

**BEFORE THE
LAND CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF OREGON**

IN THE MATTER OF THE ENFORCEMENT)	NOTICE OF
ORDER FOR DESCHUTES COUNTY)	CONTESTED CASE
PURSUANT TO ORS 197.324)	HEARING
)	

Short, Plain Statement of Matters Asserted or Charged

On June 25, 2026, the Oregon Land Conservation and Development Commission (the “commission”) determined there was good cause to initiate enforcement proceedings under ORS 197.324 against Deschutes County (the “county”) to determine whether the county is no longer in compliance with Statewide Planning Goals 3 and 14 in approving both rezonings of agricultural land for residential and industrial development and nonfarm dwellings on agricultural land zoned for exclusive farm use, as alleged by Central Oregon LandWatch and 1000 Friends of Oregon (the “Requesters”).

Pursuant to OAR 660-045-0110 and ORS 183.413(2), and ORS 183.415(3), you are entitled to be informed of the following:

Time and Place of Hearing

The contested case hearing will begin at **1:00 pm on August 11, 2026**. The hearings officer will conduct the contested case hearing as a teleconference. The hearings officer and the Department of Land Conservation and Development (DLCD) will provide additional information to all the parties regarding the teleconferencing details at least five days prior to the hearing.

Issues to Be Considered

The issues to be considered at the hearing are:

1. Nonresource Zone Changes
 - a. Sufficiency of analysis of whether the property’s agricultural zoning is necessary to allow farmers to undertake farm practices on adjacent or nearby agricultural lands under the Lands Necessary to Support prong of the agricultural lands definition (OAR 660-033-0020(1)(a)(C)).
 - b. Application of and weight given to the Reasonable Farm Test in addressing the suitability prong of the agricultural lands definition (OAR 660-033-0020(1)(a)(B)).
 - c. Need for site-specific analysis for compliance with Goal 14.
2. NonFarm Dwellings
 - a. Private Soils Assessments

- i. Use of Private Soils Assessments in addressing the suitability test for nonfarm dwellings.
 - ii. Need for DLCD review and certification of private soil assessments.
- b. Material Stability Test
 - i. Sufficiency of findings to justify selection of the study area and sufficiency of the description of the study area employed in the Material Stability Test for nonfarm dwellings.
 - ii. Reliance on continued trends in residential development in the area as context for assessing impacts to the stability of the agricultural area.
 - iii. Need for analysis of the potential degradation of the quality of the agricultural landscape in assessing impacts to the stability of the agricultural area.
- c. Reliance on limitations related to the small size of a portion of the parcel in addressing the suitability test for nonfarm dwellings.
- d. Use of a profitability analysis in addressing the suitability test for nonfarm dwellings.

Parties have the right to respond to all issues properly before the Hearings Officer and to present evidence on those issues.

Notice of Right to Hearing; Authority and Jurisdiction for Hearing

The parties are entitled to a contested case hearing when the commission has determined there was good cause to initiate enforcement proceedings under ORS 197.324 as provided in ORS chapter 183 and chapter 197. The matter set for hearing is a contested case before a hearings officer. The hearing is held under the authority and jurisdiction of DLCD, as delegated in part to the hearings officer as provided in Chapter 183 and Chapter 197 of the Oregon Revised Statutes; the administrative rules of DLCD; OAR chapter 660, division 45 and OAR 660-001-0005 (which adopts the Attorney General's Model Rules and Uniform Rules of Procedure under the Administrative Procedures Act, effective July 1, 2019); and the Attorney General's Model Rules and Uniform Rules of Procedure under the Administrative Procedures Act, OAR 137-003-0001 to 137-003-0092 as modified in OAR 660-001-0005.

A list of the statutes and rules applicable to this proceeding is attached to this notice (Attachment A).

Right to Attorney

Pursuant to OAR 660-001-0005(2), parties and limited parties may be represented by an attorney or an authorized representative, subject to the requirements of ORS 183.457 and OAR 137-003-0008. Parties are ordinarily and customarily represented by counsel. A party is not required to be represented by counsel, unless it is an agency, trust, corporation, or association. If a party is not represented at the hearing and during the hearing it determines that representation by an attorney is necessary, such party may not request a recess to secure the services of an attorney. Legal aid organizations may be able to assist a party with limited financial resources.

Hearings Officer

The person presiding at the hearing is known as the Hearings Officer. The Hearings Officer will rule on all matters that arise out of the hearing. The Hearings Officer does not have the authority to make the final decision in the case. The final decision will be made by the commission. The commission has contracted with David Doughman of DFD Law to act as the Hearings Officer.

Notice to Active Duty Service members

Active duty service members have a right to stay these proceedings under the federal Service members Civil Relief Act. For more information, contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 800-452-7500 or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>.

Participation of Parties or Limited Parties in the Contested-Case Hearing

Persons eligible to request party or limited party status in the contested case proceeding may petition for party status by submitting a written request to the Hearings Officer at least 21 days before the date of the contested case hearing. **The Hearings Officer must receive the petition by 5:00 pm on July 21, 2026.** Petitions untimely filed shall not be considered, and the requesting persons will have waived any right to participate in the contested case, unless the Hearings Officer determines that good cause has been shown for failure to file timely. The requirements for eligibility and the contents of the petition for party status are discussed in detail below.

Persons Eligible to Request Party Status or Limited Party Status

Individuals and organizations have the right to request party or limited party status in the contested case proceeding as provided in OAR 137-003-0005.

The county and requesters are party to the contested case and therefore are not required to petition for party status.

Submittal Requirements-Petition to Request for Party or Limited Party Status

Persons eligible to request party or limited party status in the contested case proceeding must send a written petition to the Hearings Officer. Two copies of the petition for party status must be submitted by first class or certified mail to the Hearings Officer by July 21, 2026. Petitions should be sent to:

Hearings Officer in the Matter of Enforcement for Deschutes County
Department of Land Conservation and Development
635 Capitol Street NE, Suite 250
Salem, Oregon 97301
Email: david@dfd-law.com

Additionally, please submit one copy of the petition to DLCD, c/o Alexis Hammer:

Alexis Hammer
Department of Land Conservation and Development

635 Capitol Street, N.E., Suite 250
Salem, Oregon 97301
Email: alexis.hammer@dlcd.oregon.gov.

The Hearings Officer must receive the petition by 5:00 PM on July 21, 2026. If the Hearings Officer does not receive the petition within the time stated, the requesting person(s) will have waived any right to participate in the contested case, unless the Hearings Officer determines that good cause has been shown for failure to timely file. The petition must contain all of the information described below.

Contents of a Petition for Party or Limited Party Status

A petition for party or limited party status must comply with the requirements of OAR 137-003-0005(3) and include:

- a. Names and addresses of the petitioner and of any organization the petitioner represents;
- b. Name and address of the petitioner's attorney, if any;
- c. A statement of whether the request is for participation as a party or a limited party, and if, as a limited party, the precise area or areas in which participation is sought;
- d. If the petitioner seeks to protect a personal interest in the outcome of the proceeding, a detailed statement of the petitioner's interest, economic or otherwise, and how such interest may be affected by the results of the proceeding;
- e. If the petitioner seeks to represent a public interest in the results of the proceeding, a detailed statement of such public interest, the manner in which such public interest will be affected by the results of the proceeding, and the petitioner's qualifications to represent such public interest; and
- f. A statement of the reasons why existing parties to the proceeding cannot adequately represent the interest identified in OAR 137-003-0005(3)(d) or (e).

Consideration of Submitted Petitions

The Hearings Officer will decide whether to grant party status based on the above and the following factors, as provided under OAR 137-003-0005(7):

- a. Whether the petitioner has demonstrated a personal or public interest that could reasonably be affected by the outcome of the proceeding;
- b. Whether any such affected interest is within the scope of the agency's jurisdiction and within the scope of the notice of contested case hearing;
- c. When a public interest is alleged, the qualifications of the petitioner to represent that interest;
- d. The extent to which the petitioner's interest will be represented by existing parties.

Written Testimony

The Hearings Officer will receive written testimony submitted at least seven days before the hearing, August 4, 2026, at 5:00 PM. Parties must submit written testimony to:

Hearings Officer in the Matter of Enforcement for Deschutes County
Department of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, Oregon 97301
Email: david@dfd-law.com

Additionally, please submit one copy of the written testimony to DLCD, c/o Alexis Hammer:

Alexis Hammer
Department of Land Conservation and Development
635 Capitol Street, N.E., Suite 150
Salem, Oregon 97301
Email: alexis.hammer@dlcd.oregon.gov.

Contested Case Hearing

The contested case hearing will begin on August 11, 2026. The hearing schedule will be determined by the Hearings Officer and will include oral argument before the Hearings Officer. The Hearings Officer will notify the parties and any limited parties of the order of arguments and rebuttal. The Hearings Officer will receive limited additional written testimony from the parties, not to exceed 15 pages in length, at the hearing.

Mediation

Mediation is available and will be provided by DLCD as an alternative to a contested case hearing, if requested by both the county and the requesters before August 4, 2026. Choosing to enter into mediation will not affect a party's right to a contested case hearing if the matter is not resolved through mediation.

Discovery

It is anticipated that discovery will not be permitted in this proceeding.

Witnesses

It is anticipated that witnesses will be permitted in this proceeding. The hearings officer and the parties will discuss any requests regarding witnesses at the pre-hearing conference.

Record

The record of the proceeding to date, including information in DLCD files on the subject of this contested case, will automatically become part of the contested case record upon default for the purpose of proving a prima facie case. A record will be made of the entire proceeding to preserve the evidence for appeal. A record of live testimony will be created using a tape or digital recorder. The recording is generally not transcribed, unless there is an appeal. However, a copy of the recording may be obtained from DLCD (DLCD may charge a fee for the copy).

Continuances

There are normally no continuances granted at the end of the hearing for presentation of additional testimony or evidence. However, if a party can show that the record should remain open for additional evidence, the hearings officer may grant additional time for submission of such evidence.

Default

If no other person requests party status and the county or the requesters fail to appear at the hearing, an order by default may be entered.

Proposed Order and Exceptions

The Hearings Officer will issue a proposed order in the form of findings of fact, conclusions of law, and recommended action by the commission. Parties will be provided with a copy and will be given an opportunity to make written objections, called “exceptions,” to the Hearing Officer’s recommendations. Parties will also be notified when exceptions to the proposed order must be filed, and whether parties may appear and make oral argument to the commission on their exceptions.

Final Order

The commission will make the final order in this case. The commission may modify the proposed order issued by the Hearings Officer. If the commission modifies the proposed order in any substantial manner, the commission in its order will identify the modification and explain why the commission made the modification. The commission may modify a proposed finding of “historical” fact only if the proposed finding is not supported by a preponderance of the evidence in the record.

Appeal

If you wish to appeal the final order, you must file a petition for judicial review with the Oregon Court of Appeals within 60 days after the final order is served upon you. ORS 183.482.



Brenda Bateman, Ph.D., Director
Oregon Department of Land Conservation and Development

July 10, 2026

Attachment A

OREGON ADMINISTRATIVE PROCEDURES ACT

Statutes

ORS Chapter 183

ORS 183.310 to 183.315

ORS 183.411 to 183.497

Administrative Rules

OAR Chapter 137, Division 3

OAR 137-003-0000 to 137-003-0092

DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT

Statutes

ORS Chapter 197

ORS 197.015

ORS 197.040

ORS 197.045(4)

ORS 197.319 to ORS 197.335

ORS 197.350

ORS 197.610 to 197.625

ORS 197.732

ORS 197.825

ORS Chapter 215

ORS 215.203

ORS 215.211

ORS 215.243

ORS 215.262

ORS 215.284

ORS 215.296

ORS 215.700

ORS 215.788 to 215.794

Administrative Rules

OAR Chapter 660, Division 45 ‘Citizen Initiated Enforcement Orders’

OAR 660-045-0020

OAR 660-045-0060 to OAR 660-045-0090

OAR 660-045-0100 to OAR 660-045-0150

OAR 660-045-0170 to OAR 660-045-0180

OAR Chapter 660, Division 1 ‘Procedural Rules’

OAR 660-001-0005

OAR Chapter 660, Division 4 ‘Interpretation of Goal 2 Exception Process’

OAR 660-004-0005

OAR 660-004-0005(2) and (3)

OAR 660-004-0040

OAR Chapter 660, Division 15 ‘Statewide Planning Goals and Guidelines’

OAR 660-015-0000(3)

OAR 660-015-0000(14)

OAR Chapter 660, Division 33 ‘Agricultural Land’

OAR 660-033-0020

OAR 660-033-0020(1)

OAR 660-033-0020(2)

OAR 660-033-0020(7)

OAR 660-033-0030

OAR 660-033-0030(1) to (5)

OAR 660-033-0045 OAR 660-033-0130

OAR 660-033-0130(4)

Planning Goals

Goal 3

Goal 14

CERTIFICATE OF SERVICE

I certify that on July 10, 2026, I served the attached **Notice of Contested Case Hearing** to be sent by certified mail to the following:

1000 Friends of Oregon
F. Blair Batson
340 SE 6th Ave
Portland, OR 97214

1000 Friends of Oregon
John D. Butterfield
340 SE 6th Ave
Portland, OR 97214

Central Oregon LandWatch
Rory Isbell
2843 NW Lolo Dr., Ste. 200
Bend, OR 97703

Deschutes County
Stephanie Marshall
1300 NW Wall St, Ste. 205
Bend, OR 97703

Schwabe, Williamson & Wyatt P.C.
Kenneth J. Katzaroff
1420 5th Ave.
Seattle, WA 98101

DATED this 10th day of July

A handwritten signature in blue ink that reads "Tamara C. Linde". The signature is written in a cursive, flowing style.

Tamara Linde, Executive Support Specialist