

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

THE CONFEDERATED TRIBES OF THE WARM
SPRINGS RESERVATION OF OREGON,
Petitioner,

and

CENTRAL OREGON LANDWATCH,
ANNUNZIATA GOULD, and THOMAS BISHOP,
Intervenors-Petitioners,

vs.

DESCHUTES COUNTY,
Respondent,

and

CENTRAL LAND AND CATTLE COMPANY, LLC,
PINNACLE UTILITIES, LLC, and KAMERON DELASHMUTT,
Intervenors-Respondents.

LUBA No. 2023-038

ANNUNZIATA GOULD,
Petitioner,

and

THE CONFEDERATED TRIBES OF THE WARM
SPRINGS RESERVATION OF OREGON,
CENTRAL OREGON LANDWATCH,
PAUL J. LIPSCOMB, and THOMAS BISHOP,
Intervenors-Petitioners,

vs.

1
2 DESCHUTES COUNTY,
3 *Respondent,*

4
5 and

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7 CENTRAL LAND AND CATTLE COMPANY, LLC,
8 PINNACLE UTILITIES, LLC, and KAMERON DELASHMUTT,
9 *Intervenors-Respondents.*

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11 LUBA No. 2023-039

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13 CENTRAL OREGON LANDWATCH
14 *Petitioner,*

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16 and

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18 THE CONFEDERATED TRIBES OF THE WARM
19 SPRINGS RESERVATION OF OREGON,
20 ANNUNZIATA GOULD, and THOMAS BISHOP,
21 *Intervenors-Petitioners,*

22
23 vs.

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25 DESCHUTES COUNTY,
26 *Respondent,*

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28 and

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30 CENTRAL LAND AND CATTLE COMPANY, LLC,
31 PINNACLE UTILITIES, LLC, and KAMERON DELASHMUTT,
32 *Intervenors-Respondents.*

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34 LUBA No. 2023-041

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36 FINAL OPINION
37 AND ORDER
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1 Appeal on remand from the Court of Appeals.

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3 Josh Newton represented petitioner The Confederated Tribes of the Warm
4 Springs Reservation of Oregon.

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6 Jennifer Bragar represented petitioner Annunziata Gould and intervenors-
7 petitioners Paul J. Lipscomb and Thomas Bishop.

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9 Carol Macbeth represented petitioner Central Oregon Landwatch.

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11 David Doyle represented respondent.

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13 J. Kenneth Katzaroff represented intervenors-respondents.

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15 ZAMUDIO, Board Chair; RUDD, Board Member; participated in the
16 decision.

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18 RYAN, Board Member, did not participate in the decision.

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20 REMANDED 02/26/2025

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22 You are entitled to judicial review of this Order. Judicial review is
23 governed by the provisions of ORS 197.850.

NATURE OF THE DECISION

Petitioners appeal a board of county commissioners decision approving modification of a destination resort final master plan.

FACTS

This matter is on remand from the Court of Appeals. *Confederated Tribes of Warm Springs v. Deschutes Cty.*, 332 Or App 361, 550 P3d 443 (2024). We set out the facts in our prior decision and do not restate them here. *Confederated Tribes of Warm Springs v. Deschutes County*, LUBA Nos 2023-038/039/041 (Jan 12, 2024).

TRIBE FIRST ASSIGNMENT OF ERROR

The Confederated Tribes of the Warm Springs Reservation (the Tribe), argued that the challenged decision improperly construes applicable law by failing to address whether the 2022 Fish and Wildlife Management Plan violates the Treaty with the Tribes of Middle Oregon, dated June 25, 1855.¹ We agreed with intervenors-respondents that that issue was not raised during the local proceeding and was therefore waived. LUBA Nos 2023-038/039/041 (slip op 19-23). On judicial review, the Court of Appeals agreed with the Tribe that that issue was raised below with sufficient specificity so that the county was obligated to

¹ Our reference to the Tribe mirrors the Tribe's self-reference in their petition for review.

1 make findings addressing it. The Tribe's first assignment of error is sustained for
2 the reasons set out the court's opinion.

3 The court's opinion does not require us to revisit the disposition of any
4 other assignment of error.

5 The county's decision is remanded.