

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

ANNUNZIATA GOULD,
Petitioner,

vs.

DESCHUTES COUNTY,
Respondent,

and

KAMERON DELASHMUTT and PINNACLE UTILITIES, LLC,
Intervenors-Respondents.

LUBA Nos. 2024-089/090/097/098

FINAL OPINION
AND ORDER

Appeal from Deschutes County.

Jennifer M. Bragar represented petitioner.

David Doyle represented respondent.

J. Kenneth Katzaroff represented intervenors-respondents.

BASSHAM, Board Member; ZAMUDIO, Board Chair; WILSON, Board
Member, participated in the decision.

DISMISSED

06/18/2025

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

NATURE OF THE DECISION

In these consolidated appeals, petitioner appeals (1) two land use compatibility statements (LUCS), regarding intervenors-respondents' applications to the Oregon Water Resources Department (OWRD) for temporary water rights transfers, and (2) two county decisions rejecting petitioner's attempts to file local appeals of the two LUCS decisions.

DISMISSAL

On January 2, 2025, intervenors-respondents (intervenors), the applicants below, filed motions to intervene in LUBA Nos. 2024-089 and 2024-090. On January 6, 2025, intervenors filed motions to intervene in LUBA Nos. 2024-097 and 2024-098. In an order dated January 23, 2025, LUBA granted intervenors' motions to intervene, and established a deadline for the county to file the record. That order also dealt with matters of consolidation and addressed petitioner's motion to suspend these appeals.

On January 30, 2025, prior to the date the record was due, the county filed a motion to withdraw the four challenged decisions for reconsideration, pursuant to OAR 661-010-0021 and ORS 197.830(13)(b). In a letter dated February 4, 2025, LUBA acknowledged the county's withdrawal, and noted that pursuant to OAR 661-010-0021(1), the decision on reconsideration is required to be filed with LUBA within 90 days after the notice of withdrawal was filed.

1 Ninety days passed, with no decision on reconsideration filed with LUBA.
2 On May 7, 2025, LUBA issued an order advising that, if no decision on
3 reconsideration is filed within 14 days of the date of the order, LUBA would issue
4 an order restarting the appeal.

5 On May 22, 2025, intervenors and the county (together, respondents) sent
6 a letter to LUBA, with a copy to petitioner, stating:

7 “We write to advise LUBA that the LUCSs were withdrawn via
8 letter on January 2, 2025, therefore no decision was rendered on
9 reconsideration because the LUCSs were withdrawn by the
10 [a]pplicant. Therefore, the appeals should be dismissed as moot.”

11 Thus, it appears that on January 2, 2025, intervenors withdrew either their LUCS
12 applications from the county or their underlying applications for water rights
13 transfer permits from the OWRD. Intervenors presumably did so with the intent
14 or knowledge that such actions would likely render these appeals moot.¹

15 We regard respondents’ May 22, 2025, letter as a motion to dismiss these
16 appeals. Petitioner has not responded to respondents’ letter, and does not appear
17 to oppose dismissal of these appeals as moot. Accordingly, these appeals are
18 dismissed.

¹ Intervenors’ five-month delay in advising LUBA and the parties that on January 2, 2025, they had withdrawn the applications underlying these appeals, and thus taken action to moot these appeals, arguably caused an unnecessary waste of LUBA and party resources, and possibly violated OAR 661-010-0012(7) (Notice of Related Matters). However, no party argues that any violation of OAR 661-010-0012(7) affected their substantial rights.

Certificate of Mailing

I hereby certify that I served the foregoing Final Opinion and Order for LUBA No. 2024-089/090/097/098 on June 18, 2025, by mailing to said parties or their attorney a true copy thereof contained in a sealed envelope with postage prepaid addressed to said parties or their attorney as follows:

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Dated this 18th day of June, 2025.



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