

43. Special Districts. ORS 268.347(1) is ambiguous in providing that a metropolitan service district has jurisdiction over boundary changes “within the boundaries of the district,” because it is not clear whether the legislature intended that the district has jurisdiction only if the entire territory affected by the boundary changes is within the district, or if the district has jurisdiction if any part of the territory affected by the change is within the district. *Clackamas River Water v. Metro*, 52 Or LUBA 710 (2006).

43. Special Districts. Under ORS 268.347(1), a metropolitan service district has jurisdiction over boundary changes “within all territory designated as urban reserves” prior to June 30, 1997, even if the decision establishing those urban reserves was subsequently overturned and the territory affected by the boundary change is no longer designated as an urban reserve. *Clackamas River Water v. Metro*, 52 Or LUBA 710 (2006).

43. Special Districts. Absent some textual or contextual reason to conclude otherwise, LUBA will not presume that a special district boundary change regulation listing certain “urban services” is intended to incorporate the distinctions between “urban,” “urbanizable” and “rural” lands articulated in *1000 Friends of Oregon v. Curry County*, 301 Or 447, 724 P2d 268 (1986). *Clackamas River Water v. Metro*, 52 Or LUBA 710 (2006).

43. Special Districts. Intergovernmental agreements concerning the provision of water service are “agreement[s] for provision of an urban service” for purposes of establishing who is a necessary party to a boundary change under special district regulations, even if those agreements do not qualify as ORS 195.065 urban service agreements. *Clackamas River Water v. Metro*, 52 Or LUBA 710 (2006).

43. Special Districts. While ORS 195.065 envisions that the focus of required urban service agreements will be on providing urban services inside UGBs, nothing in that statute precludes including provisions in the agreement for providing urban services to lands lying just beyond the UGB. That a service agreement includes such provisions does not mean that it does not qualify as an ORS 195.065 urban service agreement, for purposes of establishing who is a necessary party to a boundary change under special district regulations. *Clackamas River Water v. Metro*, 52 Or LUBA 710 (2006).

43. Special Districts. The requirement in ORS 199.462(1) that boundary changes be based on consideration of economic, demographic and sociological trends does not implicitly authorize denial of a proposed water district boundary change for failure to consider whether one provider of water services is preferable to another. *Clackamas River Water v. Metro*, 52 Or LUBA 710 (2006).

43. Special Districts. Where a county approves formation of a special district and the county’s comprehensive plan is acknowledged, the statewide planning goals do not apply, notwithstanding language in ORS 199.462(1) governing formation of special districts that requires consideration of the statewide planning goals. *Kneeland v. Douglas County*, 48 Or LUBA 347 (2005).

43. Special Districts. ORS 195.020(1) does not give a special district land use planning responsibilities. Rather, it limits a special district’s exercise of its land use planning responsibilities

if, in fact, the special district has been given such responsibilities by other legal authority. *Churchill v. Neahkahnie Water District*, 29 Or LUBA 354 (1995).

43. Special Districts. Where petitioner cites no comprehensive plan policies limiting the development allowed in a special district's territory, the development allowed by the plan in the district's territory is determined by the acknowledged plan map designations applied to such land and the local government's acknowledged implementing measures. *Churchill v. Neahkahnie Water District*, 29 Or LUBA 354 (1995).

43. Special Districts. A special district ordinance stating the district will provide service to all existing residences and all residences "hereafter constructed pursuant to a valid [county] building permit" is not inconsistent with the county comprehensive plan, because the county may issue building permits only if such permits are consistent with its acknowledged plan and implementing regulations. *Churchill v. Neahkahnie Water District*, 29 Or LUBA 354 (1995).

43. Special Districts. Where LUBA has affirmed a special district's decision repealing its water allocation program, the district's decision authorizing the provision of domestic water service to property designated and zoned for residential use under an acknowledged county plan and regulations is not a land use decision subject to LUBA review. *Churchill v. Neahkahnie Water District*, 29 Or LUBA 354 (1995).

43. Special Districts. A special district's *repeal* of a program affecting land use, like its adoption or implementation of such a program, is an "action * * * with respect to programs affecting land use" that must be in accordance with the goals pursuant to ORS 195.020(1) and, therefore, is a land use decision subject to review by LUBA. *Churchill v. Neahkahnie Water District*, 27 Or LUBA 721 (1994).

43. Special Districts. Where a school district concludes a proposed school site complies with a city's comprehensive plan in a school district proceeding in which the city participates, the city council nevertheless may reach a contrary conclusion concerning the proposed site's compliance with the city comprehensive plan in a subsequent city proceeding. *Salem-Keizer School Dist. 24-J v. City of Salem*, 27 Or LUBA 351 (1994).

43. Special Districts. A sanitary district's obligation to provide sewer service, and a person's right to receive such sewer service, are subject to county comprehensive plan and land use regulation limitations on the provision of such sewer service. *Bear Creek Valley San. Auth. v. City of Medford*, 27 Or LUBA 328 (1994).

43. Special Districts. An intergovernmental agreement between a city and a special district relating to city provision of sewage treatment service to the district, which interprets various provisions of the city's comprehensive plan and determines no plan provisions govern the proposal, applies comprehensive plan provisions and, therefore, is a land use decision subject to LUBA review. *DLCD v. City of Donald*, 27 Or LUBA 208 (1994).

43. Special Districts. Although Goal 2 requires that special district plans and actions related to land use must be consistent with city and county comprehensive plans, the goal does not establish

any hierarchy for consistency between city and county plans. *City of Portland v. Washington County*, 27 Or LUBA 176 (1994).

43. Special Districts. A special district decision that finally determines policy questions concerning how the district will provide sewerage service to an area, where that service will occur, and the level of that service, is an exercise of the district's planning duties and responsibilities under ORS 195.020(1) that must comply with the Statewide Planning Goals and is a land use decision subject to LUBA review. *DLCD v. Fargo Interchange Service District*, 27 Or LUBA 150 (1994).

43. Special Districts. A school district boundary change under ORS chapter 330 is not a boundary change "as defined in ORS 197.175(1)," to which ORS 197.185(1) requires that the Statewide Planning Goals be applied. *J.C. Reeves Corp. v. Sherwood Education Dist.* 88J, 26 Or LUBA 220 (1993).

43. Special Districts. A school district decision refusing to adjust its boundaries is not an exercise of the school district's planning duties, powers and responsibilities to which ORS 197.185(1) requires that the Statewide Planning Goals be applied, because there is no statutory or other legal requirement that a school district make such decisions as part of its land use planning responsibilities. *J.C. Reeves Corp. v. Sherwood Education Dist.* 88J, 26 Or LUBA 220 (1993).

43. Special Districts. Where the challenged decision simply refuses to change school district boundaries, and petitioner does not demonstrate that any of the impacts it alleges will result from the decision are likely to occur, the challenged decision is not a significant impact test land use decision. *J.C. Reeves Corp. v. Sherwood Education Dist.* 88J, 26 Or LUBA 220 (1993).

43. Special Districts. Interpreting ORS 198.805(1) and 199.462(1), together with ORS 197.175 and 197.835, establishes that prior to acknowledgment the statewide planning goals are applicable to a county decision to approve formation of a special district under ORS 198.705 to 198.955, but after acknowledgment the acknowledged county comprehensive plan applies. *Price v. Clatsop County*, 25 Or LUBA 341 (1993).

43. Special Districts. Where a water district has adopted a water allocation program that significantly limits the development of land in the district otherwise allowable under the applicable acknowledged county comprehensive plan and land use regulations, under ORS 197.185(1) a district decision made under such a program is "an action * * * with respect to a program affecting land use" to which the statewide planning goals apply and, therefore, is a "land use decision." *Olson v. Neahkahnie Water District*, 25 Or LUBA 776 (1993).

43. Special Districts. A special district decision is a "land use decision" subject to LUBA review if it meets either (1) the statutory definition in ORS 197.015(10), or (2) the significant impact test. *Keating v. Heceta Water District*, 24 Or LUBA 175 (1992).

43. Special Districts. In the absence of an adopted district program regulating the approval of water hookups for land use purposes, a water district action to approve an individual water hookup for a use consistent with the applicable acknowledged county plan and land use regulations is *not*

an “action with respect to a program affecting land use” under ORS 197.185(1), to which the statewide planning goals apply. *Keating v. Heceta Water District*, 24 Or LUBA 175 (1992).

43. Special Districts. A water district decision authorizing the provision of domestic water service to property designated and zoned for residential use by an acknowledged county plan and land use regulations is not a “significant impact test” land use decision. *Keating v. Heceta Water District*, 24 Or LUBA 175 (1992).

43. Special Districts. Where a comprehensive plan policy specifically provides for formation of service districts within one of three types of designated rural areas, and there is nothing inconsistent with the language of that policy, its context or its purpose in interpreting it as having nothing to do with service districts in the other two types of rural areas, the local government’s interpretation of that policy as not precluding formation of service districts in the other two types of rural areas will be sustained. *DLCD v. Marion County*, 23 Or LUBA 619 (1992).

43. Special Districts. Comprehensive plan provisions that govern the circumstances warranting formation of service districts, the permissible scope of sewerage facilities and whether such facilities are to be provided by public or private entities, are correctly interpreted as not prohibiting the formation of service districts to provide sewerage services. *DLCD v. Marion County*, 23 Or LUBA 619 (1992).

43. Special Districts. Where a local government decision forming a service district to provide sewerage services discusses, but does not authorize, a particular means of sewage treatment, petitioner’s challenge of the decision on the basis that the particular means of treatment violates a plan policy concerning extension of urban services outside UGBs is premature. *DLCD v. Marion County*, 23 Or LUBA 619 (1992).

43. Special Districts. The specific reference in ORS 197.175(1) to formation of service districts, and the requirement that such actions comply with the statewide planning goals, do not mean the goals continue to apply to such actions after acknowledgment. After acknowledgment, the standards in the acknowledged comprehensive plan and land use regulations control such actions, unless a plan or land use regulation amendment is adopted or required. *DLCD v. Marion County*, 23 Or LUBA 619 (1992).

43. Special Districts. Where no cooperative agreement has been entered into by a district and the applicable county pursuant to ORS 197.185(2), pursuant to ORS 197.185(1) the goals continue to apply to the district’s actions with respect to programs affecting land use. *Adkins v. Heceta Water District*, 23 Or LUBA 207 (1992).

43. Special Districts. A domestic water supply district’s adoption of water hookup standards which will significantly affect development activity is an action with respect to a program affecting land use to which the statewide planning goals apply under ORS 197.185(1) and, therefore, is a land use decision subject to LUBA review. *Adkins v. Heceta Water District*, 23 Or LUBA 207 (1992).

43. Special Districts. Where a county has never entered into any cooperative agreements with special districts pursuant to ORS 197.185(2), what such a cooperative agreement might contain is entirely speculative and, therefore, the lack of such an agreement between the county and a district does not render inapplicable the ORS 197.830(6)(b)(B) “appearance” requirement for intervention in an appeal of a district decision. *Adkins v. Heceta Water District*, 22 Or LUBA 840 (1992).

43. Special Districts. ORS 197.185(1) requires that special districts make land use decisions in accordance with the statewide planning goals, and Goal 2 requires that special district land use decisions be consistent with the relevant county comprehensive plan. *Price v. Arch Cape Service District*, 22 Or LUBA 592 (1992).

43. Special Districts. A service district is not required to approve sewer and water hookups on a first come, first served basis, where none of the applicable comprehensive plan provisions adopted pursuant to Goal 11 limit the manner in which such hookups must be approved. *Price v. Arch Cape Service District*, 22 Or LUBA 592 (1992).