Item 7
Exhibit A

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March 5, 2015

Land Conservation and Development Commission
c/o Casaria Taylor
635 Capitol St, Ste. 150
Salem, Oregon 97301

RE: Transfer of Development Rights

Dear Rulemaking Advisory Committee
and
Oregon Land Conservation and Development Commission:

I was recently informed that you have been making rules about proposed Transfer of Development Credits on M49 authorizations. I finally found them on the Oregon.gov website, I have looked through them as best I can (all the references to other ORS's / OAR's is daunting). Nevertheless I have some comments and some recommendations.

Comments / Questions:
According to the staff report you have received NO comments from the public. So it appears to me that an ivory tower committee has been meeting in private (in fact according the minutes on your website some of the committee meetings were held in the conference room of a private law firm, probably high up in some office tower in downtown Portland far away from most, if not all, M49 properties). So, this isolated group has been conceptualizing and theorizing on something that could potentially affect hundreds of people (how many M49 authorizations were issued statewide?) without any comments or input from the public or those property owners about whom they are theorizing.

Other than put some notices on a website, that frankly is difficult to find, what real outreach has been done? Have you reached out to those people that have M49 claims by sending them a letter or giving them a phone call to ask them what they think?

We just happened to find out about this rulemaking committee when asking the local planning office about our authorizations. Have you talked to a M49 property owner? If so what did that property owner really think about these minor incentives, and the potentially loads of paperwork that it would take? Did these rules encourage him or her to move his/her authorization(s) elsewhere?

Do you really think that these fractional and minuscule "incentives" are sufficient to truly encourage people to move their home authorizations?

I don't think so.

Based on these rules I envision a load of paperwork that someone will have to do and multiple delays at both the county and state level which compared to the number of incentives that you are offering are not enough to make someone want to go through all the trouble.

I have family members that are recipients of M49 authorizations. I have talked to my family and these rules are minor incentives beyond the overwhelming amount of paperwork that they have already gone through to protect the property rights that the State of Oregon has stolen over the years ever since House Bill 100 was passed.

If you want them to move their authorizations away from where they are now you need to offer more than minor concessions.

Recommendations:
660-029-0040(3) Make all the various incentives at **least 0.5** or more.

If you really want it to happen then you have make the incentives significant enough to actually encourage people to move their authorizations.

660-029-0040(3)(b)(A) Any portion of the M49 property is **within ½ mile** of any scenic, historic, cultural, or recreational resource.....
660-029-0040(3)(b)(B) Any portion of the M49 property is **within ½ mile** of any National Park, National Monument.....

ADD other incentives in section 660-029-0040(3)(c) :

- **(F) Any property abutting a Classified Endangered Salmon bearing stream or has a Classified Endangered Salmon Bearing stream running through it as identified by the ODFW. 1 credit.**
- **(G) Any property abutting a fish bearing stream or has a fish bearing stream running through it as identified by the ODFW. .5 credits.**
- **(H) Any property in "Big Game Habitat" identified in the local comprehensive plan or by the ODFW .5 credits.**
- **(I) Any property within ½ mile of any identified Endangered Animal habitat .5 credits.**

660-029-0040(3)(d)(A) The M49 property is ~~**predominantly**~~ within **1 mile** the XXL1 Tsunami Inundation zone..... [consistent with 660-029-0080 (4)(g)].

660-029-0040(3)(d)(D) The M49 property is ~~**predominantly**~~ within an area identified as or within the path of a landslide.....

660-029-0040(3)(d)(E) The M49 property is ~~**predominantly**~~ within an area designated ..... as a significant natural hazard pursuant to Goal 7.

All occurrences of the word "predominately" should be removed from the rules.
The word creates the possibility individual interpretation and is inconsistent with sections 660-029-0080 (4)(a) to (k).

660-029-0040(4) Reduce the acreages where incentives qualify and increase the incentives as follows:

Fewer than 40 acres - **.5 credits.**
From 40 to 80 acres **1 credit.**
From 80 – 120 acres – **1.25 credits**
From 120 - 160 acres - **1.5 credits**
From 160 - 200 acres **1.75 credits**
From 200 - 240 acres **2 credits**
Greater than 240 – **2.5 credits**

(If you truly want it to happen then make it worthwhile).

660-029-0060(2) If the property is fewer than ~~20~~ **120** acres then the restriction required by section (1) may be accomplished by a restrictive covenant or a conservation easement.

660-029-0060(2) If the property is ~~20~~ **120** acres or more then..... Exception. The restriction required by setion (1) on a M49 property ~~20~~ **120** acres or more may be accomplished.....

Add a clause that says the following:
660-029-0060(5). The restrictive easement may not limit the property owner from using the property to the fullest extent of the law as outlined in section 660-029-0060(1) or any other Oregon Law.

Strike Section 660-029-0100 in its entirety.
Rewrite it as follows:

660-029-0100 Interjurisdictional Transfer of Development Credits:
Credits may be transferred anywhere within State of Oregon that has adopted Transferable Development Credit Receiving Areas.

Either you want to move the homesite authorizations away from where they are now, or you don't. If you do, then make it worthwhile.

I recommend that you make the above changes and any changes elsewhere in the rules or other ORS's / OAR's to coordinate with these.

Sincerely,

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cc.
Governor Kate Brown,
Senator Betsy Johonson
Representative Brad Witt