

BEFORE THE LAND USE BOARD OF APPEALS  
OF THE STATE OF OREGON

OCT 22 2 31 PM '82

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2  
3 KLAMATH CITIZENS FOR )  
RESPONSIBLE PLANNING, )  
4 KITE RANCHERS, INC., et al, )

5 Petitioners, )

LUBA No. 81-139

6 vs. )

FINAL OPINION  
(ORDER OF DISMISSAL)

7 KLAMATH COUNTY BOARD )  
OF COMMISSIONERS, )

8 Respondent. )  
9

10 Appeal from Klamath County.

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13 Petitioners

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20 COX, Referee; REYNOLDS, Chief Referee; BAGG, Referee.

21 DISMISSED

10/22/82

22  
23 You are entitled to judicial review of this Order.  
24 Judicial review is governed by the provisions of Oregon Laws  
1979, ch 772, sec 6(a).

1 COX, Referee.

2 NATURE OF PROCEEDING

3 Petitioners seek review of the Board of County  
4 Commissioners for Klamath County orders adopting Ordinances No.  
5 44 (Klamath County Comprehensive Plan, Part I - Policies; Plan  
6 Part II - Atlas) and Ordinance 45 (Klamath County Comprehensive  
7 Plan, Part III - Land Development Code). Both contested  
8 ordinances were adopted and became final on November 25, 1981.  
9 In effect, the ordinances adopted a comprehensive land use plan  
10 and implementing regulations for Klamath County.

11 ALLEGATIONS OF ERROR

12 Petitioners seek an order of the Land Use Board of Appeals  
13 finding that Ordinances 44 and 45 are in violation of statewide  
14 planning Goals 2, 3, 4, 5, 7, 9, 11 and 12.

15 FACTS

16 On November 25, 1981 the Board of County Commissioners for  
17 Klamath County adopted Ordinances 44 and 45. Klamath County  
18 pursuant to ORS 197.251(1), requested, on December 2, 1981 that  
19 the Land Conservation and Development Commission (LCDC)  
20 acknowledge the comprehensive plan and implementing ordinances  
21 which are the subject of Ordinances 44 and 45. After review of  
22 the contested ordinances on March 22, 1982, the LCDC found them  
23 not to comply with statewide planning Goals 2, 3, 4, 5, 7, 9,  
24 11, and 12.

25 This case was filed on December 23, 1981. On December 31,  
26 1981 all parties to the proceeding requested that this Board

1 extend until April 1, 1982 the time for transmitting the record  
2 of the proceedings under review. It is assumed the extension  
3 request was based on the realization that the matter was before  
4 LCDC for acknowledgment. On March 25, 1982 this Board received  
5 a second motion to extend the time for transmittal of the  
6 record. This second motion was stipulated to by all parties  
7 and on April 2, 1982 we ordered that the time for transmitting  
8 the record to the Board would be extended, as requested, up to  
9 180 days from April 1, 1982.

10 On August 27, 1982, we notified the parties that LUBA was  
11 in receipt of the record and that the petition for review was  
12 due within 20 days. On September 15, 1982, LUBA received the  
13 petition for review which immediately drew numerous motions to  
14 dismiss on various grounds.

15 A conference call with representatives of all parties to  
16 the proceeding was held on October 13, 1982 at which time  
17 petitioners indicated they believed that their concerns had  
18 been taken care of by the LCDC's finding that Ordinances 44 and  
19 45 did not comply with the statewide planning goals 2-5, 7, 9,  
20 11, 12. After additional discussion, it was determined that  
21 petitioners were in fact requesting dismissal of this  
22 proceeding on the ground the proceeding was moot due to the  
23 actions of the LCDC in its continuance order of March 22,  
24 1982. In part that order states:

25 "Based on the adopted findings, the Commission  
26 concludes that Klamath County's Comprehensive Plan and  
implementing measures do not comply with statewide

1 planning Goals 2 - 5, 7, 9, 11 and 12 and do comply  
2 with statewide planning Goals 1, 6, 8, and 13 adopted  
3 by this Commission pursuant to ORS 197.225 and  
4 197.245."

5 There was no objection to petitioners' dismissal request.

6 Therefore, it is ordered that petitioners' motion to  
7 dismiss their own appeal on the grounds of mootness is granted.  
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