



Oregon

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November 9, 2007

TO: Land Conservation and Development Commission

FROM: Cora Parker, Acting Director
Doug White, Community Services Specialist
Jon Jinings, Central/Eastern Oregon Regional Representative

SUBJECT: **Agenda Item 4.a, November 28-30, 2007, LCDC Meeting**

**KLAMATH COUNTY PERIODIC REVIEW WORK TASK 22,
STATUS OF COUNTY'S RESPONSE TO LCDC'S
DECEMBER 2, 2005 REMAND ORDER**

I. RECOMMENDATION

The director recommends, based on the information contained in this report, that the Commission revise Remand Order 06-WKTASK-001688 (attachment A) to identify February 15, 2008 as the new final date for Klamath County to resubmit Work Task 22. Furthermore, if Klamath County fails or declines to resubmit Work Task 22 by February 15, 2008 the department also recommends that the Commission direct the department to schedule a hearing to consider sanctions during the Commission's regular March meeting currently scheduled for March 5-7, 2008 in Ashland, Oregon.

II. AGENDA ITEM SUMMARY

Klamath County Periodic Review Work Task 22 focuses on commercial uses in exception areas located outside of urban growth boundaries and unincorporated communities.¹ More specifically, Work Task 22 calls for Klamath County to adopt land use regulations that comply

¹ Work Task 22 also includes application of Goal 14 to industrial zoned lands located within three-miles of the City of Klamath Falls acknowledged urban growth boundary (UGB). Lands zoned for industrial use on January 1, 2004 located more than three –miles from Klamath Falls UGB pursuant to ORS 197.713, and lands that qualify as an abandoned or diminished mill sites pursuant to ORS 197.719 are not subject to Goal 14 or Task 22. Lands that are zoned for industrial use after January 1, 2004 are not exempt from Goal 14 under ORS 197.713 and would be included in Task 22.

with Statewide Planning Goal 14 (*Urbanization*) as interpreted by the Oregon Supreme Court's decision in *1000 Friends of Oregon v. LCDC* (Curry County).

This matter last came before the Commission on December 1, 2005 and resulted in the Commission issuing remand order 06-WKTASK-001688. The commission's remand order expressly identified revisions to the work task necessary to comply with Goal 14 and established December 1, 2006 as the final date for Klamath County to resubmit the task.

On July 3, 2007, the Klamath County Planning Commission forwarded a proposed ordinance satisfying the terms of remand order 06-WKTASK-001688 to the Klamath County Board of Commissioners with a recommendation for final adoption. The Board of Commissioners declined to adopt the Planning Commission's recommended ordinance. Instead, an additional public hearing was scheduled for August 28, 2007.

On August 22, 2007, the department's former director, Lane Shetterly, issued a letter to the Board of Commissioners inviting them to attend an upcoming Commission meeting to discuss their concerns with the remand order (attachment B). Mr. Shetterly's invitation was delivered by department staff Doug White and Jon Jinings at the county's August 28, 2007 public hearing.

Klamath County has accepted Mr. Shetterly's invitation and through their letter dated September 11, 2007, (attachment C) indicated that they will attend the Commission's regular meeting scheduled for November 28-30, 2007, in Corvallis, Oregon. The county's letter goes on to describe some of the county's concerns with the remand order.

III. COMMISSION OPTIONS

The Commission may:

1. Find that Work Task 22 for commercial zoned properties is overdue and schedule a sanctions hearing for March 5-7, 2008; or
2. Revise remand order 06-WKTASK-001688 to identify February 15, 2008 as the new final date for Klamath County to resubmit Work Task 22 for commercial zoned properties located outside urban growth boundaries and unincorporated communities and January 1, 2009, as the new submittal date for industrial zoned properties subject to Goal 14; or
3. Issue a new order removing Work Task 22 from the Klamath County Periodic Review Work Program.

IV. DEPARTMENT RECOMMENDATION AND DRAFT MOTION

The department recommends that the Commission support the Director's recommendation and revise remand order 06-WKTASK-001688 to identify February 15, 2008, as the new final date for Klamath County to resubmit Work Task 22 (option 2. listed above).

Proposed Motion: I move that the Commission revise Remand Order 06-WKTASK-001688 to identify February 15, 2008, as the new final date for Klamath County to resubmit Work Task 22 for commercial zoned properties and January 1, 2009, as the new submittal date for industrial zoned properties because additional time was necessary to allow Klamath County to better understand the history and legal basis under Goal 14. However, if the county does not resubmit Work Task 22 relating to commercial zoned properties on or by February 15, 2008, the department shall schedule a sanction hearing for the Commission's regular March meeting currently scheduled for March 5-7, 2008, in Ashland, Oregon.

Alternative Motion (1): I move that the Commission find that Work Task 22 for commercial zoned properties is overdue and schedule a sanctions hearing for March 5-7, 2008; or

Alternative Motion (2): I move that the Commission issue a new order removing Work Task 22 from the Klamath County Periodic Review Work Program.

Attachments: A. Remand Order 06-WTTASK-001688
B. August 22, 2007 Letter from Lane Shetterly to the Klamath County
C. September 11, 2007 Letter from Klamath County to Lane Shetterly