UGBs by allowing only those uses
16 that do not increase the potential for urban
17 services, and providing that only those facilities
18 and services that are necessary to accommodate
19 planned rural land uses should be provided, unless
20 it can be shown that the proposed service will not
21 encourage development inconsistent with
22 maintaining the rural density and character of the
23 area. The [Board of Commissioners] interprets
24 these policies as non-binding.

25 "[The Board of Commissioners] finds the proposed
26 facility is anticipated and allowed by the [plan]
27 and is a 'closed facility' which will serve only
28 existing and planned development of a type and
29 nature allowed by the ID zone at a designated
30 rural development center, i.e., the [Fargo Road
31 Exception Area]. Absent a health hazard, any
32 service outside of the identified rural
33 development center or ID zone would be contrary to
34 the [plan] and will be a land use decision. The
35 [Board of Commissioners] further finds that the
36 proposal provides for those facilities and
37 services necessary to accommodate planned
38 development in [the Fargo Road Exception Area.]"
39 Record 25-26.

40 Petitioner also argues the proposal violates plan Rural

1 Services Policy 4, which provides:

2 "The sizing of public or private service
3 facilities shall be based on maintaining the rural
4 character of the area. Systems that cannot be
5 cost effective without exceeding the rural
6 densities specified in this Plan shall not be
7 approved."

8 The challenged decision determines compliance with this
9 policy, as follows:

10 "The evidence indicates that the facility is sized
11 and designed to serve only those uses allowed by
12 the ID zone, which is a recognized rural
13 commercial freeway interchange zone. Approval of
14 this proposal will not change the character of any
15 area, but merely carries out the acknowledged
16 [plan,] which sets forth the types and levels of
17 uses in the [Fargo Road Exception Area.] The
18 [Board of Commissioners] concludes that the [Fargo
19 Road Exception Area] will realize those uses
20 provided for in the [plan,] while the agricultural
21 land around the [Fargo Road Exception Area],
22 including that over which the facility is to run,
23 will not be affected by the grant of this
24 proposal, provided a condition of approval
25 providing for a closed system is imposed.

26 "The evaluation of the proposed alternative for
27 treatment of the waste at the [City of Donald]
28 facility indicates that this is the most cost
29 effective and environmentally sound alternative to
30 serve the allowed rural densities that the Plan
31 and zone anticipated for this interchange. The
32 200,000 gallon limit was designed to serve only
33 the permitted development on the approximately 110
34 acres within the district. Any extension of the
35 district's facilities to resource lands shall be a
36 land use decision (sic) which would require a
37 separate opportunity for hearing and appeal. The
38 [Board of Commissioners] concludes that this
39 proposal is consistent with the [plan] goals and
40 policies, carries out the same, is supportive of
41 development provided for in the plan, provides
42 sufficient sewer capacity for planned growth in

1 the [Fargo Road Exception Area] and, as
2 conditioned, provides for no more growth and
3 development than that provided in the [plan.]"
4 Record 26-27.

5 Petitioner does not explain why the above quoted
6 findings are inadequate to establish the proposal's
7 compliance with plan Rural Service Policies 2, 3 and 4, and
8 we do not see that they are.

9 This subassignment of error is denied.

10 **c. Plan Urban Growth Policy 6**

11 Petitioner argues the proposal does not comply with
12 plan Urban Growth Policy 6, which provides as follows:

13 "Generally, cities are the most logical providers
14 of urban services. Where special districts exist
15 beyond the city limits and within the urban growth
16 boundary such as around Salem, all parties shall
17 work towards the development of the most efficient
18 and economical method of providing needed
19 services. Urban services should not be extended
20 beyond the urban growth boundary."

21 The challenged decision includes findings explaining
22 that Plan Urban Growth Policy 6 is not a mandatory standard
23 with which the proposal must establish compliance.

24 We agree with the county that this policy does not
25 appear to be intended to implement any particular goal. We
26 note the last sentence of plan Urban Growth Policy 6 could
27 be interpreted as implementing Goals 11 and 14. However,
28 plan Urban Growth Policy 7 discussed, supra, is couched in
29 mandatory terms, and we determine above that it implements
30 Goals 11 and 14. While plan Urban Growth Policy 6 contains

1 a similar prohibition to that in Plan Urban Growth Policy 7,
2 it is important that the former policy is couched in
3 non-mandatory terms. Reading plan Urban Growth Policy 6 in
4 the context of other plan Urban Growth policies, that policy
5 does not implement Goals 11 and 14, rather plan Urban Growth
6 Policy 7 does. We conclude the county's interpretation that
7 Urban Growth Policy 6 does not impose a mandatory approval
8 standard applicable to the proposal is not contrary to the
9 express words, policy or context of the plan, and we defer
10 to it. ORS 197.829; Clark v. Jackson County, supra.

11 This subassignment is denied.

12 **d. Plan Water Policy 1**

13 Petitioner argues the proposal violates plan Water
14 Quality Policy 1, which provides:

15 "The location, type and density of rural
16 development shall take into consideration, and not
17 exceed, the physical capacity of the land and
18 water to accommodate the use without adverse
19 effects on water quality and quantity."

20 The challenged decision adopts the following findings of
21 compliance with this policy:

22 "Water Quality Policies 1 and 4 state that the
23 location, type and density of rural development
24 shall take into consideration, and not exceed, the
25 physical capacity of the land and water to
26 accommodate the use without adverse effects on
27 water quality and quantity, and to limit land use
28 activities in areas experiencing water pollution
29 from septic tanks and encourage the provision of
30 individual treatment systems or community sewer
31 systems. These policies control rural development
32 and land use activities, neither of which are at
33 issue here. Moreover, when Marion County took an

1 exception for the interchange to allow the
2 interchange to serve as a major commercial
3 highway-related interchange site, it was with the
4 full knowledge that the site was not generally
5 suitable for individual on-site sewage disposal
6 systems to support the level of anticipated
7 development and that a regional sewage system was
8 going to be needed to avoid adverse effects on
9 water quality. The Plan is designed to provide
10 for regional systems to deal with areas of limited
11 physical capacity that are needed to accommodate
12 development anticipated and allowed in the Plan.
13 The proposed system and disposal alternative is
14 exactly what the Plan calls for and provides for."
15 Record 30-31.

16 Petitioner does not explain why it believes these
17 findings are inadequate to establish the proposal's
18 compliance with plan Water Policy 1, and we do not see that
19 they are.

20 This subassignment is denied.

21 The district and county decisions are remanded.

22