

1 Opinion by Bagg.

2 NATURE OF THE DECISION

3 Petitioner appeals the adoption of two ordinances.
4 Ordinance 85-001 amends Deschutes County Comprehensive Plan
5 provisions controlling geothermal resources. The ordinance
6 also amends the geothermal resource maps and adds a geothermal
7 element to the comprehensive plan. The second ordinance,
8 Ordinance 85-002, amends the Deschutes County Zoning Ordinance
9 to provide standards and criteria for geothermal uses. The
10 amendment to the zoning ordinance makes geothermal operations
11 conditional uses.

12 The separate appeals of the comprehensive plan amendment
13 and the zoning ordinance amendment are consolidated for our
14 review.

15 FACTS

16 In the fall of 1983, the Deschutes County Board of
17 Commissioners ordered a study of geothermal resources. An
18 inventory of geothermal resources was completed in April 1984,
19 and in July 1984 the county published a draft of the geothermal
20 element of its comprehensive plan. Public hearings were held
21 and revisions made. In February 1985, the county board adopted
22 Ordinance 85-001, and Ordinance 85-002.

23 The plan amendment establishes a district wherein the
24 county prohibits geothermal resource exploration and
25 utilization. This prohibition is made in favor of protecting
26 other resources, including wildlife habitat.

1 The amendment to the zoning ordinance provides, in part,
2 standards for exploration of geothermal resources and standards
3 for operation of small geothermal energy generating
4 facilities. The standards require that geothermal exploration
5 and uses be compatible with the surrounding area. Also, the
6 ordinance controls construction and reclamation of geothermal
7 resource sites.

8 Petitioner's 157 acre tract constitutes the only
9 non-federal land within the area of the Newberry Crater in
10 central Oregon. It is also the only land subject to the
11 prohibition against geothermal exploration and use adopted in
12 the county plan and zoning ordinance. See, Record 1159-1160.
13 The basis for the prohibition is the county's interpretation of
14 Goal 5 (Open Spaces, Scenic and Historic Areas and Natural
15 Resources) and the Goal 5 interpretative rule, OAR 660-16-000 et
16 seq. The prohibited areas are those inventoried under Goal 5
17 and "which the county has determined to be unsuitable for any
18 use other than the inventoried natural resource pursuant to
19 geothermal Policy 4(F) of the Comprehensive Plan." Record 11.

20 FIRST ASSIGNMENT OF ERROR

21 "The County misconstrued and violated Statewide Land
22 Use Goal Five (OAR 660-15-000(5)) and made inadequate
23 findings, unsupported by substantial evidence in the
24 whole record, in failing to complete a valid inventory
25 of the Geothermal resources before identifying
26 conflicts and consequences, performing the required
27 conflict-resolution analysis and adopting a program to
28 achieve the goal."

29 Petitioner argues the county misapplied statewide planning

1 Goal 5.¹ Petitioner's argument relies in large part on OAR
2 660-16-000, an interpretive rule enacted to aid planning
3 jurisdictions in achieving compliance with Goal 5.² The rule
4 requires an inventory of Goal 5 resources sufficiently detailed
5 to allow the county to identify conflicts between Goal 5
6 resources and other uses. From the inventory and
7 identification of conflicts, the county must analyze the
8 consequences of planning choices between resource and competing
9 uses.

10 It is petitioner's argument that without a detailed, site
11 specific inventory, the county is unable to carry out the
12 analysis required by the goal and rule. A site specific
13 inventory, according to petitioner, details specifically where
14 Goal 5 resources exist on a given site. It follows that the
15 county's prohibition of geothermal exploration of the property
16 in issue is impermissible. That is, the prohibition makes it
17 impossible for the county to compile an adequate Goal 5
18 inventory.

19 We do not agree that the goal and the rule require a site
20 specific inventory of geothermal resources as claimed by
21 petitioner. The goal and the rule only require sufficient
22 information to identify resources and conflicting uses. The
23 county record reveals an analysis of geothermal resources
24 prepared by an engineering firm in October, 1984. See, Record
25 Item 136. This analysis is incorporated into the plan as the
26 Geothermal Element. It includes information on the geothermal

1 resources of the area, and the conflicting uses. In addition,
2 other documents in the record discuss the geothermal potential
3 of petitioner's property specifically and other properties in
4 the area. See, e.g., Record 1308-1312, 1330-1332,
5 1350-1352.³ Also, there is evidence in the record about
6 conflicting uses including wildlife habitat and recreational
7 uses. See, Record 417. While we agree that the Goal 5
8 interpretative rule calls for site specific inventories for
9 certain resources, energy resources are not of the kind
10 identified as requiring a site specific inventory.⁴ The rule
11 describes a "valid" inventory:

12 "A 'valid' inventory of a Goal 5 resource under
13 Subsection (5)(c) of this rule must include a
14 determination of the location, quality and quantity of
15 each of the resource sites. Some Goal 5 resources
16 (e.g., natural areas, historic sites, mineral and
17 aggregate sites, scenic waterways) are more
18 site-specific than others (e.g., groundwater, energy
19 sources)."

17 The rule further refines a conflicting use as one

18 "which, if allowed, could negatively impact a Goal 5
19 resource site. Where conflicting uses have been
20 identified, Goal 5 resource sites may impact those
21 uses." OAR 660-16-005.

21 We believe the county's inventory, including as it does
22 both general areas of geothermal resource and identification of
23 existing recreational uses and other uses in the area, is
24 sufficient to meet the requirements in the goal and rule.
25 While petitioner interprets the information in the record
26 differently, the information is sufficient for the county to

1 identify conflicts and to state the consequences of allowing
2 various uses over others.

3 The first assignment of error is denied.

4 SECOND ASSIGNMENT OF ERROR

5 "The County violated Statewide Land Use Goal Five (OAR
6 660-15-000(5)) and rendered future compliance
7 impossible, by prohibiting all exploratory and
8 operational activities necessary to completion of a
9 valid inventory, meaningful identification and
10 assessment of conflicting uses, and adoption of a
11 program to achieve the goal."

12 In this assignment of error petitioner claims the county
13 policies controlling geothermal exploration and development in
14 the "exclusion area" make it impossible to develop an adequate
15 inventory. Petitioner argues the county cannot know what
16 consequences may result from geothermal use until it has a
17 specific proposal. The prohibition of geothermal exploration
18 prevents any geothermal development because such a proposal of
19 necessity must be based on detailed exploration, according to
20 petitioner. Petitioner posits that in requiring there be no
21 adverse impact on competing uses, the county has created a
22 standard which can never be met.

23 We do not agree with petitioner that the policy makes
24 compliance with Goal 5 impossible. As stated under the first
25 assignment of error, we believe the county has an adequate
26 inventory from which to base decisions about geothermal uses.
That is, the county's inventory identifies geothermal uses and
also identifies conflicting uses. The county's inventory and

1 analysis discusses the conflicting uses in and around the
2 Newberry Crater.⁵ From the inventory, the county has
3 concluded the other uses, including recreation and wildlife
4 habitat, are of more importance than potential geothermal
5 development on petitioner's property. While we understand the
6 county may, by refusing to allow exploration on petitioner's
7 property, make it impossible to develop detailed knowledge of
8 the value of the resource, we do not believe that potential is
9 the issue under Goal 5. The issue is whether the inventories
10 are sufficiently detailed so that the county can decide whether
11 it wishes to allow one use over another. We believe that
12 standard has been met, and the fact that other individuals or
13 local governments might make different choices on the same
14 facts is not something which we are empowered to review.

15 Petitioner also challenges the county's requirement that it
16 must be certain that geothermal resource uses will be
17 compatible with surrounding uses. The county has set an
18 impossibly high standard of compatibility, according to
19 petitioner.

20 The challenged provision provides:

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22 "The county recognizes that if utilization of
23 geothermal energy is to be optimized, the designation
24 of land-uses for areas overlying geothermal resources
25 must accommodate those uses to which the resources can
26 be applied. In this regard, the county shall
incorporate geothermal utilization as a determinant in
land-use planning; and, where appropriate, shall
review permitted uses that can utilize geothermal
resources if and when suitable resources are confirmed

1 in an area. However, geothermal end-uses shall be
2 permitted only where their compatibility with
3 surrounding land-uses can be demonstrated with
4 certainty." Ordinance No. 85-001, Record 48.

5 The challenged policy calls for compatibility with
6 surrounding uses. Compatibility must be demonstrated "with
7 certainty." However, the term compatibility, does not mean no
8 impacts whatever. See our discussion in Vincent v. Benton
9 County, 5 Or LUBA 266 (1982), 60 Or App 324, 653 P2d 279 (1982).
10 Compatible means capable of living together harmoniously.

11 We do not find error or a violation of the goal as alleged
12 by petitioner.

13 The second assignment of error is denied.

14 THIRD ASSIGNMENT OF ERROR

15 "The County violated Goal Five and misconstrued the
16 Goal and Interpretive Rule by failing to protect
17 identified geothermal resources on Petitioner's
18 property and in the county as a whole."

19 In this assignment of error, we understand the petitioner
20 to argue that the county's prohibition against exploration and
21 development of geothermal energy on petitioner's property
22 violates Goal 5. The violation occurs, according to
23 petitioner, because the county has failed to develop a program
24 to assure protection of the energy resource. Petitioner's
25 claim relies on its earlier argument that the county's
26 prohibition of all geothermal exploration and use in the
exclusion area, and its restrictions on geothermal exploration
and use in other areas through its conditional use process, is

1 based on inadequate information.

2 Included in this argument is a further claim that the Goal
3 5 interpretive rule violates the goal insofar as the rule may
4 allow a local government to resolve conflicts between uses in a
5 way that does not protect Goal 5 natural resources. Petitioner
6 argues that the goal mandates protection of the energy
7 resource, and to the degree the rule allows a jurisdiction to
8 favor another use over the energy resource, the rule is invalid.

9 Because we do not find the county's inventory and its
10 conditional use process to violate Goal 5 or the administrative
11 rule, we do not agree with petitioner's argument that the
12 county has failed to protect a resource. Additionally, we do
13 not agree that the Goal 5 interpretive rule violates the goal.
14 The goal does not, by its terms, require exploitation of all
15 identified Goal 5 resources.

16 Goal 5 recognizes the possibilities of conflicting uses and
17 states that where conflicting uses have been identified

18 "the economic, social and environmental energy
19 consequences of the conflicting uses shall be
determined and programs developed to achieve the goal."

20 The purpose of Goal 5 is "to conserve open space and to protect
21 natural and scenic resources." The goal requires that

22 "programs...be provided that will: (1) insure open
23 space, (2) protect scenic and historic areas and
24 natural resources for future generations, and (3)
promote healthy and visually attractive environments
in harmony with the natural landscape character."

25 Nothing in the goal mandates allowance of the exploitation of a
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1 particular resource despite conflicts with competing uses,
2 including (as here) other Goal 5 identified resources. Mobile
3 Crushing Co. v. Lane Co., ___ Or LUBA ___ (LUBA No. 84-092,
4 February 25, 1985).

5 We deny petitioner's third assignment of error.

6 FOURTH ASSIGNMENT OF ERROR

7 "The County violated Statewide Land Use Goal Five (OAR
8 660-15-000(5)) and the Goal Five Interpretive Rule
9 (OAR 660-16-000 to -025) and made improper findings
10 unsupported by substantial evidence, in treating as
11 actual conflicts conflicts which the county's own
findings show to be nonexistent, ascertainable only in
the context of a site-specific proposal, or purely
speculative."

12 Petitioner raises numerous challenges to the sufficiency of
13 the evidence supporting certain findings by the county. First,
14 petitioner challenges county findings on powerlines. The
15 county found that powerlines would create a site "contrary to
16 the preservation of natural aesthetic values...." Record 68.
17 Petitioner argues there is nothing in the record to support
18 this and that there is evidence in the record that powerlines
19 will be underground. Record 367.

20 Next, petitioner challenges county findings on access.
21 According to petitioner, the county believed access
22 requirements would create a need for a year round road,
23 construction of which would alter the area's winter
24 recreational value. Record 34. Petitioner claims the finding
25 fails to mention or assess other testimony in the record the
26 roads would not be necessary. Record 360-361.

1 Petitioner also attacks county findings on groundwater.
2 Petitioner argues that findings of adverse hydrological
3 problems 100 miles from the subject property is not relevant
4 and not substantial evidence to support a finding the water
5 supply in the area will be adversely affected.

6 Lastly, petitioner claims county findings on other
7 locations where geothermal exploration and exploitation might
8 occur are not supported by substantial evidence.

9 The county's reasons for restricting geothermal exploration
10 and development relate, in large part, to the threat to
11 recreation, scenic resources, and wildlife habitat posed by
12 powerlines, the possibility of new roadways, and potential
13 damage to groundwater supplies. Record 417. The county's
14 findings say increased traffic, noise and construction
15 associated with industrial use would adversely affect both
16 summer and winter recreational uses. Record 417, 418-421.
17 Petitioner's evidence, submitted in the form of rebuttal to the
18 county's list of adverse consequences resulting from allowance
19 of geothermal activity on the subject property, appears
20 credible. In our review for substantial evidence, however, we
21 are not empowered to substitute our judgment for the local
22 decisionmakers. As the Court of Appeals stated:

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24 "[W]here there is conflicting evidence based upon
25 differing data, but any of the data is such that a
26 reasonable person might accept it, a conclusion based
 on a choice of any of that data is, by definition,
 supported by substantial evidence." Homebuilders v.

1 Metro Service District, 54 Or App 60, 63, 633 P2d 1320
2 (1981).

3 The fourth assignment of error is denied.

4 FIFTH ASSIGNMENT OF ERROR

5 "The county misconstrued the applicable law, made
6 improper findings unsupported by substantial evidence,
7 violated the plan, and violated Goals Two and Five in
8 determining that allowing exploration or development
9 on the La Pine Pumice Property is contrary to
10 Deschutes Comprehensive Plan Policies 15, Rural
11 Development; 4, Economy; and 6, Open Spaces."

12 In this assignment of error, petitioner attacks the
13 following finding:

14 "The proposal to develop geothermal resources on the
15 subject property is contrary to the following
16 Comprehensive Plan policies: No. 15, Rural
17 Development, which states that 'construction on open
18 lands shall be in a manner least intrusive to the
19 aesthetic and natural character of those lands and
20 neighboring lands;' No. 4, Economy, which states that
21 'consistent with policies in the Recreation and Open
22 Space chapters, cooperation with federal and state
23 agencies shall be sought by the County in preserving
24 and developing, as appropriate, scenic and
25 recreational resources;' and No. 6, Open Spaces, which
26 states that 'because management of state and federal
lands affects areas under the County's jurisdiction
and vice versa, better coordination of land-use
planning between the County, U.S. Forest
Service,...and other agencies shall be sought.' The
County finds that the proposal is contrary to Rural
Development Policy 15 because it would be extremely
intrusive to the aesthetic and natural character of
the caldera as detailed above; that it would be
contrary to Economy Policy 4 because of the negative
economic impacts resulting from scenic and
recreational degradation detailed above; and that it
would be contrary to Open Space Policy 6 because
industrialization of a small parcel completely
surrounded by federal recreational lands would be
clearly inconsistent with the objectives of
coordinated land use planning." Record 35-36, 69-70.

1 Petitioner's first complaint, as we understand it, is that
2 the finding fails to analyze petitioner's geothermal
3 development proposal through the compatibility standard
4 included in the amendments on review. Petitioner appears to
5 claim that the compatibility standards in the plan and the
6 safeguards included in the zoning ordinance insure that none of
7 the consequences mentioned in the findings will occur.

8 From this argument, petitioner states that it is improperly
9 prohibited from ever submitting a proposal no matter how
10 environmentally benign. Petitioner argues that because the
11 plan promotes geothermal exploration and development, the
12 prohibition on development applied to petitioner's property
13 conflicts with the plan. This conflict means the county has
14 drawn an inconsistent plan. A plan which is not consistent
15 violates Goal 2. This inconsistent plan also violates Goal 5
16 because it fails to protect the geothermal resource, according
17 to petitioner.

18 We do not agree. Limitation on development does not
19 conflict with the plan. The geothermal element of the
20 Deschutes County Comprehensive Plan includes a provision on
21 resource utilization as follows:

22 "1. The County supports utilization of geothermal
23 resources, either with heat pumps, direct
24 applications, or for purposes of generating
25 power. However, such support is conditioned on a
26 determination that the proposed use can be
developed in a timely, orderly, and
environmentally-sound manner, and that adequate
protection of the resource is provided so as to
ensure its continued availability and productivity

1 over time. Further, such support is limited to
2 those resource areas where conflicting uses are
not considered predominant, as identified in
3 Policy 4(F)." Record 46.

4 We believe this policy specifically allows the county to
5 limit geothermal use in particular areas.

6 The fifth assignment of error is denied.

7 SIXTH ASSIGNMENT OF ERROR

8 "The county misconstrued the applicable law, made
9 improper findings unsupported by substantial evidence,
and violated Goals Two and Five in determining that
10 its decision to exclude the caldera and Petitioner's
property was mandated by:

11 "1. An August 1, 1979, agreement with the Oregon
12 Dept. of Fish and Wildlife and the Deschutes
National Forest establishing a wildlife refuge in
the caldera. Rec. 36, 70.

13 "2. U.S. Forest Service Policy as set forth in the
14 Deschutes National Forest Land and Resource
Management Plan. Rec. 37, 71.

15 "3. U.S. Park Service 1975 designation of Newberry
16 Volcano as a National Natural Landmark. Rec.
37-38, 71-72.

17 "4. Oregon House Joint Resolution 31, (1975),
18 declaring that 'preservation of the recreation,
scenic and historic areas of Newberry crater...is
19 of vital importance to the people of the state of
Oregon.' Rec. 38, 72.

20 "5. Energy Facility Siting Council Rules (OAR
21 345-40-030) designating the caldera as unsuitable
for geothermal power plants over 25 megawatts.
Rec. 38-39, 72-73.

22 "6. Bonneville Power Administration Environmental
23 Manual 917. Rec. 39, 73.

24 "7. LCDC Goal Two plan consistency requirements. OAR
660-15-000

25 "8. PBA geothermal solicitation criteria."
26

1 Petitioner argues that the county has misapplied Goal 5 by
2 applying a standard requiring that its plan and ordinance must
3 be consistent with statewide and federal plans and actions.
4 Petitioner argues the goal requires that city, county, state
5 and federal plans must be consistent with the county's
6 comprehensive plan. As we understand the argument, the error
7 requires a remand to the county because the basis for the
8 amendments on appeal include deference to state and federal
9 plans and actions affecting geothermal resources.

10 Where a conflict exists between a local plan or ordinance
11 and a state agency program, OAR 660-30-015(1)(c) requires the
12 county to "coordinate" the

13 "planning activities affecting land uses within the
14 county, including planning activities, cities, special
15 districts and state agencies, to assure an integrated
comprehensive plan for the entire area of the
county." ORS 197.190.

16 In the event the county's coordination effort is not
17 successful, the rule requires the state agency to contact the
18 Department of Land Conservation and Development to assist in
19 mediating the dispute. OAR 660-30-015(1)(c).

20 We find nothing in this scheme or elsewhere in ORS Chapter
21 197 or the commission's administrative rules prohibiting county
22 deference to state and federal plans. Further, it appears from
23 the county's order and findings that the plans and actions by
24 state and federal agencies do not form the sole reason for the
25 county's decision with regard to petitioner's property. As
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1 long as the county demonstrates that its action complies with
2 Goal 5, the inclusion of statements of policy by the federal
3 government and other state agencies as part of the
4 justification for the county's decision is not objectionable.

5 The sixth assignment of error is denied.

6 SEVENTH ASSIGNMENT OF ERROR

7 "The county violated and misconstrued Statewide Goal
8 Nine, Economy of the State, and Goal Two, Land Use
9 Planning, by finding a need for geothermal development
10 and failing to provide a meaningful process or
11 implementation measure to assure that the need is
12 met. OAR 660-15-000(9)."

13 Petitioner quotes a Deschutes County plan policy
14 recognizing a need to encourage geothermal development.
15 Petitioner then turns to county ordinance provisions
16 prohibiting geothermal exploration in the excluded area and
17 imposing upon an applicant the burden of showing compatibility
18 with "certainty" of a geothermal use with other uses "with
19 certainty." Petitioner claims these standards are
20 impermissibly vague. Record 48.

21 This vagueness, according to petitioner, violates statewide
22 planning Goal 2 and statewide planning Goal 9. Goal 2 is
23 violated because the zoning ordinance and provisions are so
24 vague they fail to form a measure which can effectively
25 implement the goal and the county plan. Statewide planning
26 Goal 9 is violated because the plan only gives lip service to
geothermal energy resource potential. Goal 9, according to
petitioner, imposes an obligation to provide economic activity

1 instead of mere verbiage praising economic growth.

2 Respondent counters that its standards are precise enough
3 to comply with Goal 2. They define permissible uses and set
4 standards for the uses. The standards are easily understood
5 and applied, according to the county. In arriving at the
6 standards, the county elected to prohibit geothermal resources
7 on petitioner's property in favor of other protected
8 resources. These decisions are not prohibited by Goal 2 or
9 Goal 9. We understand the respondent to claim that simply
10 because a particular area is out of bounds to geothermal
11 development does not mean that the economy of the state is
12 being harmed or that the county has rendered a plan policy
13 encouraging geothermal development mere lip service.

14 We agree with respondent.

15 The seventh assignment of error is denied.

16 EIGHTH ASSIGNMENT OF ERROR

17 "In making the decisions under review, the county
18 deprived Petitioner, without just compensation or due
19 process of law, of its property and liberty interests
20 in its fee and mineral estates and in the safeguards
21 and benefits of proper application of state and local
22 land use laws, in violation of the Equal Protection
23 and Due Process clauses of the Fourteenth Amendment
24 and the Just Compensation Clauses of the Fifth
25 Amendment to the United States Constitution, and the
26 Equal Privilege and Immunities Clause of Art I, Sec.
20, of th [sic] Oregon Constitution."

23 Petitioner makes three final claims. First, petitioner
24 claims its constitutional right to due process of law is
25 violated because the county has effectively taken petitioner's
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1 property without just compensation and without due process of
2 law. Further, the county has violated the equal protection and
3 immunity clauses of the Oregon Constitution and the Federal
4 Constitution because the county has applied a different set of
5 standards to petitioner than to any other landowner in
6 Deschutes County. Petitioner argues it is petitioner only who
7 is prohibited from submitting proposals for geothermal
8 exploration and development. Lastly, petitioner claims it is
9 excluded from all beneficial use of the property. This
10 exclusion affectively takes petitioner's property for public
11 use without compensation.

12 We are cited to no authority holding that the mere
13 existence of a restriction on the use of property results in a
14 violation of the due process clauses in the Federal and Oregon
15 Constitutions. The fact that a jurisdiction has, by local
16 legislation, restricted use of the property does not of itself
17 mean the regulation violates petitioner's right to due process
18 of law. Nebbia v. New York, 291 US 502, 54 S Ct 505, 78 L Ed
19 940 (1934).

20 Additionally, simply because petitioner is the only
21 landowner in Deschutes County who is prohibited from making use
22 of property for geothermal purposes does not necessarily mean
23 that petitioner has been treated in violation of the privileges
24 and immunities provisions in the United States and Oregon
25 Constitutions. Creation of a class of one is not, in and of
26 itself, prohibited. Morey v. Doud, 354 US 457, 77 S Ct 1344, 1

1 L Ed 2d 1485 (1957).

2 What is required to withstand a constitutional challenge on
3 these grounds is a rational basis for the creation of the
4 class. Morey, supra. We find there is a rational basis for
5 the county's decision: compliance with Goal 5 and a choice of
6 some protected resources over the geothermal resource. As we
7 understand the county's rationale, petitioner's property meets
8 all of the county's criteria for protection of resources other
9 than geothermal resources.

10 While petitioner alleges its property has been taken and
11 that it is deprived of all beneficial use of its property, we
12 find no proof of this claim. Where a claim of taking is made,
13 evidence must be submitted showing that petitioner has been
14 deprived of all beneficial use of its property. Fifth Avenue
15 Corporation v. Washington County, 282 Or 591, 581 P2d 50
16 (11978).⁶

17 No such proof has been presented here.

18 The eighth assignment of error is denied.

19 The decisions are affirmed.
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FOOTNOTES

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4 Statewide planning Goal 5, "Open Spaces, Scenic and
5 Historic Areas and Natural Resources," has as its purpose "to
6 conserve open space and protect natural and scenic resources."
7 OAR 660-15-00(5).

8 2
9 See the attached copy of OAR 660-16-000, et seq.

10 3
11 See also, the report entitled "Regulation of Small Scale
12 Energy Facilities By Oregon Counties: Siting Bio-Mass,
13 Geothermal, Hydroelectric, Wind Energy, and Electric Power
14 Transmission Facilities" prepared by the Oregon Department of
15 Energy in October, 1984 and the report entitled "Public Service
16 Impacts of Geothermal Development by The California Energy
17 Commission," prepared in July, 1983. These reports give
18 information on geothermal resource recovery including
19 environmental impacts and costs.

20 4
21 See OAR 660-16-000(2), attached, listing examples of
22 resources which should be listed by site.

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24 There is a letter from the United States Department of
25 Agriculture which discusses some of the conflicting uses such
26 as wildlife and recreation. See, Record 417. Most of the
27 discussion about conflicting uses, however, exists in the plan
28 itself as part of the analysis prepared by the engineering
29 firm. It is this analysis, as we stated earlier, which forms
30 the geothermal element of the county plan. While the analysis
31 includes references to scientific and other source materials,
32 we interpret the element itself to form the factual basis for
33 the county's decision. That is, the plan includes the
34 inventory, and in this case, the geothermal element of the
35 county plan is the Goal 5 inventory.

36 While it is not common to find a factual base incorporated
37 in the plan, we find no error in this approach.

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39 We note the property may be used for mining of pumice

1 stone. See Record 278. There may also be a number of
2 commercial uses within the area including campgrounds, golf
3 courses and other recreational uses. See Ordinance No. 15,
4 Deschutes County Zoning Ordinance, 1979, Section 4.090. It
5 does not appear, from the little information available to us in
6 this record, that petitioner has suffered the grave and total
7 loss claimed.

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