



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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November 24, 2008



TO: Land Conservation and Development Commission

FROM: Richard Whitman, Director
Rob Hallyburton, Planning Services Division Manager
John Renz, Southern Oregon Regional Representative

SUBJECT: Agenda Item 10, December 3-5, 2008, LCDC Meeting

GREATER BEAR CREEK VALLEY REGIONAL PLAN

I. AGENDA ITEM SUMMARY

A. TYPE OF ACTION AND COMMISSION ROLE

This is a continuation of consideration by the Commission of the *Greater Bear Creek Valley Regional Plan*. Project participants and department staff presented the plan to the Commission at the previous meeting, and elements of the plan were discussed. The staff report for that meeting is attached. The participants and Commission also addressed the Regional Problem Solving Agreement at the previous meeting; this subject is now complete and is not addressed further here.

No comprehensive plan amendments or other land use decisions are proposed by any of the local governments for implementation of the regional plan at this time. LCDC is not being asked at this time to acknowledge any plan or code amendments related to the regional plan. These will come later over, the next two years.

B. STAFF CONTACT INFORMATION

For further information, please contact John Renz, Southern Oregon Regional Representative. John can be reached at (541) 858-3189; john.renz@state.or.us; or at PO Box 3275, Central Point, OR 97502.

II. SUMMARY OF RECOMMENDED ACTION

To assist the local participants in the RPS process, the Commission should identify issues it may have with the plan and identify any changes to the plan the Commission would like to see.

III. ADDENDUM TO OCTOBER 3, 2008, STAFF REPORT

A. INCLUSION OF RLRC LANDS IN CANDIDATE URBAN RESERVES

Among other issues, the Commission will hear from 1000 Friends that the proposed plan violates ORS 197.656(6) by inclusion of commercially significant agricultural lands in candidate urban reserves without taking an exception to Goal 3. This statute provides,

(6) If, in order to resolve regional land use problems, the participants in a collaborative regional problem-solving process decide to devote agricultural land or forestland, as defined in the statewide planning goals, to uses not authorized by those goals, the participants shall choose land that is not part of the region's commercial agricultural or forestland base, or take an exception to those goals pursuant to ORS 197.732. To identify land that is not part of the region's commercial agricultural or forestland base, the participants shall consider the recommendation of a committee of persons appointed by the affected county, with expertise in appropriate fields, including but not limited to farmers, ranchers, foresters and soils scientists and representatives of the State Department of Agriculture, the State Department of Forestry and the Department of Land Conservation and Development.

Jackson County appointed a panel of experts to examine and initially determine the commercial significance of all the agricultural land proposed to be included in urban reserves. This panel was named the Resource Lands Review Committee or RLRC. The RLRC reviewed acreage well in excess of the total agricultural land included in the candidate urban reserves, and designated over 2,000 acres of farmland as commercially significant. The cities, in collaboration with several state agencies, then examined alternatives to these lands and ultimately reduced the amount of commercially significant agricultural land in candidate urban reserves to 1,246 acres. This is approximately 14 percent of the land proposed for urban reserves.

It is important to note that the task of the RLRC was not asked to determine whether any particular lands should be excluded from the candidate urban reserves. This decision was reserved to the RPS Policy Committee.

Early in the RPS process, DLCD was asked whether the statute quoted above required a Goal 3 exception in order to include commercially significant agricultural land in urban reserves. The department's response was that no an exception is necessary.

The department's interpretation was based on two factors. First, designation of an urban reserve does not "devote" resource land to uses not allowed by the goals. The contrary is true: inclusion of resource land in a urban reserve *preserves* its resource status until such time as it is brought into an urban growth boundary (UGB). When the land is devoted to urban use via a UGB amendment, an exception is not required. Second, the department noted that the RPS statute was not intended to make plan amendment completed outside of RPS. Although the department believes there is no legal requirement to take an exception under the urban reserve rule, the cities and the county must show that there are no reasonable alternatives that require less resource land. While, under the RPS statute, the region does not have to comply with this rule, the department

believes the region does need to develop findings that demonstrate why these lands are necessary to the efficient future urbanization of the region.

B. TRANSPORTATION PLANNING

The Oregon Department of Transportation conducted modeling to test the proposed urban reserves for impact on transportation facilities. This modeling showed that nodal development, with enhanced transportation facilities such as dedicated transit lanes, had the least impact on traffic congestion. While the plan mentions this, there is nothing in the plan that commits the local jurisdictions to use nodal development, even though the local jurisdictions have demonstrated an acceptance of this sort of development and it is expected that much of the future urban development will be done in this manner.

The plan may appear to inadequately address the Transportation Planning Rule (TPR) because there is no commitment in the plan to nodal development and because the modeling showed increased congestion and vehicle miles traveled (VMT). VMT is not the standard by which compliance with the TPR is measured, because the regional metropolitan planning organization (MPO) uses “alternative measures” for reducing reliance on the automobile rather than a simple reduction in VMT. Existing and draft reports to the MPO show that the region is meeting or exceeding the alternative measures.

It is true the RPS Regional Plan does not discuss transportation to a great extent; however, this is a sequencing issue rather than intent by the region to neglect integration of transportation and land use planning. The regional transportation planning is the responsibility of MPO. The boundaries of the MPO and the Regional Plan are identical. The MPO is a signatory to the Participant’s Agreement and has been an active partner in this planning effort. Both the TPR and federal rules prevent the MPO from doing transportation planning for the urbanization of the urban reserves areas until there is an adopted/acknowledged plan for these areas.

The region views adoption of the RPS Plan as a platform on which subsequent planning will be accomplished, including integrated transportation and land use planning. The MPO is already preparing for this with work on a model process for transportation/land use planning. Once this model is completed, the MPO will collaborate with its member jurisdictions to complete planning for the other urban reserves.

The Commission may be more comfortable with the sequencing of land use and transportation planning if there was an explicit statement in the Regional Plan that the region’s jurisdictions are committed to working with the MPO to integrate transportation and land use after the urban reserves are established.

C. ESTABLISHING NEED

Initially the project did not try to establish a need for the amount of land in the proposed urban reserves, but focused on the best areas for urban growth. Based on the text of OAR 660-021-

0030(1) and Goal 14, the department advised the region that an estimate of need was required.¹ The project then began to explore a 50-year planning horizon, but ultimately opted to establish a planning horizon based on a doubling of the base year (2007) population rather than the usual 30-50 year planning horizon for an urban reserve. The estimated urban reserve land need was thereby established as that amount that would be needed to support a doubling of the 2007 population.

The department advised the region that this deviation from typical practice complied with relevant rule as long as the doubling figure did not exceed a 50-year population projection (see footnote 1 for rule language). A doubling of the base population would be 337,932 people, whereas, a 50-year projection of population growth would be a regional population of 339,744 in 2058.

While not explicitly required by the Urban Reserve Rule, but on the advice of project consultants ECONorthwest, generalized regional housing need and economic opportunities analyses were also completed to further refine and support the land need calculation. The project has received comments that there is too much industrial land versus commercial land in the conceptual land use mixes proposed by the cities for the urban reserves. The department has not advised the region that this is a problem because Goal 9, Economic Development, permits cities to be aspirational when showing a need for employment lands as long as there is a rational basis for the aspiration. Additionally, these land use mixes will be further refined in the future planning for these areas using the MPO modeling process.

To test whether there was an adequate factual basis for the amount of land in the proposed urban reserves, ECONorthwest developed a “land needs simulator model.” This model used agreed-upon assumptions, the city population allocations and projected future densities to calculate a high and low urban reserve land need for each city. At the higher land need range, the results of the model show that there is a deficit of land in the urban reserves for all the cities except Jacksonville and at the lower land need there is a deficit for Eagle Point, Medford and Talent. More detailed studies will be necessary for eventual UGB expansions.

The department believes the project has made a reasonable estimate of the land needs for a doubling of the base population, and that this is within the time frame authorized.

D. COMPLIANCE WITH STATEWIDE LAND USE GOALS

The previous staff report regarding the RPS project stated in Section V:

The statewide land use goals affected by this regional plan are Goals 1, 2, 3, 4, 9, 10, 11, 12 and 14. The plan contains draft findings for each goal in Appendix I. Final findings will be submitted with the adoption of the comprehensive plan and code amendments that will follow from each jurisdiction.

¹ OAR 660-021-0030(1): Urban reserves shall include an amount of land estimated to be at least a 10-year supply and no more than a 30-year supply of developable land beyond the 20-year time frame used to establish the urban growth boundary. Local governments designating urban reserves shall adopt findings specifying the particular number of years over which designated urban reserves are intended to provide a supply of land.

The region is now preparing a request for proposals to select a consultant to prepare findings and conclusions for the upcoming amendments. These findings and conclusions are expected to be much more detailed than those currently in Appendix I. The findings process will be managed by Jackson County, and likely will have some funding provided by DLCD.

IV. STATUS OF REGIONAL PLAN

As of the date of this report, the cities of Ashland, Talent, Phoenix, Medford, Eagle Point and Central Point support the plan as written. The Jacksonville City council voted on November 18, 2008 to support the plan with smaller urban reserves than previously proposed.

V. CONCLUSION AND RECOMMENDATION

Should the Commission identify issues that need to be further addressed or find needed changes to the plan, it should notify the regional participants at this time. If the Commission identifies are no needed changes or supplements, then staff recommends that the Commission communicate (verbally) to the RPS participants that the Commission expects to acknowledge local comprehensive plan amendments that implement the RPS Plan provided that any issues raised through public review of the plan amendments are resolved to the Commission's satisfaction, provided that the plan amendments are supported by adequate findings, and provide that applicable procedural requirements are followed.

VI. ATTACHMENTS

- A. October 2, 2008, staff report**
- B. Written testimony from the October 15–17, 2008, LCDC meeting**
- C. Public Comments**



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

Agenda Item 10 - Attachment A
December 3-5, 2008, LCDC Meeting
5 pages

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October 2, 2008

TO: Land Conservation and Development Commission

FROM: John Renz, Southern Oregon Regional Representative;
Darren Nichols, Community Services Division Manager

SUBJECT: **Agenda Item 11a, October 15-17, 2008, LCDC Meeting**

GREATER BEAR CREEK VALLEY REGIONAL PLAN

I. AGENDA ITEM SUMMARY

A. Type of Action and Commission Role – The local regional planning project participants are asking that the Commission act in their role as a participant and collaborator in this Project to review the draft *Greater Bear Creek Valley Regional Plan*¹ discuss any issues the Commission has with the plan; and indicate to the project participants that the Commission expects to acknowledge local comprehensive plan amendments if they are consistent with the adopted plan, provided that:

- any issues that are raised through public review of the plan amendments are resolved to the Commission's satisfaction;
- provided that the plan amendments are supported by adequate findings, and
- provided that applicable procedural requirements are followed.

The region wants confirmation of the Commission's support to begin implementation of the plan.

At this time there are no proposed comprehensive plan amendments or other land use decisions before any of the local governments for implementation of the regional plan. LCDC is not being asked at this time to acknowledge any plan or code amendments related to the regional plan. These will come later over the next two years. LCDC is being asked to sign the Participants Agreement for the RSP effort.

B. Staff Contact Information – John Renz, Southern Oregon Regional Representative is the local DLCD contact for this project. John serves on the project's Technical Advisory Committee, the Resource Lands Review Committee, and is a non-voting member of the project's Policy Committee. John can be reached at (541) 858-3189; John.Renz@state.or.us; or at PO Box 3275, Central Point, OR 97502.

¹ For everything available on the plan see RVCOG's website at www.RVCOG.org/ regional problem solving.

II. SUMMARY OF RECOMMENDED ACTION

To assist the local participants in the RPS process, the Commission should identify any changes to the plan the Commission would like to see. In addition, the Commission should review the proposed Participants' Agreement, and determine whether the Commission is prepared to sign the agreement at this time.

III. BACKGROUND

As the Commission knows, the jurisdictions in the Bear Creek Valley have been working for the past eight years to develop a regional plan that directs future urbanization in the valley through the establishment of urban reserves. The project uses ORS 197.652 to 197.658 – Collaborative Regional Problem Solving (RPS) to accomplish the regional plan. The decision to develop a regional plan and to use an RPS process to do so resulted from eight years of frustrated attempts to establish urban reserves for some of the cities in the Bear Creek Valley. These unsuccessful attempts cultivated awareness that the valley's growth issues were best dealt with through regional cooperation and collaboration. This realization led to the DLCD-funded 'Our Region' project and then to the county-sponsored Multi-jurisdictional Committee on Urban Reserves. DLCD was an observer to the growing regionalism in the valley and in 1999 suggested the region apply for a grant to use RPS to address the region's problems. The grant was awarded in 2000. DLCD has continued funding the project every biennium since then, except for the current biennium. These grants have augmented local funding and funding from the MPO. The department is currently considering a request for funds to pay for preparation of findings supporting the comprehensive plan amendments that will be necessary to implement the regional plan.

The *Greater Bear Creek Valley Regional Plan* is the product of collaboration between Jackson County; the cities of Ashland, Talent, Phoenix, Medford, Central Point, Eagle Point and Jacksonville; the Bear Valley Sewer Service; the Medford Water Commission; the Oregon Housing and Community Development Department, the Oregon Economic and Community Development Department; the Department of Agriculture; the Department of Environmental Quality; the Oregon Department of Transportation; and the Department of Land Conservation and Development.

IV. WHAT THE REGIONAL PLAN PROPOSES

The region has identified three problems that the RPS plan addresses. The problems identified for resolution through RPS are:

Lack of a Mechanism for Coordinated Regional Growth Planning – A structure and process needed to be established to facilitate collaboration in planning for future urbanization in the region.

Loss of Valuable Farm and Forest Land Caused by Urban Expansion – The region identified the loss of farmland from urbanization as a significant issue, and as a threat to the quality of life and economy in the future if it could not be mitigated.

Loss of Community Identity – The region identified the decreasing rural land separation between some of the communities as jeopardizing important aspects of these jurisdictions’ sense of community and individual identity.²

Urban Reserves

The primary way the plan has addressed these problems is by providing a guide for the direction of urban growth for the next 40-50 years. The plan does this by proposing 9,082 acres of urban reserves. Urban reserves are proposed for all of the cities in the region except Ashland.³ Of these urban reserves 6,935 acres or 74% are zoned for exclusive farm use.

The need for these urban reserves is based on a doubling of the current regional population of 168,966 to 337,932 or approximately a 50 year population forecast,⁴ a regional housing need analysis and a regional economic opportunities analysis.⁵

The proposed urban reserves address all three regional problems. Proposing them was a regionally coordinated method to establish predictability of where future urban growth will occur. If adopted they will protect the farm land outside of the reserves from urbanization for 50 years and they will also prevent the premature conversion of farmland within the urban reserves to urban uses. Urban Reserve Area Management Agreements (URAMA) between cities and the county are required for every urban reserve. The purpose of the URAMAs is to coordinate the management and planning for the urban reserves and to protect the land in the urban reserves from premature development with might curtail its utility as future urbanizable land. Land within an urban reserve that is in resource use must remain in resource use until it is brought into a UGB. At the time each jurisdiction decides to expand its UGB, it will still need to demonstrate that the land is needed under Goal 14, and in the case of cities over 25, 000 – ORS 197.296. The establishment of urban reserves provides certainty for real estate investment and for long term agricultural investment for 40-50 years. The urban reserves also enable long term infrastructure planning and transportation corridor preservation.

Economic Development

Two regional employment centers are proposed in the plan. One, the “South Valley Employment Center” lies between Phoenix and Medford and uses urban reserve lands of both cities. It is thought that this area will mitigate some traffic congestion and air quality concerns by bringing jobs closer to the population centers to the south of the valley. The other is the Tolo area northwest of Central Point. The Tolo areas will be an urban reserve for Central Point. The focus for land use in Tolo will be freight handling. It is hoped that the local trucking industry will eventually move their operations to the area.

² Greater Bear Creek Valley Regional Plan, page 1-7

³ Ashland proposes to accommodate its growth within its present UGB.

⁴ The use of a doubled population rather than a 50 year projection is one deviation from the Urban Reserve Rule that the project has used.

⁵ The RPS Policy Committee agreed that neither the regional housing need analysis nor the regional economic opportunities analysis were detailed enough to use for a UGB expansion. Detailed studies are required before any UGB expansion into an urban reserve. The regional studies can be found at Greater Bear Creek Valley Regional Plan, Appendices II and III.

Urban Buffers

By not proposing urban reserves between cities in planned buffer areas (areas where the region has agreed urbanization should not occur) the urban reserves contribute to maintaining individual city identity.

Agricultural Buffers

Agricultural land is further protected from conflicts with urbanization by the plan requirement that each city adopt the agricultural buffer standards developed by the project's Resource Lands Review Committee. The Oregon Department of Agriculture has commented that these buffer standards are the best in the nation. They will be used wherever urban development is proposed adjacent to agriculturally zoned land.⁶

Increased Density

The region has adopted a policy of region-wide increases in gross residential densities. The plan includes a minimum increased density target for each city. These targets will increase the efficiency of urban land use for all the cities. Each city determined its own density target using different methodologies. A future density target is one possible product of a UGB review for housing needs under ORS 197.296. ORS 197.296 was not used by any city in determining its target density under the RPS Plan. As a result, we expect when cities do their housing need studies they may come up with a different density target than is presently in the plan, which may necessitate future regional plan amendments.

Coordinated Population Allocations

Jackson County coordinated its population allocations with the regional plan so that each city has an allocation that generally conforms to the capacity of the urban reserves. Each city has population allocation that is consistent with its growth aspirations except for Ashland. The county has committed to reviewing and possibly adjusting these allocations after the regional plan is adopted.

Transportation Policies

The plan contains transportation policies addressing the following which are a general condition required by the state agencies:

1. The region shall identify a general network of locally-owned regionally significant north-south and east-west arterials and associated projects to provide mobility throughout the region;
2. The region shall designate and protect corridors for locally-owned regionally significant arterials and associated projects within the MPO to ensure adequate transportation connectivity, multimodal use, and minimize right of way costs; and

⁶ Greater Bear Creek Valley Regional Plan, Appendix VII

3. The region shall establish a means of providing supplemental transportation funding to mitigate impacts arising from future growth.

These policies shall be implemented by ordinance upon the adoption of the latest update of the Metropolitan Planning Organization's Regional Transportation Plan and the local adoption of the appropriate portions of the RPS Plan relative to transportation into a city's comprehensive plan and implementing ordinances.

V. COMPLIANCE WITH STATEWIDE LAND USE GOALS

The statewide land use goals affected by this regional plan are Goals 1, 2, 3, 4, 9, 10, 11, 12 and 14. The plan contains draft findings for each goal in Appendix I. Final findings will be submitted with the adoption of the comprehensive plan and code amendments that will follow from each jurisdiction.

VI. STATUS OF THE REGIONAL PLAN AT THIS TIME

As of the date of drafting this report, September 23, 2008 the cities of Ashland, Talent, Phoenix, Medford, Eagle Point and Central Point support the plan as written. The City of Jacksonville has not yet decided if it wants all or part of the proposed urban reserves, or if it just wants to be a non-implementing signatory to the agreement. We hope, but it is not a certainty that the city will be a supporting participant by the time of the October 16, 2008 LCDC meeting.

VII. CONCLUSION AND RECOMMENDATION

1. Should the Commission wish to see changes to the plan, it should notify the regional participants at this time.
2. Should the Commission wish to see changes to the Participants' Agreement, it should notify the participants at this time. The Department is recommending several clarifications to the Agreement, as indicated in Attachment A (*not included with November 20, 2008 staff report*).
3. If there are no changes the Commission would wish, then staff recommends that the Commission:
 - a. Direct the Chair to sign the Participants' Agreement, substantially in the form attached, and;
 - b. Communicate (verbally) to the RPS Participants that the Commission expects to acknowledge local comprehensive plan amendments that implement the RPS Plan provided that any issues raised through public review of the plan amendments are resolved to the Commission's satisfaction, provided that the plan amendments are supported by adequate findings, and provide that applicable procedural requirements are followed.

To: Oregon's Land Conservation and Development Commission

Date: October 16, 2008

Re: The Greater Bear Creek RPS plan: Agenda item 11

Submitted for the public record by Linda Meyers, Jacksonville resident

To: Oregon's Land Conservation and Development Commission
Re: The Greater Bear Creek RPS plan, Agenda item 11, October 16, 2008
Submitted for the public record by Linda Meyers, Jacksonville resident

October 14, 2008

Dear Commissioners,

I have attended almost all Greater Bear Creek RPS Policy Committee meetings during the past three years. I have spent several hours, daily, doing research in order to better understand the RPS statuteⁱ and the Oregon Administrative Rules (OARs) related to urban growth boundaries (UGBs) and urban reserves. I have studied Jacksonville's urban reserve proposals in contrast to the city's actual needs and have found great discrepancies. I have submitted reports indicating those discrepancies, but to no avail, since this RPS process, in violation of OAR 660-021-0030(1), does not require 'detailed justification' for proposed urban reserve lands.

When I first began following this RPS process, I believed that DLCD was watching over the project's progression while protecting the state's existing planning process. I saw DLCD allowing some flexibility, within reason, much like parents allow children some space, within bounds, to explore. However, almost overnight, the boundaries were relaxed and flexibility took over. It was as if DLCD had been ordered from above to forfeit its parental control over a group of rebellious teenagers.

So, now, mere citizens, like myself, are trying to protect the State's land use planning process because we recognize that this RPS Plan has the potential to undermine the State's planning process in a variety of ways.ⁱⁱ

Once the precedents from this Greater Bear Creek RPS Plan are set, jurisdictions from all over the state will jump on board to apply the same dismantling approach to their regional and local land use processes as has been allowed in Southern Oregon.

While the RPS statute was apparently designed for the bending of rules, the statute also says that the results are to conform, "on the whole, with the purposes of the statewide planning goals." Although the words 'on the whole' are completely immeasurable, DLCD could be taking a stand to maintain its own land use process by seeking 'common sense' flexibility. In the absence of common sense, the only limits available are the existing Oregon Administrative Rules. Think of that teenager, again. Parents set rules to guide rebellious teenagers to common sense maturity. In this case, the rebellion is against the existing statewide land use planning process.

"How much bending of the OARs will DLCD allow this RPS Plan before the statewide land use planning process is completely undermined?"

I can support ~~ed~~ some flexibility as to which lands should be considered for urban reserve inclusion because even Goal 14 allows prioritization exceptions when a particular parcel can satisfy needs that others are unable to fulfill.

I cannot, however, support this current RPS Plan that did not first require detailed studies to be conducted and efficiency measures to be considered within existing UGBs prior to approval of the proposed urban reserves, as is required by OAR 660-021-0030(1). It is also important that public hearings within the cities and the county take place before LCDC approves this proposed RPS Plan, as is required by ORS 197.015(10).

Because of the precedents that will be set if this proposed RPS Plan is accepted, I ask that LCDC not approve this Plan as it currently exists. It needs major revisions in order to become a regional plan that uses common sense flexibility that conforms "on the whole" with Oregon's land use planning process. I ask the members of LCDC to take a stand that maintains the integrity of Oregon's statewide land use planning process.

Thank you for your consideration!

Linda Meyers / 230 Wells Fargo Drive / Jacksonville, OR 97530

October 2008

Linda Meyers, Page 1 of 2

ⁱ The 'weak link' in the Greater Bear Creek Regional Problem Solving's (RPS) process is its particular interpretation that the RPS statute allows for unbridled flexibility of Oregon's Administrative Rules:

197.656 (2) Following the procedures set forth in this subsection, the commission may acknowledge amendments to comprehensive plans and land use regulations, or new land use regulations, that do not fully comply with the rules of the commission that implement the statewide planning goals, without taking an exception, upon a determination that: **(c)** The agreement reached by regional problem-solving process participants and the implementing plan amendments and land use regulations conform, on the whole, with the purposes of the statewide planning goals.

ⁱⁱ The use of 'flexibility' without limits has resulted in this proposed RPS Plan containing major contradictions with Oregon's existing land use planning process as indicated in my September 25, 2008 submission.

- 1) Has bypassed the prioritization process required for urban reserve & UGB land inclusions. In Jacksonville's proposal, for example, this brings in JK-1, a prime EFU parcel, ahead of other non-rural lands. OAR 660-021-0030(2) and ORS 197.298(1)
- 2) Has not required detailed needs analyses to justify urban reserve expansion for a 10-30 year supply of buildable land beyond the 20-year UGB amended plan. OAR 660-021-0030(1) If Jacksonville were required to provide detailed studies, these studies would indicate that no need for land expansion exists.
- 3) Has not abided by the "land use decision" process. ORS 197.015(10) Approving the RPS Plan, which has huge land use ramifications, without requiring adherence to the "land use decision" process, will set a precedent that undermines ORS 197.015(10). No participating city has had a public hearing on the complete plan. Jackson County has not held a hearing on any version of the proposed RPS Plan, which will be used as the framework for amending the County's Comprehensive Plan. County residents have not been given the opportunity to express concerns regarding the proposed RPS Plan.
- 4) Has not based land inclusion decisions on transportation modeling. OAR 660-015-0000(12)
- 5) Has not heeded water provision warnings from Medford Water Commission. OAR 660-015-0000(10)(A)(4)
- 6) Has not addressed agricultural economics for the region. OAR 660-015-0000(3) While agricultural economics for the state, as a whole, may have been considered, agricultural economics for individual parcel owners has not. Owners of lands with the potential to be urbanized, however, have been given attention. If agricultural lands are to be protected and left out of urban reserves, then how does this process address economic issues facing these landowners, especially those that will be abutted by urbanization?
- 7) Has allowed Jacksonville a density of 2.7 units per acre within its existing UGB and 4.0 units per acre in its proposed, but unjustified, 575 urban reserve acres. OAR 660-015-0000(14)
- 8) Has not required consideration of efficient urbanization measures within existing UGBs prior to permitting land inclusions. OAR 660-024-0050(4) Approving the proposed RPS Plan that bypasses the requirements to consider efficient urbanization measures prior to expanding urban reserves contradicts OAR 660-024-0050(4). In Jacksonville's case, this allowed the inclusion of 575 proposed urban reserve acres when no need for expansion could be demonstrated.
- 9) Has shifted focus from regional planning concerns to land inclusions proposed by local jurisdictions. ORS 197.654(1)

"PROPOSAL FOR CITY OF JACKSONVILLE'S POSITION ON RPS
AND LANGUAGE FOR THE PARTICIPANTS' AGREEMENT"

Submitted to the Members of Oregon's
Land Conservation and Development Commission (LCDC)
on this day, October 16, 2008,
by John Dodero, City Councilor, Jacksonville

Regarding the LCDC October 16th Meeting in Prineville, Agenda Item 11

Greater Bear Creek Regional Problem Solving (RPS)

(For the public record)

PROPOSAL FOR CITY OF JACKSONVILLE'S POSITION ON RPS AND LANGUAGE FOR THE PARTICIPANTS' AGREEMENT

We all agree that cooperative regional planning is a good idea for understanding how and where the jurisdictions of the Greater Bear Creek Valley should grow.

Nevertheless, one only has to review the letters of concern sent to the policy committee by Paul Wyntergreen in 2002 to see how the Regional Problem Solving (RPS) process went off course. In those letters, Mr. Wyntergreen expressed his concern that the RPS process had diverted its focus from determining which land resources should be protected and excluded from development to the arbitrary goal of doubling the population and designating the land to meet the needs of that doubled population. RPS focus shifted from rural land protection to urban reserve creation.

Any objective analysis of the RPS process reveals fatal flaws.

1. In regards to urban reserve selection, the Greater Bear Creek RPS process seems to have interpreted the RPS statute to be an allowance of open-ended flexibility and has not focused on the statute's direction to "conform, on the whole, with the purposes of the statewide planning goals."
2. The application of the RPS statute throughout the state has had little success. In 1999, South Deschutes County had a successful RPS process that involved only one jurisdiction; otherwise, no other region in the state has successfully completed an RPS process. In Lane County, after Cottage Grove and Springfield withdrew from the RPS process, the remaining jurisdictions transitioned to a coordinated regional approach that followed the State's existing land use process.
3. Most, if not all, of the progressive land use provisions in the RPS plan, such as protected city buffers and COSAs, are voluntary not mandatory. No rural reserves or special protection areas were identified and protected.
4. The RPS assumption that the population of the valley will double presents a whole other set of issues. Are the citizens in this region supportive of doubling the population of the Greater Bear Creek valley? Will resources be available to support the added population? No definitive supporting evidence from the Medford water district has been produced to assure us that we will not be negatively impacted by the increase in demand for water.
5. Jacksonville has had a long history of Citizen Involvement. Over the last 20 years, the consistent message has been that Jacksonville citizens strongly believe in slow and thoughtful growth to protect and preserve the values and resources they cherish. The RPS plan, then, is inconsistent with the values expressed by Jacksonville's citizens.
6. In addition, the RPS process was woefully lacking in Citizen Involvement: a few workshops to outline the plan in its early stages do not constitute citizen involvement.

7. Oregon has the best land use laws in the nation when it comes to protecting resource lands that contribute to a high level of livability.
8. Jacksonville does not want to stop other regional jurisdictions from proceeding with the RPS process, if that is their desire. Nevertheless, the language proposed by the RPS Contract Oversight Committee to allow Jacksonville to remove itself from the RPS process by taking a Supporting Signatory position mischaracterizes Jacksonville's position.

For the above-stated reasons, Jacksonville is not supportive of the existing RPS Plan and respectfully requests the use of the following wording:

1. Jacksonville began this Regional Problem Solving (RPS) process with the intent of creating areas of rural protection around the City's perimeter. Over the years, the RPS process shifted its intent from rural land protection to urban reserve creation. Jacksonville views this current process as having far different intentions than the process to which the City was an original signatory.
2. Jacksonville supports a coordinated regional approach to planning.
3. Jacksonville has come to recognize that the benefits granted the City and other participating jurisdictions during this RPS process contradict Oregon's statewide land use planning goals. Jacksonville supports Oregon's current land use process and its goals to protect quality resource lands while still accommodating the population needs of local jurisdictions.
4. Jacksonville, in staying true to its land use values and in abiding by the consistent message of Jacksonville citizens over the past 20 years for slow and thoughtful growth, is unable to sign the Participants' Agreement as a Supporting Signatory of the RPS Plan.
5. Jacksonville does not intend to prevent other jurisdictions from continuing their participation in the RPS process, if they so choose. Jacksonville, however, takes the position of supporting the state's existing land use planning process at this time.
6. Therefore, Jacksonville's signing of the Participants' Agreement is with the understanding that Jacksonville is terminating its participation in the RPS process, as it currently exists. Any further participation by Jacksonville in coordinated regional planning will be in a process that abides by Oregon's existing administrative rules.

Respectfully submitted for City Council and Planning Commission's consideration
on October 7, 2008 by John Dodero, Jacksonville City Councilor

**To: Members of Oregon's Land Conservation and Development Commission
(LCDC)**

Re: LCDC Meeting in Prineville, October 16, Agenda Item 11

Greater Bear Creek Regional Problem Solving (RPS)

Title: "Never Underestimate the Inertia of the Status Quo"

Submitted by John Dodero, City Councilor, Jacksonville

October 16, 2008

To be placed in the public record

Never Underestimate the Inertia of the Status Quo

Well the eight year RPS (Regional Problem Solving) process has rolled through Jacksonville, one of its last remaining obstacles.

Feeling a bit beat up over the whole thing, I believe a good rant would be cathartic.

Allow me to start by stating that I recognize and respect the audacity of an ordinary citizen opposing the plans of professional planners and people in the development community, who deal with these issues every day. My main objections deal with the process and what I perceive as a lack of citizen input into this massive planning project.

One aspect of most large and drawn out processes is that, at some point, it will move forward by its own momentum. Supporting RPS based on the fact that many well-meaning folks have spent a lot of time developing it, is off the point and needs to be examined.

RPS was first touted as a region wide cooperative plan to protect resource lands and transportation corridors. The goal quickly changed to doubling the population of the Bear Creek Valley and designating land to achieve that goal through the development of Urban Reserves for future growth.

Two of the most troubling aspects of the proposal raise the following questions,

~Do the citizens want to double the population of the Bear Creek Valley in fifty years or less?

~Will we have the water to support the increase in population?

These questions have never been adequately addressed or answered.

Another way to look at future planning in our valley might be to craft a plan using an objective review of the Valley's assets and liabilities rather than the arbitrary goal of doubling our population. What is the holding capacity of the Valley? Would it be prudent to protect as much agricultural land for future generations? If land appreciates and becomes more valuable over time, holding it for future generations will then be money in the bank.

One motivation for cities to grow is that most of them subsidize their budgets with Service Development Fees on new construction. Using growth for revenue is only a short-term fix that will only delay the time when we have to come to grips with the short-fall in city budgets because of the decline in Federal funds and bloated bureaucracies. This approach will cost us more in the end because we will need to upgrade and enlarge our city and county services to accommodate the increase in population. We live in a finite system; we will hit the wall at some point.

If I were a cynic, I'd say that in the end, I guess we will just have to depend on the guidance of our professionals who have served us so well on other issues of our day! For now, I guess I'll just get back to my day job.

There that felt better!

John Dodero

Jacksonville City Councilor

October 12, 2008

Attached are comments excerpted from my monthly column in *The Jacksonville Review*, comments which I would like submitted to Oregon's Land Conservation and Development Commissioners (LCDC).

These comments address the Greater Bear Creek RPS process and Jacksonville, and I would like these comments placed in the public record for Agenda Item 11 of the LCDC October 16th Meeting in Prineville.

**Respectfully submitted,
Whitman Parker
Publisher, *The Jacksonville Review***

The following comments are excerpted from my monthly column in The Jacksonville Review, "From the Corner," (October, 2008) and deal directly with the impact of the RPS process on Jacksonville.

I'd planned to dedicate this column to the subject of "change" and cast a positive light on the subject. However, on September 16, at a Jacksonville City Council meeting, I was smacked head-on by the ugly, painful side of local politics and felt some issues deserved airing. During that meeting, OUR Jacksonville City Council was scheduled to discuss the ramifications of signing-off and agreeing to participate in the Regional Solving Process (RPS.)

Instead, OUR town's process was hijacked by outsiders who filibustered at the podium in an attempt to steer OUR City Council toward a future that best suits their land-grabbing, development-prone agendas. I'm all for studying issues and hearing from experts, but I'm against being bullied, cajoled and threatened. That night, outsiders, who support RPS and believe adding another complex layer to Oregon's existing UGB land use policy, put on quite a show. Quite a show!

In a nutshell, officials from RPS, Jackson County and the State (all of whom have careers, reputations and money on the line) essentially threatened Jacksonville IF it failed to go along and "sign-off" on the draft RPS Participants Agreement. I always say, "Follow the money," and was convinced that my gut was spot on. One filibustering Jackson County Commissioner had the audacity to state if Jacksonville failed to participate in RPS, Jacksonville would be ignored by the County in the future...it would suffer punitive payback for fouling the RPS process! Too many half-truths and development-biased statements were made. I hate "bumper sticker" politics, but "Jacksonville Secede," "Dump RPS" and "RePulSive!" came to mind.

Jacksonville and Jackson County face tough issues – ones that won't be solved by arm twisting, back room deal-making and threats by outsiders. Controlling and managing OUR growth, funding OUR city services, and funding OUR public safety program top the list. The good news is that we DO have a say – casting a vote in the City Council election provides each of us a chance to shape Jacksonville's future.

Respectfully Submitted,

Whitman Parker
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October 16, 2008

Land Conservation and
Development Commission
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540

Re: LCDC Meeting of October 15-17, 2008; Agenda Item # 11
Greater Bear Creek Valley Regional Problem Solving

Dear Commissioners:

Thank you for the opportunity to present this testimony to you today. This written testimony focuses on legal aspects of the September 16, 2008 version of the Greater Bear Creek Valley Regional Problem Solving draft Plan (“draft Plan”). This is the version the Project submitted to the Department for your October meeting. We will also present separate testimony on the draft Agreement at your meeting.

As you know, 1000 Friends of Oregon has been involved with the Bear Creek Valley Regional Problem Solving (RPS) process since its inception. I have personally attended almost every public meeting held by this project since 2002, including those related to the development of the documents before you – the draft Participants’ Agreement and the “draft Plan.”¹

I am as aware as anyone of the amount of work that has gone into producing the documents we are discussing today. Why then, are we here, objecting to the draft Plan and draft Agreement, when we know that a lot of time has been spent on this and some would like to see it finished and gone? It is not simply because the proposals before you violate the RPS statute, or that some fail, on their face, to resolve the “problems” being addressed by the Project. It is because once on the ground these proposals will harm the quality of life, economy, and livability of the Rogue Valley by:

- Urbanizing some of the best agricultural lands in the Valley;
- Reinforcing sprawling density patterns and allowing them to continue into the future; and
- Failing to provide the transportation options that future citizens will need, as our population ages, energy prices increase, and reducing greenhouse gases becomes a requirement

¹ The draft Participants’ Agreement refers to and incorporates a substantive document it calls the “draft Plan,” which apparently will at some point become the “adopted Plan.” It has been difficult to determine which version of the draft Participants’ Agreement you are being asked to consider at this meeting—the Project apparently submitted a version dated September 16, 2008, but it also appears that Staff has provided at least two subsequent versions with suggested edits.

These issues will be discussed in turn below.

As a preliminary matter, however, we are concerned that you would provide any kind of approval—formal or informal—for this draft Plan when NO participating city has had a public hearing on the entire draft Plan, and when the county has NEVER had any sort of a public hearing on any element of the plan, let alone on the whole draft Plan.

Providing any assurances today that LCDC will approve any future comp plan amendment that is consistent with this draft Plan will exert pressure on local decision-makers to not diverge from the draft Plan—effectively pre-determining the outcome of public hearings that have not yet occurred. As is discussed in separate testimony, you would also be committing yourselves to approving future comp plan amendments utilizing legally improper standards.

To the extent that you provide any feedback today it should be to give instruction on how to address deficiencies in the draft Plan prior to coming back to you with comp plan amendments. We address some of the more significant legal flaws in the draft Plan that is before you today in the pages that follow. Each of these issues was raised in written comments provided to the Project on October 10, 2007, and verbally to the Project's Executive Committee on April 11 of this year.

Context: The draft Plan is not so much a single Regional Plan as a coordinated set of individual proposals.

When reviewing the draft Plan it is important to keep the big picture in focus. The stated Project Goals were to address:

Lack of a mechanism for coordinated regional growth planning;
Loss of Valuable Farm and Forest Land Caused by Urban Expansion; and
Loss of Community Identity

Two of the Project's main commitments in addressing these goals are to stay off farmland as much as possible and to increase the region's overall housing density.

Everyone recognizes that there has been a lot of good work done on this draft Plan, and that this work will be useful to the region whether inside or outside of the RPS process. However, the Commission should understand that this is not a single regional plan so much as it is a coordinated set of local proposals.

For example, no regional alternatives analysis was conducted. The region never questioned whether it was appropriate for Eagle Point, which has severe connectivity problems, and Central Point, which is literally surrounded by some of the best farmland left in the valley, to grow at significantly higher rates (over 230 percent and 130 percent, respectively) than other jurisdictions. These cities declared their intent to grow at these rates, and the region went along. These patterns will result in a loss of critical agricultural land—one of the “problems” this

process is supposed to be avoiding—and in massive transportation infrastructure expenses that might be avoided if growth were directed elsewhere. It is simply not clear that this draft Plan is better than the result would have been without RPS.

In addition to this fundamental question, we have expressed many concerns with the draft Plan to the Project. Among the most significant, and those that we are asking the Commission to direct the Project to address prior to adopting Comp Plans, are the following.

The calculations for land needed for urban reserves do not comply with Goal 14

During the fall of last year and the beginning of this year numerous citizens pointed out that the Project's own models showed that there was more land in the proposal than could be justified. In the only substantive change to the plan made in response to citizen input thus far, rather than even make the pretense that any of the proposed urban reserves would be reconsidered, the Project responded by increasing the population to be accommodated. Adding 16,000 people to the end population to be accommodated had the predictable result of showing a need for more land for urban reserves.

This response leaves unanswered the question of density and compliance with the Goal 14 requirement for efficient use of urban lands. In determining the population increase that must be accommodated in the urban reserves being created through RPS, the Project's models make the assumption that the existing urban growth boundaries will be built out *at each city's current average density*.

In addition to violating Goal 14, this assumption is unrealistic. Project representatives have told the Commission twice, on the record, that everyone believes the region will develop at higher densities than the draft Plan contemplates.

It also sets a bad precedent: LCDC does not approve UGB expansion proposals that don't propose more efficient densities inside the existing UGB. No other city would even, or has even, proposed a UGB expansion without first demonstrating how they are using land more efficiently inside the UGB and meeting the housing needs of the future population. Particularly in a situation where so much resource land is at stake—including 1,250 acres of land deemed critical to the region's agricultural economy—the assumptions for needed urban land should be as conservative as possible.

The city of Jacksonville's proposal also sets a bad precedent. The expansion into the urban reserve areas is proposed to be at a density of 4 units/gross acre, or less than 2/3 of the regional average. While one of the goals of the Project is to stem the "Loss of Community Identity," the Commission should carefully consider the ramifications of such a low proposed density—particularly when so much of the proposed urban reserve lands include resource lands. The result of the current proposal is that an excess amount of land, and therefore of agricultural land, is included in the urban reserve areas.

The Project's attempt to avoid compliance with the priority of lands rule (OAR 660-021-0030) violates the RPS Statute and the intent of Goals 3 and 14

The Project states that they need “relief” from the OAR 660-021-0030 priority of lands scheme due to the “long-held regional opinion [that the priority scheme] has the effect of further pulling jurisdictions’ growth onto prime resource lands.” This is not the requirement of the rule, nor has it been the case for other areas where urban reserves have been designated.

The Project offers only one example of where this “long held regional opinion” might have produced a different result (in the case of Medford expanding to the west, where they would have to go through some very good farmland to reach a couple hundred acres of non-resource zoned land). Even here, the draft Plan offers no explanation as to why taking some acres of resource land to get to as much as a couple hundred acres of non-resource land is a worse result than taking all resource land in other locations.

Overall, the Project has not demonstrated why they should be exempt from having to explain how there are “no reasonable alternatives that will require less, or have less effect upon resource land.”² Compliance with Goals 3 and 14 must be based on something more than a “long-held regional opinion.”

Proposals to urbanize economically critical agricultural land violate Goal 3 and the RPS Statute (ORS 197.656)

One of the “problems” being addressed by the Project is the loss of agricultural lands due to urban expansion. The Project has done an admirable job of mitigating the effects of urbanization on adjacent agricultural lands in adopting the Agricultural Lands Buffering standard.³ However, they have done a poorer job of protecting other valuable farm lands from outright urban development.

As required by the RPS Statute (ORS 197.656(6)), the Project used a panel of experts they appointed, applying a set of standards the Policy Committee approved, to identify lands that were part of “the region’s commercial agricultural or forestland base.” (These lands are known by the shorthand term “RLRC lands.”) Despite the conclusions from their own experts, the Project has chosen to include about 1,250 acres of land deemed “critical to the region’s agricultural economic base” as part of the 9,000 acres proposed as urban reserves. While some areas might eventually be justified as a necessary part of urban expansion, it is clear that not all 1,250 acres are necessary to meet the needs of the cities.

More significantly, the RPS Statute clearly sets these lands off as a separate category, not only from non-resource lands but from other resource lands as well, and requires the Project to take an exception to use these lands in a manner not consistent with Goals 3 and 4. The purpose of designating urban reserves is to designate land for urban development—clearly not a use

² As is pointed out in separate testimony, it is not clear that the Urban Reserves Rule is eligible for this treatment under the RPS Statute, as OAR 660-021-0030 implements a statute and not a Goal.

³ See draft Plan, Appendix VIII.

“consistent with” Goal 3.⁴ A goal exception is required if these lands are to be included as urban reserves.

Not only is the Project trying to avoid taking the required exception, but the findings supposedly justifying the need to urbanize the commercial base lands are no more robust than those for proposed urban reserves on other agricultural land or even for those on non-resource lands. Again, the Project has simply not demonstrated why they should be exempt from having to explain how it is that the proposals in this draft Plan produce a better result than might have been achieved outside of the RPS process. When seeking permission to avoid compliance with rules that would otherwise be applicable, this seems like a fairly minimal, yet critical, standard.

The draft Plan violates Goal 12 and the Transportation Planning Rule (TPR)

The draft Plan is based on a 100 percent increase in population, and a 135 percent increase in overall vehicle miles travelled (VMT).⁵ The result is an increase in per capita VMT. This does not make sense and violates any number of existing regulations.

When we pointed this out to the project a year ago, the Project’s response was to drop the reference to the increase in VMT out of the draft Plan altogether and to add a lengthy discussion of the transportation modeling that they had done focusing on whether the urban reserves would result in an increase in congestion.⁶

Following these actions the Project declared that “The region considers that the transportation modeling results completed following this testimony, which include transit, satisfy the concerns expressed.”⁷

As was pointed out to the Project’s Executive Committee in April of this year, dropping the reference to increased per capita VMT does not address anyone’s concerns.

The transportation modeling discussed in the draft Plan was extensive, but it asked the wrong question. While residents may want to know whether the proposed plan will increase congestion, that is not the relevant criteria for Goal 12 or the TPR⁸, which require planning to be based on a reduction of VMT and an increase in the access to and efficiency of other modes of

⁴ The Project has argued that the designation of urban reserves is not a use that is inconsistent with Goal 3, apparently relying on OAR 660-021-0040(4), which states that “Resource land that is included in urban reserve areas shall continue to be planned and zoned under the requirements of applicable Statewide Planning Goals.”

However, this position ignores the statutory definition of urban reserves provided in ORS 195.145(1), which says that urban reserves are “To ensure that the supply of land available for urbanization is maintained,” and (4), which says “For purposes of this section “urban reserve area” means lands outside of an urban growth boundary that will provide for: (a) future expansion over a long-term period; and (b) the cost effective provision of public facilities and service within the area when the lands are included within the urban growth boundary.” The purpose is clearly for urban development. The only question is the timing.

⁵ This was stated as page 3-14 of the version of the draft Plan that was in effect when the Project held its public input sessions in the fall of 2007.

⁶ This discussion appears at pages 3-14 to 3-29 of the current version of the draft Plan.

⁷ See the draft Plan, Appendix XVII, at page 13.

⁸ Specifically, OAR 660-012-0035.

transportation. Further, even though the model they did discuss concluded that congestion would not increase as much if a nodal development pattern was followed, no changes were made to the draft Plan to encourage or even facilitate nodal development patterns.

In a world of peak oil, rising energy prices, and a carbon constrained economy we know that more transportation options will be required in the near future. These options depend on higher densities and mixed-use neighborhoods to function economically. The need for these community patterns is reinforced by the aging and demographic changes to the Valley's population. Current regulations and targets already adopted by the Oregon legislature also mandate ensuring that land use patterns don't exacerbate transportation problems and greenhouse gas emissions. If the Bear Valley RPS was truly looking 50 years into the future, it would plan for this changed world, not the one of 20 years ago.

Excessive "parks and institutional land" in the draft Plan violate Goal 14

Finally, the plan includes more land for parks and institutional uses than can be justified. The practical effect of this is the loss of farm land currently in production because of a need to increase the size of the urban reserves. For example, there are about 1,200 acres of "parks" and "institutional" land in the proposal. This includes several hundred acres of parkland in proposed residential neighborhoods adjacent to about 1,900 acres of existing city-owned parks in east Medford.

A similar problem exists with the amount of land being proposed for schools. At page 3-14 the draft Plan states that high schools need up to 50 acres of land. While the details of specific acreages are not provided in any of the calculations showing land needs, most of the cities have included lands for schools in their proposals. The assumptions for the amount of land needed for schools should be reduced, as current professional guidelines do not support the designation of 50 acres for a high school.⁹

The Project's own models show that, even with these assumptions, there may be as much as 360 acres more than necessary in this category.¹⁰ Correcting these assumptions will likely increase this number.

Conclusion

We recognize that there are a lot of people who want to see this draft Plan approved and out of the way. We do not believe the Commission has legal authority to sign the draft Participants' Agreement or commit to future acknowledgement of plan amendments conforming to the draft Plan, or to take any other action at this meeting to approve or acknowledge any part of the Greater Bear Creek Valley RPS documents presented to you.

⁹ See <http://www.smartgrowth.org/news/article.asp?art=6262&state=52&res=1680>

¹⁰ See draft Plan, Appendix V.

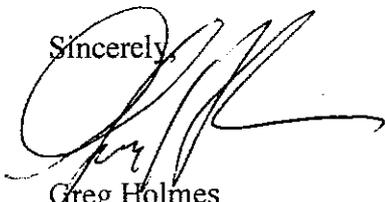
There has been a lot of good work done on this draft Plan—the majority of which will continue to be useful whether within or outside of the RPS process. However, the draft Plan presented to you contains many flaws, some of the more significant of which are discussed above. While violations of state regulations in and of themselves, several of these flaws also serve to over-state the need for land in the current version of the draft Plan. Given that most of the land in the proposed urban reserves is resource land, and that about 1,250 acres of that are “critical to the region’s agricultural economic base,” it is incumbent on the project to be far more conservative in including lands in its proposals.

Therefore, consistent with Recommendation #1, item VII of the October 2, 2008 Staff Report, we request that you notify representatives of the region that they should make the following changes required for legal compliance with the RPS Statute prior to their submitting the Comprehensive Plan Amendments required by that statute:

1. Consistent with Goal 14 and every other UGB and Urban Reserve proposal considered by the Commission, increase density in existing UGBs before determining need for urban reserves;
2. Comply with the urban reserves priority of lands scheme, or, if relief can legally be granted, demonstrate why it is appropriate based on something other than a “long held regional opinion;”
3. After the densities inside the current UGB are increased, the County must remove the unneeded RLRC lands and remove and/or take the statutorily required exceptions for any remaining RLRC agricultural base land—and the findings for this very sensitive land must be more robust than for non-resource lands;
4. Consistent with Goal 12 and the TPR, transportation modeling must reduce VMT and provide real transportation options to future residents, and the urban reserve proposals must be modified to generate the outcomes necessary to produce those results; and
5. Justify the apparently excessive “parks” and “institutional” lands or remove them from the draft Plan.

Thank you for consideration of our testimony.

Sincerely,



Greg Holmes
Southern Oregon Planning Advocate



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October 9, 2008

Land Conservation and
Development Commission
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540

Re: LCDC Meeting of October 15-17, 2008; Agenda Item # 11
Greater Bear Creek Valley Regional Problem Solving

Dear Commissioners:

1000 Friends of Oregon has been involved with the Bear Creek Valley Regional Problem Solving (RPS) process since its inception. Our Regional Advocate, Greg Holmes, has attended almost every public meeting related to the development of the documents before you – the draft Participants' Agreement and the "draft Plan."¹

This written testimony focuses on legal aspects of the draft Participants' Agreement (draft PA), dated Sept. 16, 2008. This is the version submitted to the Department by the Bear Creek RPS for the October hearing. At your hearing, we will also present testimony on the substance of the draft Plan.

The purpose of the regional problem solving statute, ORS 197.652-.658, is clear: to identify regional problems for which regional solutions are identified and collaboratively agreed to. The participating governments are supposed to be those that cause and/or are affected by the problem, as well as those who play a role in its solution.

The statute requires the participation and agreement of all these affected governmental entities for three very sound reasons. First, because the nature of the problem is supposed to be such that it requires a regional and collaborative solution. Second, because those solutions may include strategies that otherwise are not allowed under the Commission's rules. And third, because without regional agreement and participation, individual cities, counties, or special service districts could make unilateral land use and transportation decisions that undermine the very objectives of the regional solutions.

In some cases agreement may not be reached, and that is not only contemplated by the statute, but sometimes it is the appropriate outcome. Saving the process at the expense of a sound policy outcome should not ever be an objective. Moreover, much of the work done in a RPS process is still quite useful and can form the basis for land use and transportation decision-making outside of a RPS process.

The legal requirements of the Regional Problem Solving statute are also clear. The regional problem(s) must be identified. All the participating governments and agencies must reach an

¹ The draft Participants' Agreement refers to and incorporates a substantive document it calls the "draft Plan," which apparently will at some point become the "adopted Plan."

“Agreement” on how to solve the regional problem(s). That agreement must contain certain elements listed in the statute. Both the Agreement *and* any city or county plan or regulation amendments made pursuant to that Agreement must be found to “conform, on the whole, with the purposes of the statewide planning goals” - a finding that LCDC must make in each instance. ORS 197.656(2)(c).

As a preliminary matter, it is unclear whether the draft PA is intended to be the “Agreement” provided for by statute, or if the draft PA and the Plan together are intended to be the statutory Agreement. On the one hand, communication we have seen from the Rogue Valley Council of Governments (RCOG) suggests that it desires that the Participants’ Agreement alone be the “Agreement” provided for in statute. On the other hand, that very PA incorporates the Plan into it, and relies on the Plan to demonstrate how the PA complies with the underlying RPS statute. (See, for example, p. 4, line 7; p. 5, lines 13, 36, 44; p. 6, lines 35, 37-41; p. 9 lines 38-39)

The draft PA that you are being asked to sign does not comply with the RPS statute, either standing alone or in conjunction with the draft Plan. It is still in draft form, it is incomplete, it has not been subject to local hearings, and substantively, it does not meet the requirements of the statute. Following we discuss the major legal flaws in this document.

LCDC must find that the content of the Agreement provided for in the RPS statute meets at least three legal standards. First, the Agreement must address each of the six elements listed in ORS 197.656(2)(b)(A)-(F).² Second, if the participating governments propose using farm or forest lands for non-farm or non-forest purposes, they must follow the policies established in the RPS statute. ORS 197.656(6) Third, the Agreement and subsequent local plan and regulation amendments to implement it must “conform, on the whole, with the purposes of the statewide planning goals.” ORS 197.656(2)(c). The Agreement meets none of these.

Compliance with ORS 197.656(2)(b)(A)-(F)

Neither the draft PA standing alone, nor with the Plan, meets all the required elements – the first legal standard described above. ORS 197.656(2)(b)(B) requires the Agreement to identify “**optional techniques**” for achieving the identified regional goal(s). However, this section of the PA (p. 4) is flawed because:

- It states it implements the “draft Plan,” incorporating the Plan, so the PA does not stand alone and instead must be evaluated with the Plan. (p. 4).
- These are not *optional* techniques – the ones described are the *actual* techniques required by the draft Plan. The draft PA identifies *other* methods by which the same regional goal(s) could be achieved. The draft Plan identifies on its face some optional techniques, but in reality, they largely maintain the status quo – these are not true alternative techniques to achieve the regional goals.
- The techniques described do not achieve the identified goals on their face. For example, one identified goal is to “conserve ... open space lands for their important economic, cultural and livability benefits.” (p. 5, lines 12-17) However, the *only* technique identified

² The following elements must be addressed in the Agreement: identify regional goals, identify optional techniques to achieve those goals, develop measurable indicators of performance towards meeting those goals, develop incentives and disincentives to encourage implementation of the chosen techniques, establish a monitoring system, and establish a correction technique.

is the “Critical Open Space Areas Preservation” strategy, which no jurisdiction is required to implement. How does a single, voluntary technique equate with the requirement to lay out several options, and ensure that the chosen one is followed and will achieve the goal?

- It anticipates that the Plan may be modified in unknown ways in the future, and, as described below, does not require LCDC agreement as an RPS partner in that amendment.

ORS 197.656(2)(b)(D) requires the participants to agree on “**incentives and disincentives**” to ensure the successful implementation of the chosen techniques in achieving the regional goal(s). However, this section of the PA (pp. 7-8):

- Incorporates the draft Plan, so the PA does not stand alone.
- Includes as a disincentive an action that may be illegal – “reconsider[ing] the population allocations” of those signatories not adhering to the Plan. State law requires that county population projections, coordination, and allocation be based on substantive evidence – such as based on state population projections or other commonly accepted professional standards of population projection and allocation - not on punitive actions to allocate or not allocate population based on whether the Plan is adhered to, which may bear no reality to where the population might or might not grow.³
- Contemplates that the Plan may be modified in the future, and, as described below, does not require LCDC agreement as an RPS partner in that amendment.

ORS 197.656(2)(b)(E) requires the Agreement to include a system for **monitoring** progress “toward achievement of the [regional] goals.” However, this section of the PA (pp. 8-0):

- Again incorporates the draft Plan.
- Does not require monitoring as measured against the regional *goals*, but rather merely requires monitoring as measured against the Plan. This is not the legal standard.
- Contemplates that the Plan may be modified in the future, and, as described below, does not require LCDC agreement as an RPS partner in that amendment.

Compliance with ORS 197.656(6)

In addition to the required elements of the Agreement, the RPS statute is very specific on how and when agricultural or forest lands can be designated for uses not otherwise authorized by Goals 3 and 4 – the second legal standard. ORS 197.656(6). Under statute, the participants can only use agricultural or forest lands for non-resource uses if those lands have been found by a committee of experts to *not* be part of the “region’s commercial agricultural or forest land base.” (This RPS process terms those lands that are part of the regional commercial land base as the “RLRC” lands.) Otherwise, if a county wants to use RLRC lands for non-resource purposes – such as here, for urban purposes - the county must take an exception to Goals 3 or 4. The PA violates this statute because it endorses the Plan’s proposal to designate RLRC lands as urban reserves without taking an exception to Goal 3. (p. 6, lines 37-41).

³ This same flaw – allocating population based on something other than substantive evidence and professional standards – is also found in Section IX (p. 11, lines 11-19) of the PA, “Addition of a City as an Implementing Signatory.” This section says that if White City incorporates as a city (despite its name, it is currently unincorporated), “increased population will be added to the regional target population” The mere change in the legal status from urban unincorporated community to incorporated city does not necessarily mean an increase in population.

Compliance with ORS 197.656(2)(c)

Neither the draft PA standing alone, nor with the Plan, can be found to “conform, on the whole, with the purposes of the statewide planning goals,” the third legal standard, for several reasons. First, under the draft PA, LCDC would obligate itself *now* to acknowledge future individual city and county comprehensive plan amendments if they comply with the “adopted Plan” - a Plan that is currently in draft form, has not received any public hearings, and may not be contemplated to come before you in the RPS process. (p. 2, lines 41-45)⁴ There are not adequate findings before you showing how the draft PA and draft Plan *now* conform, on the whole, with the statewide planning goals.⁵ The Commission has no legal basis on which to sign on to this PA and Plan now.

It is not clear whether a true “Agreement” will ever be brought to the Commission for evaluation of whether it conforms on the whole, with the purposes of the statewide planning goals.

Moreover, the legal standard by which LCDC must evaluate individual plan amendments designed to carry out the RPS Agreement is *not* whether they comply with an adopted Plan – which is what the PA says. Rather, the *only* standard under statute for LCDC to apply is whether *each local plan amendment* “conforms, on the whole, with the purposes of the statewide planning goals.”

Aggravating this request that you sign a document that obligates LCDC to future approvals of unknown local plan amendments, is the fact that the draft PA anticipates there will be future amendments to both this PA and the still-draft Plan. However, the PA specifically states that LCDC’s signature is *not* required for amendments to the “Agreement” - the PA and Plan. (p. 12, lines 21-23) This is contrary to statute - every time that the RPS participants amend the “Plan,” under statute LCDC must find that any modified Agreement conforms, on the whole, with the purposes of the statewide planning goals. The current draft PA and Plan make no provision for this.

In brief, LCDC is being asked to bind itself to a draft document that may change often and in many ways, and to judge future land use decisions against that still-evolving document, which is not the legal standard.

There are numerous other ways in which the PA does not “conform, on the whole, with the statewide planning goals.” There are inadequate findings describing why the participants believe the draft PA does “conform” that would allow a decision-maker to evaluate the document.

And on its face, the PA does not conform to the statewide goals. The PA states that a “minor amendment” to the Plan, for which there is no requirement for agreement among the participants and which will gain the benefits of being part of an RPS plan, include (pp 9-10):

- Expansion of any city’s urban reserve by up to 50 acres.

⁴ The PA itself anticipates there will be amendments to the draft Plan, as it goes around to the local governments for approval. But the Commission is being asked now to sign this draft PA, and to commit to, in the future, acknowledging local plan amendments if they are consistent with an overall Plan that does not now even exist in anywhere near final form. (See, e.g., p. 4, lines 7-10; p. 5, line 44-p. 6, line 2; p. 7, lines 14-16; p. 8, lines 24-27)

⁵ 1000 Friends of Oregon has previously submitted to the local governments and DLCD extensive written testimony explaining how the draft Plan violates the RPS and other laws. We will present this type of testimony at the Commission’s hearing as well.

- Expansion of any city's UGB by up to 50 acres into lands not previously agreed to in the RPS process.
- A decision by Ashland to establish an urban reserve or expand its UGB by up to 50 acres, anywhere.

Seven cities are potential participants in this agreement. If they each expand their UGBs and reserves by 50 acres, that will be a 700-acre addition, almost certainly mostly of high value and prime farmland, including RLRC lands. This significant amendment would gain the benefits of being in the RPS process without, apparently, a legal review of whether any expansion "conforms, on the whole, to the purposes of the statewide planning goals." It may illegally include RLRC lands. According to the draft PA, LCDC is specifically excluded from being required to sign on to these "minor" amendments in a RPS process. (p. 12, lines 21-22) These amendments would be pre-blessed.

The major amendment process is no better. The acreages involved can exceed 50 acres. Only a majority (not all) of some (not all) of the original RPS signatory participants need agree to recommend a major amendment to Jackson County. The state agencies and special service districts who were original signatories to the RPS Agreement are excluded at this point. (p. 9, lines 21-25) It is not clear if Jackson County must even go along with the recommending participants when making a Plan amendment decision.

This is astounding. Even Metro, a much larger and more complex geographical area, considers a minor amendment to be less than 2 acres. As far as we can tell, the Commission's only review of minor or major amendments would be when the amendments and expansions come to the Commission as plan amendments, and then this draft PA states that the Commission can only review these UGB and reserves expansions against whether they are consistent with the RPS Plan – a Plan which says there *can* be future amendments like these. The effect of this is to allow a document that statute requires be agreed upon by *all* participants – because it allows participants the extraordinary privilege of not following state rules - to be amended in a "major" way by far less than the original requirement. We do not believe this is either legal or wise policy.

Most importantly, even using the proper legal standard ("conform, on the whole, with the purposes of the statewide planning goals") there is no way that UGB and Urban Reserve amendments of this size, that would almost certainly include Goals 3 and 4 lands, including those designated as RLRC, conform on the whole to the agricultural preservation goal of Goal 3, to the compact and efficient urban form goal of Goal 14, to the needed housing policies of Goal 10, or to the transportation choice, single-occupancy vehicle reduction, and multi-modal policies of Goal 12.

Finally, to the extent the final "Agreement" locates urban reserves in a manner contrary to the Urban Reserve Rule, it may be an illegal application of the RPS statute. The RPS statute allows the Commission to acknowledge comprehensive land use plan and code amendments that do not fully comply with rules of the Commission enacted to implement the statewide planning *goals*. However, the urban reserve rule was not enacted to implement a goal; rather, it was enacted to implement a statute.

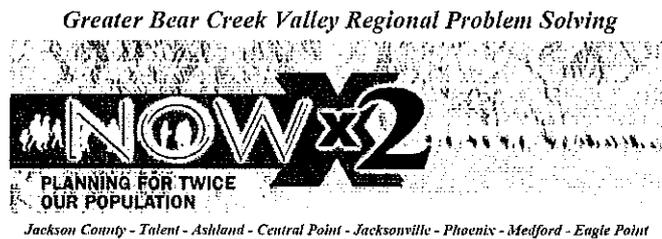
Conclusion

We do not believe the Commission has legal authority to sign the draft Participants' Agreement or commit to future acknowledgement of plan amendments conforming to the draft Plan, or to take any other action at this meeting to approve or acknowledge any part of the Greater Bear Creek Valley RPS documents presented to you.

Thank you for consideration of our testimony.

Sincerely,

Mary Kyle McCurdy
Senior Staff Attorney
Policy Director



November 11, 2008

Members of the Land Conservation and Development Commission
Department of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, OR 97301

Re: Regional Response to the Authority Vested in the RPS Statute (ORS 197.656)

Dear Commission Members:

Like other key stakeholders, the Commission is undoubtedly aware that this regional process and its documentation have been developed over the past 8 years, in close cooperation with major state agencies including DLCD. Both the Participants' Agreement and the draft Plan represent proposals developed under the authority of ORS 197.656, the statute identified by the region as offering the most effective strategy to respond to the region's land use problems.

Because the RPS statute was relatively new and untested when we started this process, great care has been exercised as we've navigated through uncharted waters. Moreover, the participants have consistently relied on the Commission and its staff to guide the development of not only the process, but also the Participants' Agreement and the draft Plan.

This letter is being provided to the Commission to outline the manner in which the region considers it has responded to the authority vested in the RPS statute.

I. AUTHORITY OF THE RPS STATUTE (ORS 197.656) The RPS statute explicitly provides for Commission acknowledgment of comprehensive plans not in full compliance with the rules of the Commission that implement the statewide planning goals; participation by state agencies; Commission review of implementing regulations and plan amendments; and use of resource lands.

- (1) Upon invitation by the local governments in a region, the Land Conservation and Development Commission and other state agencies may participate with the local governments in a collaborative regional problem-solving process.

RPS Participants' Response: LCDC and other state agencies were invited to participate over 8 years ago.

- (2) Following the procedures set forth in this subsection, the Commission may acknowledge amendments to comprehensive plans and land use regulations, or new land use regulations, that do not fully comply with the rules of the Commission that

implement the statewide planning goals, without taking an exception, upon a determination that:

RPS Participants' Response: *The Commission has the authority pursuant to 197.656 to acknowledge comprehensive plans not in full compliance with the rules that implement the statewide planning goals, so long as the requirements in (2)(a) through (c) are met.*

- (a) The amendments or new provisions are based upon agreements reached by all local participants, the Commission and other participating state agencies, in the collaborative regional problem-solving process;

RPS Participants' Response: *The region has elaborated a Participants' Agreement that is close to formal adoption by all participants, including LCDC. This Participants' Agreement will enable the Commission and remaining participants to comply with this subsection.*

- (b) The regional problem-solving process has included agreement among the participants on:
 - (A) Regional goals for resolution of each regional problem that is the subject of the process;
 - (B) Optional techniques to achieve the goals for each regional problem that is the subject of the process;
 - (C) Measurable indicators of performance toward achievement of the goals for each regional problem that is the subject of the process;
 - (D) A system of incentives and disincentives to encourage successful implementation of the techniques chosen by the participants to achieve the goals;
 - (E) A system for monitoring progress toward achievement of the goals; and
 - (F) A process for correction of the techniques if monitoring indicates that the techniques are not achieving the goals; and

RPS Participants' Response: *(A)–(F) Both the Participants' Agreement and the draft RPS Plan are structured to demonstrate compliance.*

- (c) The agreement reached by regional problem-solving process participants and the implementing plan amendments and land use regulations conform, on the whole, with the purposes of the statewide planning goals.

RPS Participants' Response: *This is the sole purview of the participants and the implementing agencies. By its latest vote on the Participants' Agreement the Commission has indicated that it is satisfied that the Participants' Agreement complies to a reasonable degree with the RPS statute's requirements, with the only caveat being the remaining need to provide findings that demonstrate that the Agreement conforms, on the whole, with the purposes of the statewide planning goals. Because the Agreement is largely a process document, this is a minor additional step; however, the region acknowledges that the Commission vote on the Agreement waives no rule or*

goal, and reserves full review and approval authority to evaluate yet-to-be-submitted findings of fact and conclusions of law.

- (3) A local government that amends an acknowledged comprehensive plan or land use regulation or adopts a new land use regulation in order to implement an agreement reached in a regional problem-solving process shall submit the amendment or new regulation to the Commission in the manner set forth in ORS 197.628 to 197.650 for periodic review or set forth in ORS 197.251 for acknowledgment.

RPS Participants' Response: *Local participating jurisdictions are now prepared to commence the amendments of their comprehensive plans to address the RPS Plan.*

- (4) The Commission shall have exclusive jurisdiction for review of amendments or new regulations described in subsection (3) of this section. A participant or stakeholder in the collaborative regional problem-solving process shall not raise an issue before the Commission on review that was not raised at the local level.

RPS Participants' Response: *The Commission is clearly within its statutory right to acknowledge amendments to comprehensive plans that implement the Participants' Agreement and the RPS Plan.*

- (5) If the Commission denies an amendment or new regulation submitted pursuant to subsection (3) of this section, the Commission shall issue a written statement describing the reasons for the denial and suggesting alternative methods for accomplishing the goals on a timely basis.

RPS Participants' Response: *Acknowledged.*

- (6) If, in order to resolve regional land use problems, the participants in a collaborative regional problem-solving process decide to devote agricultural land or forestland, as defined in the statewide planning goals, to uses not authorized by those goals, the participants shall choose land that is not part of the region's commercial agricultural or forestland base, or take an exception to those goals pursuant to ORS 197.732. To identify land that is not part of the region's commercial agricultural or forestland base, the participants shall consider the recommendation of a committee of persons appointed by the affected county, with expertise in appropriate fields, including but not limited to farmers, ranchers, foresters and soils scientists and representatives of the State Department of Agriculture, the State Department of Forestry and the Department of Land Conservation and Development.

RPS Participants' Response: *ORS 197.656(6) obligates "the participants" to determine what is and what is not part of the region's commercial agricultural base. The section also obligates "the participants" to "consider the recommendation of the RLRC." The statute clearly provides "the participants" with the authority to make that determination. "The participants" considered the RLRC recommendation when making their determination of what is the region's commercial agricultural base. Insofar as "the participants" followed "the process," all agricultural land thus identified can be excluded from the exception process as provided in ORS 197.732.*

- (7) The Governor shall require all appropriate state agencies to participate in the collaborative regional problem-solving process.

RPS Participants' Response: All appropriate agencies participated by either actively participating or waiving their participation.

Conclusion:

The RPS statute provides participants the authority to invite LCDC to participate in its process to seek relief from full compliance to Oregon land use specific rules and regulations where such relief contributes, on the whole, to achieving the State's Goals. The RPS statute additionally provides authority for the participants to develop "a process" through which its problem solving goals can be affected. The RPS statute requires participants "to consider" RLRC recommendations as part of its process. The RPS statute provides the participants authority to determine what is and what is not part of the commercial agricultural base; the Policy Committee did this through its process. Final decisions by the Policy Committee and state agencies that the future urban value of a parcel of land exceeds its future agricultural value represent the operative, last decision-making stage of that statutorily authorized process.

LCDC did in fact accept an invitation from local government to participate in a process to seek relief from full compliance to specific rules and regulations. LCDC has provided participants with assurance of its willingness to accept and further review a draft Plan that meets the letter and intent of the RPS statute. LCDC reserves the right to assess and to accept or reject the draft Plan. If LCDC rejects the Plan, it shall provide specific direction regarding modifications required by it to provide said relief.

The statute provides the explicit authority for the participants and the Commission to develop and to accept a process through which the Commission, in its sole discretion, has the authority pursuant to 197.656 to acknowledge comprehensive plans not in compliance with the rules of the Commission, which implement the goals.

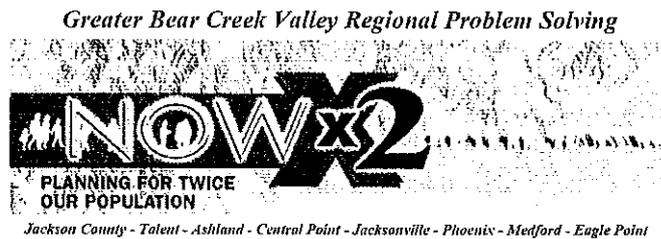
Therefore, the region concludes that the participants and the Commission have acted within the authority of ORS 197.656, and that there are no compelling reasons at this stage to prevent the RPS process from moving forward to the final step of developing comprehensive plan amendments.

Sincerely,



for

Kate Jackson
Policy Committee Chair
Greater Bear Creek Valley RPS Process



November 18, 2008

Members of the Land Conservation and Development Commission
Department of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, OR 97301

Re: The Greater Bear Creek Valley Regional Problem Solving (RPS) Project
Responses to Policy Issues Raised During Public Testimony

Dear Commission Members:

The following comments are directed towards major policy issues raised in public testimony during the course of southern Oregon's RPS process. Because 1000 Friends of Oregon (1000 Friends) has contributed the most comprehensive and detailed testimony directed at the project, the region has chosen two documents submitted by 1000 Friends (authored by Greg Holmes) as representative of the local public testimony that was critical of the RPS process, and as a guide for the region's responses. One of the two testimonies was submitted to the project for consideration during two regional hearings held on the draft Regional Plan in the fall of 2007, and the other was submitted to DLCDC to be considered during the October 2008 LCDC review of the RPS Participants' Agreement and draft Plan.

Without any doubt, the Plan has benefitted from the region's openness to 1000 Friends and other interested members of the public having a place at the table during this process, even, and especially when, they have not agreed with project decisions. As is stated later in this document, the region considers the Plan to be a better product than it would have been if 1000 Friends (and others) had not participated consistently and vigorously.

Nonetheless, no matter how inclusive and collaborative this process has been, it is inevitable that there are those who have not been pleased with every aspect of the outcome. This includes not only 1000 Friends, but also the local participating jurisdictions themselves, all of which have had to compromise on numerous points to arrive at a workable regional strategy. At times these decisions have run contrary to personal ideologies or past jurisdictional practice, but they have managed to come together to create a strategic plan for southern Oregon that compromises not one bit on the region's future or the statewide land use system. The region has valued contrary opinions throughout this planning process, and will continue to value them, but considers the current proposed Plan to be defensible, justifiable, and theoretically and fundamentally sound. The rationale for that position will be outlined below.

MAJOR POLICY ISSUES RAISED AS TESTIMONY

There appear to be three major themes that run throughout the two 1000 Friends' testimonies, as well as through the testimony of others who have raised policy issues over the years:

- 1) the Plan is in violation of various statewide planning goals, statutes, and rules;
- 2) the Plan is not sufficiently bold or progressive in its planning; and
- 3) the Plan includes too much land, especially land recommended by the Resource Lands Review Committee (RLRC) as part of the commercial agricultural land base.

Each of these themes is discussed in brief below, followed by the region's responses to the predominant issues raised in the two major 1000 Friends' testimonies.

1. The Plan is in violation of various statewide planning goals, statutes, and rules.

Contentions that the Plan is in violation of numerous aspects of the statewide planning goals, statutes, and rules appears to be, in large part, a function of the quality and clarity of the RPS statute itself, and a concern, on 1000 Friends' part, over the level of flexibility it promises to extend to a collaborative process such as this one, and the precedent that may be set as a result.

That this issue has arisen, to the extent it has, is no surprise. The participants in this RPS process have considered the RPS statute to be, in many ways, an impediment to the type of collaborative process it was created to facilitate. Inconsistencies, undefined terminology, and confusing and inconclusive direction made the RPS statute one of the project's major unknowns. As evidenced by the testimony, it has also become a major rationale for challenging the work that has been accomplished during the process. The fact that the RPS statute has not had much practical review by LCDC, and remains largely unadjudicated, is especially unfortunate at this point in the process, as the viability and cohesiveness of the Regional Plan depends on a consistent understanding of the RPS statute between the region, which has produced the Plan, and LCDC, which has the responsibility for its review and eventual acknowledgment.

The common theme in most of the testimony regarding lack of compliance appears to be a minimalist take on the flexibility built into the RPS statute, which contrasts with the way in which the region has generally understood the statute. The region has taken the statute at what it considers face value—that it was created to permit broad flexibility in creating customized solutions to land use problems. Should these customized solutions satisfy the purposes of pertinent statewide planning goals (and comply with statute), then LCDC has the authority to acknowledge local implementing comprehensive plan amendments and land use regulations that do not fully comply with administrative rules.

The RPS participants have spent more than eight years developing and using a process to delineate the most appropriate lands for future urban uses, for preservation of non-urbanized open space, and for preservation of agricultural land. This is not a process that is inherently superior to the state's standard process for doing so, but it is a process the region believes works better for southern Oregon. Nonetheless, the

outcome of this process, which has indeed been unique, is not significantly different in technical terms than what probably would have occurred if the region had been able to arrive at this stage without RPS. The key point, though, is this—without RPS, without the potential of the flexibility from the rules and the collaboration it prescribes, this process would not have occurred, at least not in the foreseeable future.

Therefore, notwithstanding the region's position on the critical importance of the flexibility offered by the RPS statute (ORS 197.656), the region will prepare findings that will be complete and detailed enough by current state standards to provide a lawful basis for LCDC's acknowledgment of participating jurisdictions' comprehensive plan amendments based on the Regional Plan. The findings will be comparable to those normally required by the state for cities establishing urban reserves, and will provide the appropriate regional and city contextual backdrops for LCDC's consideration.

The following are responses to major points of concern in the 1000 Friends' testimony dealing with the issue of compliance:

Compliance with Goal 14 (2008 testimony)

The question of compliance with Goal 14 has centered on the adequacy of the region's calculation of acreage need for urban reserves. The region's position is that compliance with Goal 14 should not be an issue, as calculation of need is not directly addressed by the goal. Actually, OAR 660-021-0030 (the Urban Reserve Rule) provides the only reference to the level of calculation needed for urban reserves, in which it directs that the amount of urban reserve areas shall be based on an *estimate*. The use of the word "estimate" clearly indicates that the burden of need determination is lower for urban reserves than for UGB expansions. The Plan should not be held to the UGB standard.

Compliance with the Urban Reserve Rule (2007 and 2008 testimony)

The degree to which the region will be asking for flexibility from the Urban Reserve Rule reference to the locational factors of Goal 14 is not an issue of compliance with the goal (which does list the locational factors for purposes of UGB expansions) or the Urban Reserve Statute (which does not), but rather one that deals directly with the Urban Reserve Rule (which does reference the locational factors of Goal 14). As mentioned previously, while the process of arriving at the proposed map of urban reserves was unique, the outcome is not necessarily so, as will be demonstrated by the Plan's findings.

1000 Friends also questions the ability of the process to seek a deviation from the hierarchy of lands in the designation of urban reserves. The region does not agree that the project ignored the hierarchy of lands—after all, one of the project's goals is to preserve farmland—but rather engaged in a process of considering a number of factors in arriving at the present urban reserve proposals, including, but not limited to, the priority of lands. This sequencing is clearly outlined in Chapter 4 of the draft Regional Plan.

It is the region's position that, notwithstanding the flexibility the RPS statute affords the region in arriving at a Regional Plan without full rule compliance, the Plan's findings will provide a complete description of the process whereby the participating cities constructed their urban reserve proposals, and how the steps and stages of that process included the considerations represented by the locational factors.

The broader suggestion by 1000 Friends embedded in the discussion of the locational factors that a rule derived from a statute, rather than a goal, does not fall under the flexibility afforded by RPS is contrary to the region's (and DLCDC's), understanding of the statute. The region's position is that the RPS statute—when it refers to flexibility from “...the rules of the commission that implement the statewide planning goals...”—does not operationally differentiate between administrative rules that implement statewide planning goals and those that implement land use statutes. Because LCDC is invested with the responsibility to adopt administrative rules necessary to carry out ORS chapters 195, 196 and 197, (which constitute Oregon's statewide land use planning program) as well as the statewide planning goals, this means that administrative rules such as the Urban Reserve Rule are also LCDC rules, and are consistent with the statewide goals. As long as statutory language is not repeated in an implementing OAR, the OAR should be subject to the same flexibility as an OAR that implements a Goal.

Compliance with Goal 3 (2008 testimony)

There is an apparent contradiction in the RPS statute when referring to the need for Goal Exceptions. In 197.656(2), the statute states that “...the Commission may acknowledge amendments to comprehensive plans and land use regulations, or new land use regulations...without taking an exception...”. In 197.565(6), the statute states that an exception would be necessary should the region decide to “devote” resource land that is part of the “commercial agricultural base” to uses not authorized by Goal 3. Because exceptions to Goal 3 are not required of cities when planning for an expansion of their UGBs or in designating urban reserves, and because it would be inconsistent and incongruous for the Regional Problem Solving statute to establish a higher bar for compliance than normal state land use law, 197.565(6) is assumed by the region to refer to agricultural land being proposed by a county for uses not authorized by Goal 3 in those instances in which an exception would normally be necessary. This position is supported by DLCDC's determination that exceptions are not necessary for proposed urban reserve lands recommended as part of the commercial agricultural land base (the department's argument is based on the fact that land use and zoning do not change as a function of being placed in an urban reserve).

Eighty-seven percent of the land within the planning area outside of cities and the unincorporated community of White City is zoned EFU. It would not be possible to produce a politically feasible plan to accommodate a doubling of the population

in the Rogue Valley, at the same time balancing the competing missions of Goal 3 and Goal 14 against the very limited availability of suitable non-EFU lands, without including significant amounts of EFU-zoned land in urban reserves. The fact that only 74% of proposed urban reserves include EFU-zoned land indicates that project participants have proposed urban reserves that are a reasoned accommodation of reality and local and state priorities. 1000 Friends also states that "...it is clear that not all 1,250 acres (of RLRC land) are necessary to meet the needs of the cities." The region disputes this assertion, as 1000 Friends provides no rationale to justify that contention, nor does the Plan's potential overall deficit of 1,500 acres across the region support it.

Not only does the existing Plan make it clear that the region has been careful and considered in the selection and quantity of urban reserves being proposed, but the region is confident that the detailed findings produced to support the Jackson County comprehensive plan amendment process will further justify all aspects of the selection of the proposed urban reserves, from suitability to an estimate of need.

Compliance with Goal 12 and the Transportation Planning Rule (TPR) (2007 and 2008 testimony)

The authority for transportation planning in the region, the Rogue Valley Metropolitan Planning Organization (RVMPO), states categorically that the current draft Regional Plan complies with Goal 12 and the TPR, specifically, OAR 660-012-0035. In April 2002, the Land Conservation and Development Commission (LCDC) approved Alternative Measures to bring the RVMPO's 2000 Regional Transportation Plan interim update into compliance with the state's Transportation Planning Rule (TPR). The same measures were carried forward into the 2005-2030 RTP and will be included in the 2009-2034 RTP. The Alternative Measures are an alternative to VMT (Vehicle Miles Traveled) as a measure of reduced reliance on the automobile, as specified in section 660-012-0035(5). The RVMPO is now (fall 2008) in the process of completing an Alternative Measures benchmark analysis. The preliminary evaluation shows that the region is meeting and in some cases, exceeding the targeted goals. Future RPS growth areas (URAs) are within the RVMPO planning area and therefore are under Alternative Measures requirements. All RPS URAs will be master-planned to comply with the RVMPO Alternative Measures, which are designed to reduce reliance on the automobile.

Although neither Goal 12 nor the Transportation Planning Rule mandate significant traffic impact modeling for planning of this nature (because the creation of urban reserves does not change the zoning of included lands), the region and ODOT nonetheless collaborated on the creation of the state's first coordinated transportation and land use model (LUSDR). The model was intended to be used to uncover any transportation-related fatal flaws in the proposed urban reserves, and to indicate, through a number of measures of traffic delay and congestion, whether different scenarios of land use in the urban reserves could have different effects on the transportation system.

Finally, 1000 Friends' issues with the type of transportation modeling performed do not appear to adequately consider the significant potential of further progress in combined transportation and land use modeling inherent in the conceptual planning scheduled for participants' urban reserves. The pilot project now being developed through the Rogue Valley Metropolitan Planning Organization (RVMPO) will serve as a guide for cities with urban reserves to develop buildout scenarios for their urban reserves in sufficient detail to provide for unprecedented levels of long-range transportation and land use planning.

Compliance with Goal 1 (2007 testimony)

The region considers the fact that this issue did not reappear in the 2008 testimony to be an indication that 1000 Friends is more comfortable now with the increased documentation in the Plan of the extent of citizen involvement during the process, or at the very least that it agrees with the region that an extensive public process still awaits the Plan during the comprehensive plan amendment processes. As is acknowledged by all participants in the process, no matter how much planning and public discussion has taken place over the last eight years, there clearly exists the possibility that this last, significant stage of public process may cause further adjustments to be made to the Plan.

The Jackson County comprehensive plan amendment process will also provide a heightened opportunity for the regional aspects of the Plan to be more extensively discussed than has been feasible in the past. Concerns in the past about the limited opportunity for citizens to formally review and comment on the Plan from a regional perspective were noted by the region, although it was not until the regional hearings in 2007 that all participating jurisdictions formally agreed that the process of re-evaluating and refining their urban reserve proposals had been completed to the degree necessary to have the conversation. The Jackson County comprehensive plan amendment process is the next step in that conversation.

Compliance with ORS 197.656(2)(b) (2007 testimony)

The rationale behind 1000 Friends' assertion that the draft Plan and the Participants' Agreement fail to comply with ORS 197.656(2)(b) is partly a function of the time in which this testimony was submitted (October 2007), the confusing nature of the RPS statute, and 1000 Friends' expectation that this Plan should be used to dictate extensive policy to participating jurisdictions.

The region anticipates that some of 1000 Friends' concerns will be satisfied by direction and clarification from LCDC on the RPS statute and from further refinement of the Plan during the Jackson County comprehensive plan amendment process.

2. The Plan is not sufficiently bold or progressive in its planning.

The region respects the motives of 1000 Friends in its work to improve quality of life in Oregon, urban and rural. The Plan is a better product than it would have been if 1000 Friends had not participated as consistently and forcefully as it has.

Nonetheless, there are limits to how quickly a region, a culture, and a people can be moved in any particular direction. In the case of RPS, the region's jurisdictions entered into this process voluntarily. They embraced more progressive attitudes towards planning and inter-jurisdictional cooperation, and continued to allow these attitudes to shape their work through the years. Nonetheless, the measure of what constitutes sufficient progress should be taken from a number of vantage points, not just from a single point of reference. To judge the Plan in a vacuum, without due consideration to the reality of how and where and in what manner it was produced, is prejudicial, as it removes much of the Plan's context. This region has taken a giant step over the last eight years—whether that significant movement in the right direction is preserved, and further steps guaranteed into the future, depends on this Regional Plan going forward.

While 1000 Friends and others might have preferred a more progressive set of planning strategies from the process at this point, there is no standard against which it would be possible to measure the contention that the considerable progress made during the RPS process is not considerable enough. Therefore, this kind of subjective contention should not be used as an appropriate measure of compliance with either state land use regulations or the project's local goals.

The following are responses to major points of concern in the 1000 Friends' testimony dealing with the overall adequacy of the Plan:

Failure to resolve an original project problem—the loss of farmland (2007 testimony)

The region responded to the problem of loss of farmland in two major ways—reduced future urbanization of agricultural lands and increased viability of land remaining in EFU zoning. Reduced future urbanization of agricultural land was a major thrust of the Resource Lands Review Committee (RLRC). Initially, to assist cities in locating their first iteration of potential urban reserves, the RLRC developed a map designating broad areas of important farmland. Subsequently, once cities began to propose their urban reserves, the RLRC carried out detailed reviews of each proposed urban reserve with any resource zoned land, and made a recommendation to the Policy Committee and state agencies identifying the lands that it considered were part of the region's commercial agricultural land base. Ultimately, individual cities abandoned some areas recommended by the RLRC as part of the commercial base, and state agencies also rejected several more RLRC-recommended areas. The fact that the region's present slate of proposed urban reserves contains significantly less agricultural land than the rural study area at large (74% as opposed to 87%) appears to indicate that the region did have measurable success in avoiding the future urbanization of some agricultural lands.

To increase the future viability of remaining agricultural lands, the region points to the RLRC's creation of regional agricultural buffering standards that will allow farmland abutting future urbanization to maintain productive functionality. The region also believes that the long-term planning horizon of the RPS process, and the fact that approximately 50 years of future urban growth is being designated, responds to the problem of loss of farmland by reducing speculation on farmland, especially farmland in relative proximity to urban areas, and by allowing long-term agricultural investments to be made on land that is not slated for urbanization in at least the next 50 years.

Failure to resolve an original project problem—the lack of a mechanism for coordinated regional planning (2007 testimony)

The problem of a lack of a mechanism for coordinated regional growth planning, which is addressed by the goal of managing future regional growth for the greater public good, had to be considered within the context of southern Oregon, and the political impossibility in southern Oregon of establishing any structure or mechanism that points too heavily at regional government. The governments of the region have a history of not entertaining any major compromise of jurisdictional autonomy. A review of the Participants' Agreement will nonetheless demonstrate that the region has agreed to an ongoing process of monitoring, review, and amendment of the Regional Plan that will ensure ongoing coordination. In addition, the Rogue Valley Metropolitan Planning Organization (RVMPO) will assume a number of ongoing RPS planning, coordination, and implementation functions that will further this project goal. Finally, the region is recommending a more coordinated schedule of Periodic Review in the future, during which participating jurisdictions could move through major Periodic Review work items (housing, employment, public facilities and services, and transportation) simultaneously. While these measures themselves do not equate to regional land use planning governance, they are an operative and functional equivalent, and are the only realistic and practical tools at the region's disposal at this time.

Land uses are too generalized (2007 testimony)

The region considers this RPS effort a major first step in institutionalizing long-range regional planning, but a first step nonetheless, and recommends that expectations be focused and realistic. At present the Plan is seen as a platform for more regional coordination and better planning into the future, but that could change if the perception is that it has exceeded its original design, purpose, and reach, or that it could lead to a permanent reduction of jurisdictional autonomy.

In terms of proposed land uses in the urban reserves, the region is comfortable with the distribution described in the Plan. The refinement of these uses, which could involve significant changes, will occur later as a function of a combination of the conceptual plans the RVMPO will be facilitating and internal jurisdictional planning. Regarding the South Valley Employment Center in particular, the area was chosen because it offers the ability to establish a significant professional

office park environment, something the valley does not presently offer, and something that has been requested by potential employers. A combination of market forces and the ability of Phoenix and Medford, and probably the RVMPO, to provide the right combination of regulatory support and critical infrastructure will be needed to make the area a success.

Concerning affordable (or workforce housing), the region agrees with 1000 Friends that it is an appropriate item for discussion on a regional as well as a city-specific level, but programmatic details are well out of the scope of this Plan. What this Plan can do, however, is provide cities, especially those with the most extensive urban reserves, a greater latitude in negotiating a larger component of affordable housing in future development, as well as the ability to design future development and the transportation system to be more workforce-housing friendly. In addition, the Plan considers the significant (for southern Oregon) increase in density proposed over the planning horizon as a major benefit to the region's ability to offer workforce housing in the future.

The question that 1000 Friends asks, about the source of funding for the growth that the Plan would prepare for, does not seem to acknowledge the likelihood that a failure of the long-range planning this region is proposing would create the most expensive future for the region by far. The region stands by the generally accepted economic benefits of long-range planning, and in particular, points to some of the specifics of this particular Plan as emblematic of sound fiscal policy. For example, the RVMPO has approved a number of potential strategies to raise local funds for the purchase of rights-of-way and for some maintenance costs, and is projecting that transportation costs may be dramatically less in the decades to come due to the ability to plan and protect the appropriate critical transportation corridors well ahead of their need. In general, local and state participants have agreed that implementation of this Plan will produce a more cost-effective and efficient pattern of urban development into the future than would otherwise be the case.

3. The Plan includes too much land, especially land recommended by the Resource Lands Review Committee (RLRC) as part of the commercial agricultural land base.

The region appreciates 1000 Friends' motivation in attempting to reduce the amount of agricultural land designated for future growth. Land is a finite resource, especially in our narrow valley, and more urban land comes at the cost of rural land, most of that agricultural. It is no surprise, therefore, that 1000 Friends has dedicated a great deal of time, thought, and good analysis to the issue of how much land is being proposed as urban reserves. Unfortunately, it appears that 1000 Friends' position is predicated on the assumption that the determination of land need for urban reserves should be held to the same standards as for an urban growth boundary expansion. This ignores the direction given in the Urban Reserve Rule that the need be "estimated." As has been stressed by DLCDC, once a city applies for an expansion of its UGB, it is then

that it will have to engage in a comprehensive land needs analysis, which will include a comprehensive and current buildable land inventory. The fact that these requirements for justifying need (or changes in demographics, or greater acceptance of higher densities, etc.) may result in less land being needed than is projected at this time should not be of concern, due to the fact that land in urban reserves will be protected, and will function as any other rural lands of like zoning will. In fact, due to the need to protect a city's ability to efficiently urbanize these areas at some point in the future, rural uses will continue without development pressure until their need can be justified to the state.

The region would like to stress, as has DLCD staff throughout the RPS process, that the Plan, once adopted, serves to determine the suitability of land for future urbanization, but that it has no bearing on the question of specific need. Specific need for land is determined at the time of UGB expansion. An estimate of need is performed to establish urban reserves, but if specific need cannot be justified at the time of a subsequent proposal for a UGB expansion, urban reserves will stay urban reserves, and will continue to function with their existing rural zoning.

The following are responses to major points of concern in the 1000 Friends' testimony dealing with the quantity of land proposed as urban reserves:

Quantity of parks and institutional land in the draft Plan (2008 testimony)

At this point, the estimate for acreages needed for parks and institutional use is at 23% of the total acreage (excluding the two large Medford-owned wildland parks). Although arguably on the high end, it does foretell, as far as parks and open space is concerned, an adjustment that may be made by jurisdictions to ensure that, as densities increase, and personal greenspace decreases, there will be a compensatory greater availability of active and passive recreational areas within cities. How much of that balance eventually occurs will be progressively refined during the conceptual planning and UGB expansion processes.

1000 Friends mentions school sites, and the fact that the Plan states that high schools may need up to 50 acres, and then asserts that "current professional guidelines do not support the designation of 50 acres for a high school." Although this ignores the fact that a range is implied in the Plan language ("up to 50 acres"), 1000 Friends fails to mention that there are no formal acreage standards in the state for schools at any level, predominantly due to the fact that there are so many factors that need to be considered in acreage calculations for schools that are site and community specific, such as the planned size of the school or whether the community has restrictions on building height or not. ([See www.oregon.gov/LCD/TGM/docs/schoolsitinghandbook.pdf](http://www.oregon.gov/LCD/TGM/docs/schoolsitinghandbook.pdf) – the Oregon School Siting Handbook). Until there are state standards that do an adequate job of considering the many elements that go into a decision like this, these estimates (and estimates they are at this point) are best left to individual communities and school districts. If there is particular concern about the total number of acres in institutional uses that would be dedicated to schools (a number that will become

clearer as the school boards are consulted during the conceptual planning stage), consideration must be given to the fact that presently there are approximately 500 acres of schools in the study area. It is not unreasonable to assume that a doubled population might need an increase of between 50% and 75% to accommodate a doubled population, which would necessitate between 250 and 375 additional acres for just that institutional use alone (this is between 30% and 45% of the proposed institutional acreage).

Finally, the region points to the deficit the Plan now shows in total acreage across all uses, which could be as high as 1,500 acres. Should conceptual planning and subsequent UGB expansions show that some jurisdictions have overestimated park and/or institutional acreages, some of those could be shifted to other uses now in deficit.

The quantity of resource lands in proposed urban reserves (2007 testimony)

Participants in the RPS process did their best to plan future urbanization in a way that would comply with the intent of Goal 14 while also reducing the amount of agricultural land in the urban reserves. The 13% reduced presence of agricultural land within proposed urban reserves than in the rural study area as a whole is an indication that they had some success in that process. If the project had targeted resource land, or if it had paid no attention at all to the issue of agricultural land, it is reasonable to assume that the percentage of agricultural land in the proposed urban reserves would be closer to 87% than not.

In their 2007 testimony, 1000 Friends references the 1,650 acres of RLRC-designated agricultural base lands included in the proposed urban reserves (now reduced to 1,250 acres), and questions why non-agricultural land, or agricultural land of lesser value, could not have been substituted. Aside from the fact that the RLRC lands have been reduced by 30% from the date of this testimony as part of the ongoing RPS process, the fact remains that significant effort was made throughout the process to restrict the amount of agricultural land in the proposed urban reserves, especially the agricultural land recommended by the RLRC as part of the commercial agricultural land base. Unfortunately, due to historic settlement patterns, the higher quality agricultural lands lie underneath and immediately around most of the participating cities. The fact that Medford, Phoenix, and Talent largely stayed away from their best lands to the west, as did Jacksonville to the east, and that Eagle Point accepted more land per capita than any other city, shows that the region did consider the preservation of the agricultural economy to be a priority. Even in the case of Central Point, which has the highest proportion of RLRC lands surrounding it, the city significantly cut back its original amount of proposed urban reserves in response to concerns over the amount of agricultural land it was including, even though there are no real alternatives for Central Point.

In response to suggestions that the region's density targets are inadequate, Chapter 3 of the draft Plan explains that the region has established a range of

target densities for the planning horizon that could result in an increase of between 12% and 36% over existing densities:

“Regional average gross density – In response to the region’s Policy 3 under Goal I, which mandates an overall regional increase in densities, cities proposed minimum future target gross densities for their urban reserve areas. The resulting average weighted target density increase for the region from current densities to what has been projected is approximately 12%, (from a current gross density of 5.45 to 6.10). Once these minimum density targets were established, the proposed density for each city was then increased by 21% to generate an upward density range, resulting in a weighted average gross density of 7.40 units per acre. This upward density range represents a potential increase in densities of 36% for the region as a whole.”

In addition, the land needs simulator used to establish the overall land need assumed a 12% to 18% absorption of new population within established urban growth boundaries, which is the functional equivalent of a current density increase.

Adequate regional analyses (2007 testimony)

1000 Friends’ expressed concern over proposed acreage for industrial lands, which exceeds the need estimated by the Land Needs Simulator. There are two factors that should mitigate 1000 Friends’ concerns. The first is that there is consensus within the process, including consensus among participating state agencies, that it is in the region’s best interests to have a potential oversupply of different industrial lands due to the tendency of employers to look for very specific factors in industrial sites. Along the lines of the recent Goal 9 revisions, a larger supply of varied sites will provide greater certainty that a variety of needs can be met. The second mitigating factor is the fact that the region is still considering the majority of its employment lands in the urban reserves in the aggregate—both commercial and industrial. While it is true that proposed uses now show a significant oversupply of industrial lands, they also show an almost exactly corresponding undersupply of commercial land. It is assumed that this undersupply will be alleviated by either introducing some commercial uses in industrial areas, or in redesignating some of the land now proposed for industrial uses as commercial land. The future conceptual planning for urban reserves, called for in the Plan, will assist in determining how these employment lands will best be deployed. Finally, it is understood that, at the time of UGB expansion into urban reserves, cities will be expected to justify the amount and mix of employment lands with a great deal more exactitude.

Although 1000 Friends was also concerned with the allocation of population within the process in its 2007 testimony, the region understands that there is now agreement that this is no longer an issue of contention, and therefore merits no further discussion.

Finally, while the region does not necessarily believe that the type of regional alternatives analysis suggested by 1000 Friends in its 2007 testimony is required by either the RPS statute or the Urban Reserve Rule, it does agree that an elaboration of the regional alternatives analysis that took place during the years of the process would be a valuable addition to the full Plan findings that will support the county's comprehensive plan amendment.

Conclusion:

The Plan as now proposed is a complex, unique mix of southern Oregon evolution and revolution in land use planning that nonetheless manages to respect the goals and preferred outcomes of the existing state land use system. To some extent it has reached the point it has in spite of the RPS statute, and yet could not have done so without it. Not one of the participants would characterize the Plan as their favorite solution, but all would describe it as their preferred one.

This is the Plan now before LCDC. The region is asking the Commission to take an interim step in the process of final approval of this Plan by providing an indication to participants that the Commission could, with all the necessary caveats, reasonably be expected to acknowledge comprehensive plan amendments based on the current Plan. The region does this with the knowledge that the Commission has yet to see the full array of information it will need to make a final determination. That information will come, and will provide the lawful basis for LCDC to make that determination. In the interim, the region has provided the information it has, including this discussion of major issues raised by 1000 Friends and others, as a means of providing the Commission the basis it needs to make this interim decision.

The region would like to thank all those whose participation has propelled the process to where it is now, including, and especially, those who have provided constructive criticism over the years.

Sincerely,



for

Kate Jackson
Policy Committee Chair
Greater Bear Creek Valley RPS Process

Bryan Gonzalez - Regional Problem Solving Plan Acceptance

From: Porter Lombard <plombard@jeffnet.org>
To: GONZALEZ Bryan <Bryan.Gonzalez@state.or.us>
Date: 11/22/2008 3:42 PM
Subject: Regional Problem Solving Plan Acceptance

Chair VanLandingham of LCDC:

I am asking that LCDC commit to acknowledge the **RPS Comp Plan Amendments** only after each city and the county hold public hearings and upon holding an open LCDC meeting in Jackson County to hear the public comments on the RPS plans. The RPS plans have not been changed sufficiently since I and others testified in October 2007. And if LCDC commits to the RPS plans prior to making those changes by RPS in response to public hearing, I consider this plan to be unacceptable.

I have been involved with the **RPS** process ever since it was proposed by the Jackson County Commissioners and a local State Representative in the mid 1990s. Originally, I was asked to serve on the Resource Committee but I was removed from the committee by the County Commissioners along with six other agriculturalist because of my membership in 1000 Friends of Oregon. I did meet with the committee as a non voting member and made comments on potential agricultural lands because of my background in horticultural research and teaching at Southern Oregon Experiment Station in Jacksonville and at Oregon State University in Corvallis. I have met with the RPS policy committee since the Resource Committee was disbanded. I believe the RPS has been important in joint planning for growth in Bear Creek Valley and has improved the coordination among the jurisdictions. But I think the process should be done carefully and legally. I hope the the RPS plan can be approved only if it meets the state requirements and goals. Please make sure that it is.

Porter Lombard, Emeritus Professor of Horticulture, 2425 East Main St., Medford, Oregon 97504

Via Email to Mr. Bryan Gongalez

To: John H. VanLandingham, Chair and Members of the
Land Conservation and Development Commission

From: Chris N. Skrepetos

Re: Agenda item No. 10, December 4, 2008 meeting on RPS item

Date: November 23, 2008

I have just learned from examination of the agenda for your December 4, 2008 meeting that the Commission is being “asked to identify issues, suggest any necessary changes to the plan and to commit acknowledgement of comprehensive plan amendments conforming to the plan.” (See item 10, December 4, 2008 agenda).

Neither the cities nor counties have had public hearings on this plan. Thus, if the Commission approves such amendments prospectively, this effectively negates any action by the cities and counties to respond to the future public hearings that will be held on the plan. Thus the Commission is putting the “cart before the horse,” and the public input becomes meaningless.

I urge the Commission to delay any action on this item until public hearings are held by the respective cities and counties. Future Commission action on this item, when appropriate, should be held in the Southern Oregon region so that the opportunity for citizen input is maximized.

Thank you for your consideration in delaying action on this agenda item.

Most sincerely,

Chris N. Skrepetos
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Ashland, OR 97520
541-482-5054

cskrepetos@charter.net

From: Leanne Russell <leanne13@intergate.com>
To: GONZALEZ Bryan <Bryan.Gonzalez@state.or.us>, <bbauer1942@yahoo.com>
Date: 11/23/2008 8:55 PM
Subject: Land use

To: Chair VanLandingham,

I urge you to do
the right thing and hold public hearings in each city or town affected
by any changes to the land use plan. Holding local public hearings
and getting input from citizens is crucial before making any
decisions about the plan. Respectfully, Leanne Russell, Medford Or.

Bryan Gonzalez - LCDC meeting December 4, 2008

From: Mary Kay <mkmichelsen@jeffnet.org>
To: GONZALEZ Bryan <Bryan.Gonzalez@state.or.us>
Date: 11/23/2008 9:48 PM
Subject: LCDC meeting December 4, 2008

Chair John VanLandingham,
Land Conservation and Development Commission
November 23, 2008

Subject: LCDC December 4, 2008 meeting, Agenda Item 10, Greater Bear Creek Valley Regional Plan.

Dear Chair VanLandingham and Commissioners,

Thank you for giving me the opportunity to submit these comments. Please place this letter in the record for Agenda Item 10 for the LCDC meeting to be held December 4, 2008

As I read item 10, Greater Bear Creek Valley Regional Plan, it says that you are going to “commit to acknowledgment of comprehensive plan amendments conforming to the plan.” To do this now would mean you are agreeing to a plan which you have not have seen, because it is still in draft form, or that you are essentially approving, it in its present state, ignoring all future testimony from the public and the jurisdictions involved. Either option fails any test of good governance. Even informal acceptance of the draft will certainly not encourage local bodies to give credence to testimony which comes forth at future hearings scheduled to precede local adoption of the plan, nor at the final series of hearings on related comprehensive plan amendments. That last set of hearings will run well into 2010.

Tacit approval of a draft plan is particularly surprising because the agenda emphasizes in a boxed statement on its first page that “the commission places great value on testimony from the public.” I would like to believe that this is true, but holding this important discussion so far away in Tillamook does not seem consistent with that statement, particularly when your agenda indicates that public comment will not be allowed.

I have have been actively involved in the RPS process and I strongly support the concept. The public input that the cities and county have heard so far includes strong protests over the inclusion of too much viable farm land and the failure to deal with the transportation problems which will come from a doubling of the population. Both issues will have a significant affect on land use in the future and were ignored in the draft plan. Peak oil and global warming are also not addressed in the plan at all. The cities and county must be encouraged to fix these problems before any commitments are made by the commission.

Oregon is now in the forefront of good land use planning. My hope is that that status will be improved by listening to the people.

Sincerely yours,

Mary-Kay Michelsen

2810 Diane St.
Ashland OR 29750