

# ANNOTATED MINUTES

Monday, June 7, 1999 - 8:30 AM  
Multnomah County Courthouse, Boardroom 602  
1021 SW Fourth Avenue, Portland

## BUDGET WORK SESSION

*Chair Beverly Stein convened the meeting at 8:36 a.m., with Vice-Chair Diane Linn, Commissioners Sharron Kelley, Lisa Naito and Serena Cruz present.*

WS-1 Board Work Session on Multnomah County Fiscal Year 1999-2000 Budget.

**DAN NOELLE, DAVE WARREN, BILL FARVER, MICHAEL SCHRUNK, JACKIE JAMIESON, GINGER MARTIN, CAROL NYKERK, KATHY PAGE AND BILL MIDKIFF RESPONSE TO BOARD QUESTIONS AND DISCUSSION REGARDING BUDGET PRIORITIES, POSSIBLE ADD PACKAGES, COUNTY MISSION, BENCHMARKS, PUBLIC SAFETY BUDGET PROPOSALS, DEPARTMENT REQUESTS FOR TECHNICAL AND CARRYOVER AMENDMENTS, POTENTIAL BUDGET NOTES, SCHOOL SUPPORT FUNDING PROPOSALS, TIMELINE AND PROCESS.**

*The work session was recessed at 10:45 a.m. and reconvened at 10:51 a.m.*

**BILL FARVER, DAVE WARREN, GARY OXMAN, TOM FRONK, FLOYD MARTINEZ AND SUZANNE FLYNN RESPONSE TO BOARD QUESTIONS AND DISCUSSION REGARDING APPROACH TO STATE REDUCTIONS, BUSINESS INCOME TAX, CONTINGENCY RESERVES, PERS, AND LEGISLATION WITH MAJOR POTENTIAL IMPACT ON MULTNOMAH COUNTY.**

*Commissioner Kelley was excused at 11:30 a.m.*

**BOARD TO CONTINUE DISCUSSION ON PRIORITY LISTS, LOOK AT BUDGET NOTES AND**

**GET QUESTIONS TO STAFF PRIOR TO FOLLOW UP BUDGET WORK SESSION SCHEDULED FOR TUESDAY, JUNE 22, 1999.**

*There being no further business, the work session was adjourned at 11:43 a.m.*

---

Tuesday, June 8, 1999 - 9:30 AM  
Multnomah County Courthouse, Boardroom 602  
1021 SW Fourth Avenue, Portland

**LAND USE PLANNING HEARING**

*Chair Beverly Stein convened the meeting at 9:32 a.m., with Vice-Chair Diane Linn, Commissioners Sharron Kelley, Lisa Naito and Serena Cruz present.*

- P-1 De Novo Hearing on Appeal of Hearings Officer Decision Regarding Denial of Appellants (Crown Point Country Historical Society) Appeal of NSA 26-94, Allowing Applicant (Trust for Public Lands) to Remove Sixteen Structures at Bridal Veil, Excluding Church and Post Office. Presented by Robert Hall and Liz Fancher.

**CHAIR STEIN EXPLAINED QUASI-JUDICIAL PROCESS. AT CHAIR STEIN'S REQUEST FOR DISCLOSURE, COMMISSIONER KELLEY ADVISED SHE HAS A FILE AND ATTENDED A 1992 EVENT AT BRIDAL VEIL, BUT HAS NO BIAS OR PRE-JUDGMENT OF THIS CASE. CHAIR STEIN ADVISED SHE VISITED THE SITE IN 1993 BUT HAS NO BIAS OR PRE-JUDGMENT OF THIS CASE. COMMISSIONER LINN ADVISED SHE HAD A PROCEDURAL DISCUSSION WITH CHRIS BECK BUT HAS NO BIAS OR PRE-JUDGMENT OF THIS CASE. COMMISSIONER NAITO ADVISED SHE RECEIVED A MEMO BUT HAS NO BIAS OR PRE-JUDGMENT OF THIS CASE. NO EX PARTE CONTACTS WERE REPORTED. AT CHAIR STEIN'S REQUEST FOR CHALLENGES AND/OR OBJECTIONS, NONE WERE OFFERED. PLANNERS SUSAN MUIR, ROBERT HALL AND PHIL BOURQUIN PRESENTED CASE HISTORY. HEARINGS OFFICER LIZ FANCHER PRESENTED**

**CONDITIONS, FINDINGS OF FACT AND CRITERIA USED IN DETERMINATION TO DENY APPLICATION. CHUCK ROLLINS TESTIFIED ON BEHALF OF APPELLANT CROWN POINT COUNTRY HISTORICAL SOCIETY IN SUPPORT OF ACCESS TO THE PROPERTY PRIOR TO DEMOLITION OF CERTAIN BUILDINGS IN ORDER TO SEE IF PORTIONS COULD BE LISTED ON THE NATIONAL HISTORIC REGISTRY. MR. ROLLINS RESPONSE TO BOARD QUESTION REGARDING INFORMATION NATIONAL REGISTRY NEEDS TO MAKE ITS DETERMINATION. DAVID RIPMA TESTIFIED ON BEHALF OF THE TROUTDALE HISTORICAL SOCIETY IN OPPOSITION TO DEMOLITION UNTIL AFTER NATIONAL REGISTRY RULING ON THE HISTORIC SIGNIFICANCE OF THE SITE. CHRIS BECK TESTIFIED ON BEHALF OF APPLICANTS THE TRUST FOR PUBLIC LANDS IN OPPOSITION TO APPELLANT'S REQUEST, ADVISING THAT WHILE THEY AGREE THE SITE IS HISTORICALLY SIGNIFICANT, THEY DO NOT FEEL THE BUILDINGS TO BE DEMOLISHED ARE HISTORIC. MR. BECK RESPONSE TO BOARD QUESTIONS CONCERNING STRUCTURES USED FOR POST OFFICE AND CHURCH, AND ACCESS TO THE HISTORICAL SOCIETY. MR. BECK ADVISED THERE WOULD BE AN ARCHEOLOGICAL STUDY OF THE SITE AT THE TIME OF THE DEMOLITION. TRUST FOR PUBLIC LAND ATTORNEY PEGGY HENNESSY TESTIFIED IN SUPPORT OF UPHOLDING THE HEARINGS OFFICER DECISION, STATING THAT THE BUILDINGS DO NOT QUALIFY AS HISTORIC AND THAT CROWN POINT HISTORICAL SOCIETY HAS HAD ACCESS TO ALL THE MATERIALS AND RESOURCES IN THE RECORD SINCE 1995 AND THE BURDEN OF PROOF WAS ON THEM TO SUBMIT FURTHER INFORMATION TO THE NATIONAL REGISTER. CORBETT RESIDENT AND FRIENDS OF THE COLUMBIA GORGE MEMBER LEN SWENSON TESTIFIED IN SUPPORT OF UPHOLDING THE HEARINGS**

**OFFICER DECISION AND DEMOLITION OF THE BUILDINGS. FRIENDS OF THE COLUMBIA GORGE MEMBER KEVIN GORMAN TESTIFIED IN SUPPORT OF THE HEARINGS OFFICER DECISION AND TRUST FOR PUBLIC LANDS PURCHASE OF THE PROPERTY FOR PUBLIC PARK PURPOSES. CHRIS BECK SUBMITTED DOCUMENT ADDRESSING POTENTIAL QUESTIONS. CHUCK ROLLINS REBUTTAL ADVISING ALLEGATION OF INSUFFICIENT EVIDENCE IS NOT TRUE AND SUGGESTING THAT AN INDEPENDENT SURVEY BE DONE TO DETERMINE WHETHER THE BUILDINGS WOULD QUALIFY FOR HISTORIC REGISTRY. DAVID RIPMA URGED ACCESS TO THE SITE AND STUDY PRIOR TO DEMOLITION. COMMISSIONER NAITO CORRECTION TO ERRONEOUS STATEMENT MADE BY MR. RIPMA REGARDING HER FATHER. IN RESPONSE TO CHAIR STEIN'S REQUEST FOR CONTINUANCE OF HEARING, NONE WERE OFFERED. IN RESPONSE TO CHAIR STEIN'S REQUEST FOR OBJECTION TO HEARING, MR. BECK SUGGESTED A COMPROMISE PROPOSAL THAT PRE-DEMOLITION WORK THERE BE A FOREST SERVICE APPROVED STUDY, CHAIR STEIN RULED SUGGESTION NOT RELEVANT. IN RESPONSE TO CHAIR STEIN'S REQUEST FOR OBJECTION TO HEARING, NONE WERE OFFERED. HEARING CLOSED. CHAIR STEIN ADVISED ALL PARTIES WILL RECEIVE A COPY OF THE BOARD'S WRITTEN DECISION, WHICH MAY BE APPEALED TO THE GORGE COMMISSION. COUNSEL JEFF LITWAK AND CHRIS BECK RESPONSE TO BOARD QUESTIONS AND DISCUSSION. COMMISSIONERS NAITO, CRUZ AND STEIN COMMENTS IN SUPPORT OF AFFIRMING HEARINGS OFFICER DECISION. FOLLOWING DISCUSSION, COMMISSIONER KELLEY MOVED, SECONDED BY COMMISSIONER CRUZ, TO DELAY BOARD DECISION THIRTY DAYS PENDING MEDIATION/COMPROMISE EFFORTS BETWEEN**

**THE TRUST FOR PUBLIC LANDS AND CROWN POINT COUNTRY HISTORICAL SOCIETY. MR. LITWAK AND SUSAN MUIR EXPLANATION IN RESPONSE TO QUESTIONS OF CHAIR STEIN REGARDING SCOPE OF HEARING. MR. BECK EXPLANATION IN RESPONSE TO QUESTION REGARDING 1992 COMPROMISE EFFORTS AND HIS UNWILLINGNESS TO PUT DEED RESTRICTIONS ON THE LAND. CHUCK ROLLINS EXPLANATION TO QUESTION OF CHAIR STEIN ADVISING POTENTIAL CONTRIBUTORS WILL NOT GIVE MONEY UNTIL THERE IS AN OFFICIAL HISTORIC SITE DECLARATION. MR. BECK RESPONSE TO QUESTION OF COMMISSIONER NAITO REGARDING WAITING AN ADDITIONAL THIRTY DAYS FOR A DECISION. FOLLOWING BOARD DISCUSSION, MOTION TO DELAY BOARD DECISION THIRTY DAYS (TO THURSDAY, JULY 8, 1999) PENDING MEDIATION/COMPROMISE EFFORTS BETWEEN THE TRUST FOR PUBLIC LANDS AND CROWN POINT COUNTRY HISTORICAL SOCIETY APPROVED, WITH COMMISSIONERS KELLEY, LINN, NAITO AND CRUZ VOTING AYE AND CHAIR STEIN VOTING NO.**

*There being no further business, the meeting was adjourned at 11:20 a.m.*

---

Thursday, June 10, 1999 - 9:30 AM  
Multnomah County Courthouse, Boardroom 602  
1021 SW Fourth Avenue, Portland

## **REGULAR MEETING**

*Chair Beverly Stein convened the meeting at 9:33 a.m., with Vice-Chair Diane Linn, Commissioners Sharron Kelley, Lisa Naito and Serena Cruz present.*

### **CONSENT CALENDAR**

**UPON MOTION OF COMMISSIONER KELLEY,  
SECONDED BY COMMISSIONER LINN, THE**

***CONSENT CALENDAR (ITEMS C-1 THROUGH C-3)  
WAS UNANIMOUSLY APPROVED.***

**NON-DEPARTMENTAL**

- C-1 Appointments of Chris Cameron, Jon Chess, Bobbi Damiani, Delma Farrell, Linda Grimes, Karen Rhein, Kathy Hogland, Jill Alspach, Bethany Wurtz, Kathy Wilson and Theresa Sullivan as Voting Members of the CAMPAIGN MANAGEMENT COUNCIL

**AGING AND DISABILITY SERVICES DEPARTMENT**

- C-2 Intergovernmental Revenue Agreement 9910751 with the Oregon Department of Human Resources, Senior and Disabled Services Division to Implement U.S. Department of Health and Human Services, Administration on Aging Grant: Model State Project to Develop Medicare Information and Referral Protocols and Reports

**DEPARTMENT OF HEALTH**

- C-3 Renewal of Intergovernmental Agreement 0010342 with Multnomah Education Service District for Assistance in Ensuring that All School Students Comply with State Immunization and Tuberculosis Requirements

**REGULAR AGENDA**

***AT THE REQUEST OF CHAIR STEIN AND UPON  
MOTION OF COMMISSIONER KELLEY,  
SECONDED BY COMMISSIONER LINN,  
CONSIDERATION OF THE FOLLOWING ITEMS  
WAS UNANIMOUSLY APPROVED.***

**DEPARTMENT OF HEALTH**

- UC-1 NOTICE OF INTENT to Respond to Program Announcement to Participate in the HRSA Bureau of HIV/Aids Special Projects of National Significance

***COMMISSIONER KELLEY MOVED AND  
COMMISSIONER LINN SECONDED, APPROVAL  
OF UC-1. DAVE HOUGHTON EXPLANATION.  
NOTICE OF INTENT UNANIMOUSLY APPROVED.***

**NON-DEPARTMENTAL**

UC-2 RESOLUTION Amending Resolution No. 99-61 to Withdraw One Parcel of Real Property Approved for Auction from the Tax Foreclosure Auction List and Directing the Property be Included in the Multnomah County Affordable Housing Development Program

**COMMISSIONER KELLEY MOVED AND COMMISSIONER CRUZ SECONDED, APPROVAL OF UC-2. COMMISSIONER CRUZ EXPLANATION. RESOLUTION 99-110 UNANIMOUSLY APPROVED.**

**PUBLIC COMMENT**

R-1 Opportunity for Public Comment on Non-Agenda Matters. Testimony Limited to Three Minutes Per Person.

**NO ONE WISHED TO COMMENT.**

**DEPARTMENT OF SUPPORT SERVICES**

R-2 RESOLUTION Adopting the 1998-1999 Supplemental Budget for Multnomah County and Making Appropriations Thereunder, Pursuant to ORS 294.435

**COMMISSIONER KELLEY MOVED AND COMMISSIONER LINN SECONDED, APPROVAL OF R-2. DAVE WARREN EXPLANATION. RESOLUTION 99-108 UNANIMOUSLY APPROVED.**

**NON-DEPARTMENTAL**

R-3 PROCLAMING June 5 through 12, 1999 as HOME OWNERSHIP WEEK in Multnomah County, Oregon

**COMMISSIONER KELLEY MOVED AND COMMISSIONER LINN SECONDED, APPROVAL OF R-3. COMMISSIONER LINN, TOM CUSAK, MANNY LEE AND PEG MALLOY PRESENTATION. MR. LEE READ PROCLAMATION. BOARD COMMENTS IN SUPPORT. PROCLAMATION 99-109 UNANIMOUSLY APPROVED.**

R-4 Information and Slide Show Presentation Update and Next Steps on the \$135.6 Million METRO Open Space Bond Measure Passed in May, 1995

Resulting in Acquisition of 4,400 Acres of Regionally Significant Land in 146 "Willing Seller" Property Transactions. Presented by Jim Desmond.

**COMMISSIONER CRUZ AND JIM DESMOND  
PRESENTATION AND RESPONSE TO BOARD  
QUESTIONS, DISCUSSION AND COMMENTS IN  
SUPPORT.**

R-5 Review of Draft Multnomah County Fiscal Year 1999-2000 Budget Proposal. Presented by Bill Farver.

**BILL FARVER AND DAVE WARREN  
PRESENTATION AND RESPONSE TO BOARD  
QUESTIONS AND DISCUSSION REGARDING  
PUBLIC SAFETY CARRYOVER BUDGET ISSUES,  
PUBLIC SAFETY LEVY PLANNING, SCHOOL  
SUPPORT, CHILDREN IN POVERTY, POLICY  
IMPACT OF LEGISLATIVE ACTIONS,  
FACILITIES, INTERJURISDICTIONAL  
AGREEMENTS, BUDGET PROCESS LEVY  
PREPARATION NEEDS, SCHEDULE,  
BEHAVIORAL HEALTH AND MENTAL HEALTH  
ISSUES, TREATMENT OF THE MENTALLY ILL  
INCARCERATED, DRAWING FROM RESERVES  
AND THE COUNTY'S CONTINGENCY POLICY.  
MR. WARREN TO MEET WITH STAFF ON  
MONDAY, JUNE 14, 1999 TO REVIEW PROGRAM,  
CARRYOVER, TECHNICAL, STAFFING  
AMENDMENTS. BOARD BUDGET WORK  
SESSION ON TUESDAY, JUNE 22, 1999 AND  
PROPOSED BUDGET ADOPTION ON THURSDAY,  
JUNE 24, 1999.**

**COMMISSIONER COMMENT/LEGISLATIVE ISSUES**

R-6 Opportunity (as Time Allows) for Commissioners to Comment on Non-Agenda Items or to Discuss Legislative Issues.

**NO ONE WISHED TO COMMENT.**

*There being no further business, the meeting was adjourned at 10:45 a.m.*

Thursday, June 10, 1999 - 10:30 AM  
Multnomah County Courthouse, Boardroom 602  
1021 SW Fourth Avenue, Portland

## LAND USE PLANNING HEARING

*Chair Beverly Stein convened the meeting at 10:45 a.m., with Vice-Chair Diane Linn, Commissioners Sharron Kelley, Lisa Naito and Serena Cruz present.*

P-2 De Novo Hearing on Appeal of Hearings Officer Decision Affirming Three Administrative Decisions PRE 16-98, PRE 17-98 and PRE 18-98 Regarding Dwelling Approval Validation and Implementation of Approved Farm Management Plans for Property Located on NW Skyline Boulevard. Presented by Chuck Beasley and Joan Chambers. TESTIMONY LIMITED TO 20 MINUTES PER SIDE.

***PROCEDURAL ISSUE ADDRESSED BY COUNTY COUNSEL SANDRA DUFFY PRIOR TO THE HEARING AND RECOMMENDATION THAT THE BOARD MAKE A DETERMINATION THAT ORDINANCE 903 IS INVALID AND DECLARE THE DE NOVO APPEAL MOOT. IN RESPONSE TO BOARD QUESTIONS, MS. DUFFY EXPLAINED THAT APPLICANTS HAVE A 1989 PERMIT AND COULD RESUBMIT THE APPLICATION USING OREGON ADMINISTRATIVE RULES. AT THE REQUEST OF THE BOARD, APPELLANT ARNOLD ROCHLIN ADVISED HE HAS NO DISAGREEMENT WITH STAFF RECOMMENDATION, BUT SUGGESTED THAT THE BOARD HEARS THE CASE TODAY AND DECIDE IT ON THE MERITS. IN RESPONSE TO A QUESTION OF COMMISSIONER NAITO, MS. DUFFY EXPLAINED THAT MR. ROCHLIN IS TRYING TO COVER THE BASES IF LUBA REMANDS THE CASE BACK TO THE BOARD ON APPEAL. APPLICANT GREAT WESTERN STATES ATTORNEY JEFF BACHRACH ADVISED THEY ARE WILLING TO GO ALONG WITH RECOMMENDATION THAT ORDINANCE 903 IS INVALID, BUT SUGGESTED THE BOARD INSTEAD AFFIRM THE HEARINGS OFFICER DECISION TODAY AND APPROVE THE PERMITS***

**AS VALID, ASSERTING THAT APPLICANTS HAVE COMPLIED WITH FARM MANAGEMENT PLAN IMPLEMENTATION. BOARD, COUNTY COUNSEL AND PLANNER CHUCK BEASLEY DISCUSSION IN RESPONSE TO MR. BACHRACH'S SUGGESTION THAT THE OREGON ADMINISTRATIVE RULES CRITERIA IS WRONG. MR. BEASLEY ADVISED HE WOULD HAVE USED DIFFERENT CRITERIA IF ORDINANCE 903 WERE NOT IN EFFECT WHEN PERMIT WAS ALLOWED. MR. ROCHLIN REBUTTAL TO MR. BACHRACH COMMENTS, ADVISING ROBINSON CASE HAS NO BINDING PRECEDENT. COMMISSIONER LINN MOVED AND COMMISSIONER CRUZ SECONDED, THAT STAFF PREPARE NOTICE AND SUBMIT DOCUMENTS TO REPEAL ORDINANCE 903 IN ONE MONTH. FOLLOWING BOARD DISCUSSION, MOTION THAT STAFF PREPARE NOTICE AND SUBMIT DOCUMENTS TO REPEAL ORDINANCE 903 IN ONE MONTH UNANIMOUSLY APPROVED. COMMISSIONER LINN MOVED AND COMMISSIONER CRUZ SECONDED, TO DENY THE THREE APPLICATIONS ON APPEAL. COMMISSIONER KELLEY ADVISED SHE DOES NOT SUPPORT MOTION AND WANTS TO DECIDE PERMITS TODAY ON THE OAR. FOLLOWING BOARD DISCUSSION, MOTION APPROVED, WITH COMMISSIONERS LINN, NAITO, CRUZ AND STEIN VOTING AYE, AND COMMISSIONER KELLEY VOTING NO. CHAIR STEIN DECLARED THE ROCHLIN-FOSTER AND APPEALS ARE MOOT.**

*There being no further business, the meeting was adjourned at 11:46 a.m.*

OFFICE OF THE BOARD CLERK  
FOR MULTNOMAH COUNTY, OREGON

*Deborah L. Bogstad*

Deborah L. Bogstad



# MULTNOMAH COUNTY, OREGON

## BOARD OF COMMISSIONERS

### Beverly Stein, Chair

1120 SW Fifth Avenue, Suite 1515  
Portland, Or 97204-1914  
Phone: (503) 248-3308 FAX (503) 248-3093  
Email: mult.chair@co.multnomah.or.us

### Diane Linn, Commission Dist. 1

1120 SW Fifth Avenue, Suite 1500  
Portland, Or 97204-1914  
Phone: (503) 248-5220 FAX (503) 248-5440  
Email: diane.m.linn@co.multnomah.or.us

### Serena Cruz, Commission Dist. 2

1120 SW Fifth Avenue, Suite 1500  
Portland, Or 97204-1914  
Phone: (503) 248-5219 FAX (503) 248-5440  
Email: serena.m.cruz@co.multnomah.or.us

### Lisa Naito, Commission Dist. 3

1120 SW Fifth Avenue, Suite 1500  
Portland, Or 97204-1914  
Phone: (503) 248-5217 FAX (503) 248-5262  
Email: lisa.h.naito@co.multnomah.or.us

### Sharron Kelley, Commission Dist. 4

1120 SW Fifth Avenue, Suite 1500  
Portland, Or 97204-1914  
Phone: (503) 248-5213 FAX (503) 248-5262  
Email: sharron.e.kelley@co.multnomah.or.us

### **ANY QUESTIONS? CALL BOARD CLERK DEB BOGSTAD @ 248-3277**

Email: deborah.l.bogstad@co.multnomah.or.us

**INDIVIDUALS WITH DISABILITIES PLEASE CALL THE BOARD CLERK AT 248-3277, OR MULTNOMAH COUNTY TDD PHONE 248-5040, FOR INFORMATION ON AVAILABLE SERVICES AND ACCESSIBILITY.**

## JUNE 7, 8 & 10, 1999 BOARD MEETINGS

### FASTLOOK AGENDA ITEMS OF INTEREST

Pg 2	8:30 a.m. Monday 1999-2000 Budget Work Session
Pg 2	9:30 a.m. Tuesday Bridal Veil De Novo Land Use Appeal Hearing
Pg 3	9:35 a.m. Thursday HUD Proclamation
Pg 3	9:40 a.m. Thursday Metro Open Space Acquisition Briefing
Pg 3	10:00 a.m. Thursday Draft Budget Proposal Review
Pg 4	10:30 a.m. Thursday NW Skyline De Novo Land Use Appeal Hearing
*	<b>Check the County Web Site:</b> <a href="http://www.co.multnomah.or.us/">http://www.co.multnomah.or.us/</a>

Thursday meetings of the Multnomah County Board of Commissioners are cable-cast live and taped and may be seen by Cable subscribers in Multnomah County at the following times:

Thursday, 9:30 AM, (LIVE) Channel 30  
Friday, 10:00 PM, Channel 30  
Sunday, 1:00 PM, Channel 30

Produced through Multnomah Community Television

Monday, June 7, 1999 - **8:30 AM**  
Multnomah County Courthouse, Boardroom 602  
1021 SW Fourth Avenue, Portland

## **BUDGET WORK SESSION**

WS-1 Board Work Session on Multnomah County Fiscal Year 1999-2000 Budget.  
3.5 HOURS REQUESTED.

---

Tuesday, June 8, 1999 - 9:30 AM  
Multnomah County Courthouse, Boardroom 602  
1021 SW Fourth Avenue, Portland

## **LAND USE PLANNING HEARING**

P-1 De Novo Hearing on Appeal of Hearings Officer Decision Regarding Denial of Appellants (Crown Point Country Historical Society) Appeal of NSA 26-94, Allowing Applicant (Trust for Public Lands) to Remove Sixteen Structures at Bridal Veil, Excluding Church and Post Office. Presented by Robert Hall and Liz Fancher. TESTIMONY LIMITED TO 20 MINUTES PER SIDE.

---

Thursday, June 10, 1999 - 9:30 AM  
Multnomah County Courthouse, Boardroom 602  
1021 SW Fourth Avenue, Portland

## **REGULAR MEETING**

### **CONSENT CALENDAR - 9:30 AM**

#### **NON-DEPARTMENTAL**

C-1 Appointments of Chris Cameron, Jon Chess, Bobbi Damiani, Delma Farrell, Linda Grimes, Karen Rhein, Kathy Hogland, Jill Alspach, Bethany Wurtz, Kathy Wilson and Theresa Sullivan as Voting Members of the CAMPAIGN MANAGEMENT COUNCIL

#### **AGING AND DISABILITY SERVICES DEPARTMENT**

C-2 Intergovernmental Revenue Agreement 9910751 with the Oregon Department of Human Resources, Senior and Disabled Services Division to Implement

U.S. Department of Health and Human Services, Administration on Aging  
Grant: Model State Project to Develop Medicare Information and Referral  
Protocols and Reports

**DEPARTMENT OF HEALTH**

C-3 Renewal of Intergovernmental Agreement 0010342 with Multnomah  
Education Service District for Assistance in Ensuring that All School Students  
Comply with State Immunization and Tuberculosis Requirements

**REGULAR AGENDA**

**PUBLIC COMMENT - 9:30 AM**

R-1 Opportunity for Public Comment on Non-Agenda Matters. Testimony  
Limited to Three Minutes Per Person.

**DEPARTMENT OF SUPPORT SERVICES - 9:30 AM**

R-2 RESOLUTION Adopting the 1998-1999 Supplemental Budget for  
Multnomah County and Making Appropriations Thereunder, Pursuant to ORS  
294.435

**NON-DEPARTMENTAL - 9:35 AM**

R-3 PROCLAIMING June 5 through 12, 1999 as HOME OWNERSHIP WEEK in  
Multnomah County, Oregon

R-4 Information and Slide Show Presentation Update and Next Steps on the  
\$135.6 Million METRO Open Space Bond Measure Passed in May, 1995  
Resulting in Acquisition of 4,400 Acres of Regionally Significant Land in 146  
"Willing Seller" Property Transactions. Presented by Jim Desmond. 15  
MINUTES REQUESTED.

R-5 Review of Draft Multnomah County Fiscal Year 1999-2000 Budget Proposal.  
Presented by Bill Farver. 30 MINUTES REQUESTED.

**COMMISSIONER COMMENT/LEGISLATIVE ISSUES - 10:30 AM**

R-6 Opportunity (as Time Allows) for Commissioners to Comment on Non-  
Agenda Items or to Discuss Legislative Issues.

Thursday, June 10, 1999 - 10:30 AM  
**(OR IMMEDIATELY FOLLOWING REGULAR MEETING)**  
Multnomah County Courthouse, Boardroom 602  
1021 SW Fourth Avenue, Portland

## **LAND USE PLANNING HEARING**

P-2 De Novo Hearing on Appeal of Hearings Officer Decision Affirming Three Administrative Decisions PRE 16-98, PRE 17-98 and PRE 18-98 Regarding Dwelling Approval Validation and Implementation of Approved Farm Management Plans for Property Located on NW Skyline Boulevard. Presented by Chuck Beasley and Joan Chambers. TESTIMONY LIMITED TO 20 MINUTES PER SIDE.

MEETING DATE: JUN 10 1999  
AGENDA NO: C-1  
ESTIMATED START TIME: 9:30

(Above Space for Board Clerk's Use ONLY)

-----  
**AGENDA PLACEMENT FORM**

**SUBJECT:** Appointments of Voting Members of the Campaign Management Council

**BOARD BRIEFING:**

DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

**REGULAR MEETING:**

DATE REQUESTED: June 10, 1999

AMOUNT OF TIME NEEDED: Consent

**DEPARTMENT:** Support Services

**DIVISION:** Finance

**CONTACT:** Theresa Sullivan

**TELEPHONE #:** x83635

**BLDG/ROOM #:** 106/1430

**PERSON(S) MAKING PRESENTATION:**

**ACTION REQUESTED:**

INFORMATIONAL ONLY    POLICY DIRECTION    APPROVAL    OTHER

**SUGGESTED AGENDA TITLE:**

*Appointment of Chris Cameron, Jon Chess, Bobbi Damiani, Delma Farrell, Linda Grimes, Karen Rhein, Kathy Hogland, Jil Alspach, Bethany Wurtz, Kathy Wilson and Theresa Sullivan as voting members of the Campaign Management Council*

**SIGNATURES REQUIRED:**

**ELECTED OFFICIAL:** \_\_\_\_\_

(OR)

**DEPARTMENT**

**MANAGER:** \_\_\_\_\_

*Dorey Stein*

99 MAY 29 PM 8:35  
COUNTY COMMISSIONERS  
BOARD OF  
PUBLIC UTILITIES  
OREGON

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277

RECEIVED

MAY 17 1999

AGING SERVICES DEPARTMENT

MEETING DATE: JUN 10 1999

AGENDA NO: C-2

ESTIMATED START TIME: 9:30

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Revenue Contract #9910751 (State #83719) with State Senior and Disabled Services Division for a model project to improve information and assistance regarding Medicare.

BOARD BRIEFING: DATE REQUESTED: REQUESTED BY: AMOUNT OF TIME NEEDED:

REGULAR MEETING: DATE REQUESTED: June 10 May 20, 1999 AMOUNT OF TIME NEEDED: NA

DEPARTMENT: Aging and Disability Services DIVISION:

CONTACT: Caroline Sullivan TELEPHONE #: 248-3620, x26841 BLDG/ROOM #: 161/3rd floor

PERSON(S) MAKING PRESENTATION: Consent calendar

ACTION REQUESTED:

[ ] INFORMATIONAL ONLY [ ] POLICY DIRECTION [x] APPROVAL [ ] OTHER

SUGGESTED AGENDA TITLE: Approval of intergovernmental revenue agreement #9910751 with State Senior and Disabled Services Division for \$75,000 to implement U.S. Department of Health and Human Services, Administration on Aging Grant #90AM2229 for a model project operating through December 1999 to improve information and assistance about Medicare services.

6/10/99 ORIGINALS TO CAROLINE SULLIVAN

99 JUN - 1 PM 12:05 BOARD OF COUNTY COMMISSIONERS MULTNOMAH COUNTY OREGON

SIGNATURES REQUIRED:

ELECTED OFFICIAL: (OR) DEPARTMENT MANAGER: James W. Council

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277



# MULTNOMAH COUNTY OREGON

AGING AND DISABILITY SERVICES  
AREA AGENCY ON AGING  
421 S.W. 5TH, 3RD FLOOR  
PORTLAND, OREGON 97204  
HELPLINE: (503) 248-3646 ADMINISTRATION: 248-3620  
TTY: 248-3683 FAX: 248-3656

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR OF THE BOARD  
DIANE LINN • DISTRICT 1 COMMISSIONER  
SERENA CRUZ • DISTRICT 2 COMMISSIONER  
LISA NAITO • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

## MEMORANDUM

TO: Beverly Stein, Board Chair  
FROM: Jim McConnell *Jim McConnell*  
DATE: May 5, 1999  
SUBJECT: Revenue Contract #9910751 (83719) with State Senior and Disabled Services Division, Human Resources Department for Medicare Information and Assistance

I. Recommendation: Aging and Disability Services (ADS) recommends Board approval for the attached revenue contract #9910751 (State #83719) with State Senior and Disabled Services Division (SDSD), for the period from day of execution through December 31, 1999.

II. Analysis: This agreement is for funds available from the U.S. Department of Health and Human Services Administration on Aging Grant #90AM2229, "Model State Project to Develop Medicare Information and Referral Protocols and Reports".

The grant proposal was prepared by ADS staff in collaboration with Clackamas County staff for a model project in Clackamas and Multnomah Counties to enhance the capacity of the aging and disability services networks to provide accurate information and make appropriate referrals for Medicare + Choice inquiries. (Medicare + Choice is the menu of expanded options available to Medicare beneficiaries as a result of the federal Balanced Budget Act of 1997.)

The grant was submitted by SDSD, which is contracting the funds to Multnomah County. Multnomah County, in turn, will contract \$24,500 of the grant monies to Clackamas County for outreach and information and assistance activities in Clackamas County.

III. Fiscal Impact: SDSD is passing through \$75,000 of federal dollars from the U.S. Department of Health and Human Services, Administration on Aging. Funds have been budgeted in the FY2000 Approved Budget and a Budget Modification is pending for the FY99 County Budget. No County funding is required.

IV. Legal Issues: NA

V. Controversial Issues: None

VI. Link to Current County Policies: The outcomes from this grant will improve the current outreach and information and assistance services, providing better access to available Medicare services for elders and persons with disabilities living in Multnomah and Clackamas Counties.

VII. Citizen Participation: NA

VIII. Other Government Participation: As noted above, federal, state and local governments are involved

S:\CONTRACT\98-99\TL99MCIA.DOC

# MULTNOMAH COUNTY CONTRACT APPROVAL FORM (See Administrative Procedure CON-1)

Contract #: 9910751 (State # 83719)

Pre-approved Contract Boilerplate (with County Counsel signature)  Attached  Not Attached

Amendment #: \_\_\_\_\_

<p style="text-align: center;"><b>CLASS I</b></p> <input type="checkbox"/> Professional Services not to exceed \$50,000 (and not Awarded by RFP or Exemption) <input type="checkbox"/> Revenue not to exceed \$50,000 (and not awarded by RFP or Exemption) <input type="checkbox"/> Intergovernmental Agreement (IGA) not to exceed \$50,000 <input type="checkbox"/> Expenditure <input type="checkbox"/> Revenue <input type="checkbox"/> Architectural & Engineering not to exceed \$10,000 (for tracking purposes only)	<p style="text-align: center;"><b>CLASS II</b></p> <input type="checkbox"/> Professional Services that exceed \$50,000 or awarded by RFP or Exemption (regardless of amount) <input type="checkbox"/> PCR Contract <input type="checkbox"/> Maintenance Agreement <input type="checkbox"/> Licensing Agreement <input type="checkbox"/> Construction <input type="checkbox"/> Grant <input type="checkbox"/> Revenue that exceeds \$50,000 or awarded by RFP or Exemption (regardless of amount)	<p style="text-align: center;"><b>CLASS III</b></p> <input checked="" type="checkbox"/> Intergovernmental Agreement (IGA) that exceeds \$50,000 <input type="checkbox"/> Expenditure <input checked="" type="checkbox"/> Revenue <p style="text-align: center;"><b>APPROVED MULTNOMAH COUNTY BOARD OF COMMISSIONERS</b></p> <p style="text-align: center;"><b>AGENDA # <u>C-2</u> DATE <u>6/10/99</u></b></p> <p style="text-align: center;"><b>DEB BOGSTAD</b></p> <p style="text-align: center;"><b>BOARD CLERK</b></p>
---	--	--

Department: Aging and Disability Services Division: \_\_\_\_\_ Date: 5/6/99  
 Originator: Caroline Sullivan/ Phone: 248-3620 Bldg/Rm: 161/3rd Floor  
 Contact: Caroline Sullivan/Donald E. Carlson Phone: 248-3620 x26841 Bldg/Rm: 161/3rd Floor

Description of Contract: Provides funds from federal Administration on Aging (AOA) through State Senior and Disability Services Division to implement AOA Grant #90AM2229 for a model project on Medicare information and assistance.

RENEWAL:  PREVIOUS CONTRACT #(S): \_\_\_\_\_  
 RFP/BID: \_\_\_\_\_ RFP/BID DATE: \_\_\_\_\_  
 EXEMPTION #/DATE: \_\_\_\_\_ EXEMPTION EXPIRATION DATE: \_\_\_\_\_ ORS/AR #: \_\_\_\_\_  
 CONTRACTOR IS:  MBE  WBE  ESB  QRF  N/A  NONE (Check all boxes that apply)

Contractor <u>Department of Human Resources</u> Address <u>Senior and Disabled Services Division</u> <u>500 Summer Street NE, 4th Floor</u> <u>Salem, OR 97310</u> Phone <u>(503) 945-5818</u>	Remittance address _____ (If different) _____ Payment Schedule / Terms <input type="checkbox"/> Lump Sum \$ _____ <input type="checkbox"/> Due on Receipt <input type="checkbox"/> Monthly \$ _____ <input type="checkbox"/> Net 30 <input type="checkbox"/> Other \$ _____ <input type="checkbox"/> Other
Employer ID# or SS# _____ Effective Date <u>Upon execution</u> Termination Date <u>December 31, 1999</u> Original Contract Amount \$ <u>75,000</u> Total Amt of Previous Amendments \$ _____ Amount of Amendment \$ _____ Total Amount of Agreement \$ <u>75,000</u>	<input type="checkbox"/> Requirements Not to Exceed \$ _____ Encumber <input type="checkbox"/> Yes <input type="checkbox"/> No

REQUIRED SIGNATURES:

Department Manager James W. Connell DATE 5-11-99  
 Purchasing Manager \_\_\_\_\_ DATE \_\_\_\_\_  
 County Counsel [Signature] DATE 5/28/99  
 County Chair \_\_\_\_\_ DATE June 10, 1999  
 Sheriff \_\_\_\_\_ DATE \_\_\_\_\_  
 Contract Administration \_\_\_\_\_ DATE \_\_\_\_\_

(Class I, Class II Contracts only)

LGFS VENDOR CODE						DEPT REFERENCE					
LINE #	FUND	AGENCY	ORG	SUB ORG	ACTIVITY	OBJ/REV	SUB OBJ	REP CAT	LGFS DESCRIPTION	AMOUNT	INC DEC
01	156	011	1750			2078			AOA Medicare I&R	\$75,000	
02											
03											

# **NOTICE**

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA), THIS DOCUMENT IS AVAILABLE IN ALTERNATE FORMATS SUCH AS BRAILLE, LARGE PRINT, AUDIO TAPE, ORAL PRESENTATION, AND COMPUTER DISK. TO REQUEST AN ALTERNATE FORMAT CALL THE STATE OF OREGON DEPARTMENT OF HUMAN RESOURCES CONTRACTS UNIT AT (503) 945-5818, TTY (503) 945-5928.



# Oregon

John A. Kitzhaber, M.D., Governor

## Department of Human Resources

*Contracts and Purchasing Units*

500 Summer Street NE, 4th Floor

Salem, Oregon 97310

(503) 945-5818

Purchasing FAX (503) 373-7365

Contracts FAX (503) 373-7889

TTY (503) 945-5928

Agreement #83719

### INTERGOVERNMENTAL AGREEMENT

This agreement is between the State of Oregon, acting by and through its Department of Human Resources, **Senior and Disabled Services Division**, hereafter called "DIVISION," and

**MULTNOMAH COUNTY AGING AND DISABILITY SERVICES  
421 SW 5TH, THIRD FLOOR  
PORTLAND, OR 97204**

**ORIGINAL**

hereafter called "MCADS."

- I. **EFFECTIVE DATE and DURATION.** This agreement shall become effective on the date this agreement has been signed by every party hereto. Unless terminated or extended, this agreement shall expire when DIVISION accepts MCADS completed performance or on December 31, 1999, whichever date occurs first.
- II. **PURPOSE.** The purpose of this agreement is to implement the U.S. Department of Health & Human Services Administration on Aging Grant #90AM2229, "Model State Project to Develop Medicare Information and Referral Protocols and Reports," by DIVISION and MCADS.
- III. **STATEMENT of WORK.** The Statement of Work (the "Work") including the delivery for such work is contained in Exhibit A, attached and incorporated by reference into this agreement. DIVISION and MCADS agree to perform the work in accordance with the terms and conditions of this agreement
- IV. **CONSIDERATION.** DIVISION shall make payment of grant award to MCADS upon receipt of funds as contained in Exhibit C, attached and incorporated by reference into this agreement.
- V. **GENERAL PROVISIONS**
  - A. **Termination**
    1. This agreement may be terminated at any time by mutual written consent of the parties. DIVISION may, at its sole discretion, terminate this agreement, in whole or in part, upon 30 days notice to MCADS.
    2. DIVISION may terminate this agreement, in whole or in part, immediately upon notice to MCADS, or at such later date as DIVISION may establish in such notice, upon the occurrence of any of the following events:

*Assisting People to Become Independent, Healthy and Safe*  
An Equal Opportunity Employer



- a. DIVISION fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for MCADS's Work; or
  - b. Federal or State laws, regulations or guidelines are modified or interpreted in such a way that either the Work under this contract is prohibited or DIVISION is prohibited from paying for such Work from the planned funding source.
  - c. MCADS commits any material breach or default of any covenant, warranty, obligation or agreement under this agreement, fails to perform the Work under this agreement within the time specified herein or any extension thereof, or so fails to pursue the Work as to endanger MCADS's performance under this agreement in accordance with its terms, and such breach, default or failure is not cured within 10 business days after delivery of DIVISION's notice, or such longer period as DIVISION may specify in such notice.
3. MCADS may terminate this agreement upon 30 days' notice to DIVISION if DIVISION fails to pay MCADS pursuant to the terms of this agreement and DIVISION fails to cure within 30 days after receipt of MCADS's notice, or such longer period of cure as MCADS may specify in such notice.
  4. Upon receiving a notice of termination of this agreement, MCADS shall immediately cease all activities under this agreement, unless DIVISION expressly directs otherwise in such notice of termination. Upon termination of this agreement, MCADS shall deliver to DIVISION all documents, information, works-in-progress and other property that are or would be deliverables had the agreement been completed.
- B. Indemnity.** DIVISION and MCADS understand that each is insured with respect to tort liability by the State of Oregon Insurance Fund, a statutory system of self-insurance established by ORS chapter 278, and subject to the Oregon Tort Claims Act (ORS 30.260-30.300). DIVISION and MCADS agree to accept that coverage as adequate insurance of the other party with respect to personal injury and property damage.

Self-Insurance Loss Allocation: DIVISION and MCADS agree that any tort liability claim, suit or loss resulting from or arising out of the parties' performance of and activities under this contract shall be allocated, as between the state agencies, in accordance with law by the Risk Management Division of the Department of Administrative Services for purposes of their respective loss experiences and subsequent allocation for self-insurance assessments under ORS 278.435. Each party agrees to notify Risk Management Division and the other party in the event it receives notice or knowledge of any claim arising out of the performance of the other parties' activities under this agreement.

- C. **Amendment.** The terms of this agreement may not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written agreement signed by both parties.
- D. **Written Notice.** All notices regarding this agreement should be sent to:

**DIVISION's Agreement Administrator:**

Jane -ellen Weidanz  
Senior and Disabled Services Division  
500 Summer Street NE / 2nd Floor  
Salem OR 97310-1015

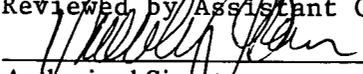
**MCADS's Liaison:**

Caroline Sullivan  
Multnomah County Aging and Disability Services  
421 SW 5th, Third Floor  
Portland, OR 97204

**VI. SIGNATURES**

**MULTNOMAH COUNTY AGING AND  
DISABILITY SERVICES**

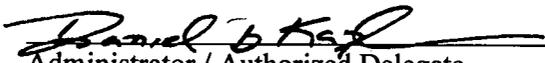
  
\_\_\_\_\_  
Reviewed by Assistant County Counsel

  
\_\_\_\_\_  
Authorized Signature  
Multnomah County Chair or Designee

**SENIOR AND DISABLED SERVICES DIVISION**

5/28/99  
\_\_\_\_\_  
Date  
June 10, 1999  
\_\_\_\_\_  
Date

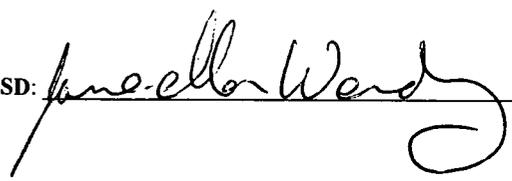
**APPROVED MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS**  
AGENDA # C-2 DATE 6/10/99  
DEB BOGSTAD  
\_\_\_\_\_  
**BOARD CLERK**

  
\_\_\_\_\_  
Administrator / Authorized Delegate

4/30/99  
\_\_\_\_\_  
Date

REVIEWED / DHR Contracts Officer: \_\_\_\_\_

\_\_\_\_\_  
Date

REVIEWED / SDSD:   
\_\_\_\_\_

4/30/99  
\_\_\_\_\_  
Date

**EXHIBIT A**  
**STATEMENT of WORK**

The Statement of Work (the "Work"), including the delivery schedule for such Work, is contained herein. DIVISION and MCADS agree to perform the Work in accordance with the terms and conditions in this contract.

The Work shall be accomplished according to Exhibit B, "Proposal for a Model State Project to Develop Medicare Information and Referral Protocols and Reports," attached and incorporated by reference into this agreement.

**Proposal for a Model State Project to Develop Medicare Information and Referral Protocols and Reports**

Oregon Department of Human Resource  
Senior and Disabled Services Division  
November 9, 1998

**Project Summary:**

The purpose of this proposal is to enhance the capacity of the aging and disability network's I & R systems to provide accurate information and make appropriate referrals for Medicare+Choice (M+C) inquiries. To accomplish this, the Project will test and improve existing Information and Referral protocols for quick, effective responsiveness to Medicare and M+C calls in Multnomah and Clackamas Counties in Oregon. 131,000 Medicare beneficiaries live in the project area. Penetration by Medicare Managed Care is 40.3% in Oregon.

**Project objectives:**

- Collect, record and report on the number of inquiries, the types of referrals made, and other assistance provided to Medicare beneficiaries.
- Evaluate trends and responsiveness and make documented improvements to existing I & R protocols.
- Develop model protocols and reporting and data collection tools.
- Collect additional information and make improvements to provide better I & R for important local populations of non-English speaking and younger disabled beneficiaries.

- Develop, as appropriate, complementary systems to support I&R responsiveness.
- Examine the larger question of how large scale national policy changes effect I & R at the program level and the role of I & R in effecting such change.

#### Approach:

A Project Coordinator working with a research consultant will provide daily oversight and consultation for the project. Data on number and types of calls, assistance provided and referrals made will be collected by trained I&R specialists at the AAA's I&R central offices, branch offices and at Senior Centers. Customer satisfaction surveys of 30 callers weekly for the first 2 months of the project and monthly thereafter will be conducted in the week following their I&R contact. Results of the analysis of data trends, customer surveys and feedback from I&R staff and referral partners will be presented to the steering committee for the project who will recommend immediate and long term improvements in the system. The members of the committee will include I & R AAA staff, SDSD staff, SHIBA Coordinator, Sr. Center I & R contractors, Ethnic Services Coordinator, Disabilities Specialist and consumers from the Advisory Councils of the participating organizations. Implementation of immediate improvements to the I&R system will be accomplished by the Project Coordinator working with I&R supervisors, field staff, and training staff. Quality measures will be monitored by data on type of response and referral, customer satisfaction surveys and feedback from I&R staff and referral partners.

#### Expected Outcomes

- Improved capacity of the I&R system to provide quick, easy access to understandable, accurate answers to Medicare questions.
- Improved quality of information about health care options, comparisons, and providers shared through the I&R system.
- Increased consumer access to choice counseling and other authoritative Medicare/health/benefits/LTC support resources.
- Improved consumer capacity for informed Medicare health plan decision making.

Major Products:

- A trend analysis of the number, type and disposition of Medicare calls during the opening weeks of the national education campaign.
- Model standards and protocols for Medicare I & R responsiveness to Medicare questions, needs for assistance with choice counseling, advocacy and other issues for beneficiaries including non-English speaking and younger disabled individuals.
- Model data collection/reporting tools and protocols for Medicare calls.
- 4 new informational pieces that are culturally appropriate for non-English speaking Medicare beneficiaries.
- Issue paper on the impact of National Policy changes on I & R and the role of I & R in effecting change.

## Proposal for a Model State Project to Develop Medicare Information and Referral Protocols and Reports

Oregon Department of Human Resource  
Senior and Disabled Services Division  
November 6, 1998

### Project Narrative

#### Purpose

SDSD is proposing a Model State Project to Develop Medicare Information and Referral (I & R) Protocols and Reports. The purpose of this proposal is to enhance the capacity of the aging and disability network's I & R systems to provide accurate information and make appropriate referrals for M + C inquiries. To accomplish this, the Project will test and improve existing Information and Referral protocols for quick, effective responsiveness to Medicare and M + C calls in Multnomah and Clackamas Counties in Oregon. Improved quality of information about health care options, increased access to choice counseling and other authoritative Medicare/health/benefits/LTC support resources, improved capacity for informed Medicare health plan decision making on the part of consumers, and quick, easy access to understandable answers to Medicare questions will be the primary quality outcomes of the improved protocols developed by the project.

#### Population of the target area:

The target counties have been chosen as representative of a concentrated population (the greater Portland area) of 131,000 Medicare Beneficiaries served by 4 Medicare HMO's and 1 SHMO as well as original Medicare. The large Medicare population in the project counties coupled with years of experience with managed care and an I & R

single entry point system that is well known in the community make this a desirable test site in Oregon. Penetration by Medicare Managed Care in Oregon is 40.3%.

**Project objectives:**

- Collect, record and report on the number of inquiries, the types of referrals made, and other assistance provided to Medicare beneficiaries during the opening months of the National Medicare Education Campaign program using HCFA data collection categories.
- Study and make documented improvements to existing I & R protocols to improve Medicare referral, assistance and reporting.
- Develop model protocols, reporting and data collection tools that can be shared and implemented nationally for Area Agencies on Aging and service providers to utilize in responding to beneficiary inquiries and handling referrals concerning health plan choices.
- Examine the larger question of how large scale national policy changes effect I & R at the program level and the role of I & R in effecting such change.
- Collect additional information and make improvements to provide better I & R for important local populations. These will include the significant numbers of Aging and Disabilities service clients in Multnomah and Clackamas Counties who are Medicare beneficiaries and speak English as a second language (Spanish, Hmong/Laotian, Chinese, Russian, Rumanian) or are younger disabled individuals. (In Multnomah County an estimated 45% of the disability clients for case management or financial eligibility are Medicare beneficiaries)
- Develop, as appropriate, complementary systems that substantially enhance the

ability of the aging and disability network to respond to Medicare beneficiaries.

The protocols developed under this grant will focus primarily on the process that takes place when a Medicare beneficiary contacts an I & R specialist at an Area Agency on Aging (AAA) or Local Service Provider. The main I & R units at the AAA central offices in Multnomah and Clackamas Counties and the 9 branch offices of the AAA's along with selected Aging Network Service Providers will participate in the project. For the purpose of this study, the participating service providers will be local Senior/District/Multicultural Centers where Older Americans Act programs and services are provided including I & R, nutrition, transportation and wellness.

The protocols will detail the answers that are given to specific questions and the circumstances under which certain questions will be referred to other authoritative respondents. The protocols will also provide detailed descriptions of additional steps that are used to assure that Medicare beneficiaries receive complete, accurate, and helpful referrals or responses to their questions.

**Approach:**

The project will be directed by Multnomah County AAA. It will be managed by a .75 time Project Coordinator working with a Research Consultant experienced in quality improvement in aging and disability programs. Oversight will be provided by a steering committee made up of Multnomah and Clackamas county I and R (I & R) staff, SDSD staff, SHIBA Coordinator, Sr. Center I & R contractors, Ethnic Services Coordinator, Disabilities Specialist and consumers from the Advisory Councils of the participating

organizations. This group and subcommittees of it will work with the Project Coordinator and Research Consultant to analyze the results of weekly reporting on types of calls/referrals and customer satisfaction surveys during the first 2 months of the project and monthly thereafter.

Data on the types of calls and referrals will be collected by I & R staff including receptionists and screeners trained in the use of collection sheets reflecting HCFA approved data categories. Caller satisfaction surveys will be conducted for 30 randomly selected callers from the previous week. They will be queried as to whether their questions were answered, the information they receive was useful to them, and whether any referral was effective (they contacted the referral source and received the assistance they needed). The results of the data collection and surveys and feedback from the I&R staff will be used to devise improvements to the protocols, brief participating I & R staff at the Area Agencies, and participating Service Providers and guide further testing of the improved system.

In order to guide future users of the models developed by the project, the protocols will also describe associated supportive activities. To accomplish this, improvements to the protocols will be linked to the main categories of quality I & R practice from the AIRS National Standards for I & R. These include: Access to Service, Referral Giving, Information Giving, Follow-up Advocacy/Intervention, Resource Files, Community Awareness Promotion, Staff Training, Inquirer Data Collection and Data Analysis and Reporting.

Multnomah and Clackamas Counties are active leaders within the Oregon Association on Area Agencies on Aging and Disabilities and will work with O4AD and SDSD to share improvements with the other Area Agencies in Oregon for further testing and development of the Oregon Model for Medicare Information and Referral.

A report on the development of the protocols will be provided to the grantor on or before May 31st. The report will describe all improvements to the State's I & R protocol for handling M + C requests. It will also provide a description of the protocols before funding and how the system was improved to accommodate increases in M + C calls including staff training and other support activities developed through the study, improvements to technology support, specialized software, phone or other system improvements.

Additional improvements to the support environment for I & R for Medicare beneficiaries will be provided through the coordination by the participating counties in this project with SDSD around the AoA Information and Referral (I&R) for Medicare Beneficiaries Project. At least one training session for Medicare Beneficiaries will be planned in the two county area as a result of the coordination between the Medicare Beneficiaries Project and the proposed Project to Develop Medicare I & R Referral Protocols and Reports. I & R community outreach posters will be also provided along with brochures and fliers appropriate to Medicare Beneficiaries. An important additional I & R resource will be the HCFA Conversion Manual which will provide I & R staff with detailed answers to many commonly asked Medicare questions. Additional manuals, fliers and

posters may be purchased by the proposed I & R Protocol Project to improve resources available at all I & R sites in the two county area. Staff will be trained to use these manuals as part of the support through the I & R Protocol Project.

From the overall experience gained during the project, the final report will include an analysis of the effect of large scale national policy changes on I&R at the program level and its role in effecting such change.

#### Work plan:

##### November/December.

- Hire Project Coordinator (Position description prepared in October).
- Hire Research Consultant.
- Implement HCFA approved categories on all M + C data collection sheets for I + R and train AAA/provider staff on data collection.
- Collect and enter data into log sheets weekly.
- Weekly survey 30 callers in follow-up surveys to check for ability to answer caller's questions, usefulness of information, & effectiveness of referral.
- Convene Steering Committee to review initial data and make recommendations for improvements and establish procedures/subcommittees for quick response to data analysis and associated improvements.
- Implement improvements at AAA central, branch and provider sites.
- Report preliminary progress of study at O4AD December meeting.
- Provide staff training as necessary to assure proper implementation of improvements.

### **January/February**

- Collect and enter data into log sheets weekly.
- Bi-weekly survey of 30 callers in follow-up surveys for effectiveness of referral and usefulness of information.
- Convene Steering Committee to review the effectiveness of improvements made in the first two months of study and make further improvements.
- Continue staff briefings/trainings on continued improvements.
- Survey I & R staff, screeners, and case managers for feedback on protocol improvements and to identify gaps or further improvements.

### **March/April**

- Collect and enter data into log sheets weekly.
- Work with Steering Committee to formulate draft model protocols for referral, assistance and reporting.
- Share draft protocols with field staff, referral sources, and Oregon AAA's for response and comment.
- Work with O4AD to identify several AAA's willing to field test portions or all of the draft protocols and provide comments to the project Steering Committee.
- Work with subcommittee of steering committee to develop materials and specialized protocols for individuals who need translations into other languages/formats.
- Share translated materials with Multnomah/Clackamas Pan-Asian Council, Diversity Committee, International Refugee Council and other multicultural groups for review.
- Submit first quarter project report to AoA/HCFCA, January 31, 1999.

## **May/June**

- Collect and enter data into log sheets weekly.
- Prepare second draft of Protocols for referral, assistance and reporting and share with O4AD and field reviewers.
- Work with Steering Committee to develop descriptions of all support activities developed as part of the study including training, resource materials, promotion/public awareness and the like.
- Develop preliminary report on protocols and support activities and present draft to SDSA and at May meeting of O4AD.
- Submit second quarter project report to AoA/HCFA, April 30, 1999.
- Submit report on model protocols and support activities to AoA/HCFA, May 31, 1999.

## **July/August**

- Collect and enter data into log sheets weekly.
- Work with Steering Committee to consider technology improvements for I & R response for Medicare beneficiaries including review of I & R software, online access to data bases, and other support improvements and make recommendations for a test of such improvements.
- Provide computer and Internet capacity at 5 I & R locations to access and study the use of online data bases and other information useful to health care decision making.
- Test several I & R software programs for enhanced ease of data entry, reporting, service referral and client tracking.

- Convene a series of meetings with SDS, O4AD, SHIBA, FACCT and other local and national resources to consider the overall impact of National Policy Changes on I & R systems and the role of I & R in effecting change.
- Submit third quarter report to AoA/HCF, 7/31/99.

### September/October

- Collect and enter data into log sheets weekly.
- Review the effect of the new protocols on I & R for Medicare beneficiaries and make final adjustments in the system.
- Work with Steering Committee to recommend improvements/additions in MIS system, technology supports for the I & R system for Medicare beneficiaries.
- Identify appropriate benchmarks or key results related to I & R that should be added to tracking systems.
- Develop a draft report on the effect of National Policy Changes on I & R systems and the role of I & R in effecting change and share it for comment to academic, research, and service leaders.
- Prepare final report for project including all study findings, model protocols, new resources including of translated, culturally appropriate materials and support activities.
- Prepare final paper on the effect of National Policy Changes on I & R systems and the role of I & R in effecting change.
- Submit final report to AoA/HCF, 10/31/99

### Multnomah and Clackamas Existing I & R Training and Protocols

In preparation for the introduction of M + C in Clackamas and Multnomah Counties, a

coordinated staff training series for I & R, reception, screening, eligibility and Case Management staff was implemented in September and October. During that time 4 briefings and 5 full day training sessions on Medicare Plus Choice were provided by ADS training staff who had attended O4AD/SDSD sponsored M+C forums and a HCFA day long seminar on M + C. All I & R staff at the central, branch and Sr. Center locations have attended the local trainings or have immediate access to mentors who have. The local M + C trainings have also been open to and widely attended by other referral partners including Social Security, SHIBA, Disability Service Offices, Mental Health, and Developmental Disabilities Office.

An existing set of I & R protocols based on quality outcomes for callers and regular reporting on I & R services guide both systems. The network includes a central single entry phone number in each county that is answered by trained I & R staff at the Central office of each AAA. Branch offices located in the main districts of the counties with trained I & R staff serve as the referral and information points for case management and other Medicaid services. Contracted I & R staff are also located in neighborhood Senior Centers where meal sites/home delivered meals, transportation and other Older Americans Act services are coordinated.

The key elements of the existing I & R protocols in the participating counties include:

Single entry point for receiving help,

- Call answered within 5 rings by a "real" person, not voice mail. (In Clackamas county, voice mail is used if phones lines are busy with an immediate return call by I & R staff )

- If staff are not available to take the call, the receptionist will take a message and call will be returned by an I & R staff person on the same day.
- If additional information is needed staff must phone the caller within 4 hours.
- Translation services are available on an immediate basis by Spanish speaking I & R staff or, for other languages, via the AT&T language line or a face to face meeting with an interpreter.
- All I & R staff receive regular training and meet regularly as a unit to share best practice, identify emerging issues for I & R resource development and training.
- In Multnomah county after hours calls are answered by the 24 hour hotline who transcribes the message and faxes the message to I & R staff. In Clackamas County after hours calls are taken via voice mail. In both cases the call will be returned on the next business day.

Individuals who call the central number to request information about M+C are queried as to the type and scope of their question and the information is collected on a data sheet. They are then referred to one of several I&R specialists trained in M+C issues or, if the caller is an existing client, to an eligibility specialist for further assistance or referral. I & R staff including receptionists and screeners who are trained in queries and initial answers for callers currently follow a basic response regarding Medicare Plus Choice that will be examined and improved as part of the Project. This includes:

- Provide response in the language or format most suitable to the caller's comfort and understanding.
- Assure all M + C callers that no action is necessary on their part in order to maintain their current coverage and provider.

- Refer callers with questions about choices under Medicare Part C to trained screener, eligibility specialist, SHIBA staff or volunteer or, if appropriate to other M + C help services including toll free lines and web pages.
- Refer callers needing assistance with Medicare Managed Care health choices to SHIBA counselors or trained Eligibility Specialists or Case Managers for choice counseling.
- Provide information over the phone and/or supported by mailed materials that will answer callers' questions, assist callers to compare Medicare provider plans, and make informed health plan decisions.
- Refer callers who are new enrollees for choice counseling to SHIBA or other resources that assist in choosing health plans.
- Provide access to information on other health and long term care services and supports available through Aging and Disability Services.
- Refer callers who have issues regarding patient rights under Managed Care to trained specialists for assistance, active advocacy or follow-up to assure resolution.

At the outset of the project, data collection tools will be improved to include at least the minimum HCFA requirements for type and disposition of call. Also, caller contact information will be taken for a random sample of thirty callers each week for a follow-up survey in the week after their call for I & R. Improvements in protocols, manner of response and resources will be devised and implemented quickly by the Steering Committee during the first two months of the project.

**Anticipated Project Outcomes:**

- Improve the capacity of the I&R system to provide quick, easy access to understandable, accurate answers to Medicare questions.
- Improve quality of information about health care options, comparisons, and providers.
- Increase consumer access to choice counseling and other authoritative Medicare/health/benefits/LTC support resources.
- Improve consumer capacity for informed Medicare health plan decision making.

Attached vitae of project staff:

## Project Coordinator

The Project Coordinator will be hired at the time the grant is received. Qualifications will include three years experience with Aging and Disability or other Human Services Programs, experience in quality assurance, grant or report writing, data analysis, and group facilitation. Bachelor's degree or equivalent experience.

## CURRICULUM VITAE

### SHARON A. BAGGETT Ph.D, RESEARCHER

6200 NE 21st Ave.  
Portland, OR 97211  
503-287-3618

### EDUCATION

Ph.D. 1988	Portland State University - Urban Studies/Policy Analysis
M.A. 1976	University of North Texas - Studies in Aging
B.A. 1974	University of North Texas - Sociology/Social Work

### EMPLOYMENT BACKGROUND

#### Consultant -Research/Evaluation

(1996 to present) Representative projects include: evaluation of case management for aging and disability services; development of improved case management process for aging and disability services; multi-year evaluation of youth mentoring program; cross-cultural research in India on care of aged in exile/refugee communities, including in depth interviews with 50 elders; evaluation of low-income assistance program including interviews with program staff, on-site visits, customer surveys and focus groups; evaluation of energy education program (media and point-of-purchase program) including customer and vendor surveys.

#### Associate & Senior Associate . Barakat & Chamberlin, Inc.

(1993 to 1996) Participated in field research projects related to program evaluation. Designed and implemented survey instruments and analyzed qualitative and quantitative field data. Conducted focus groups, key informant interviews, as well as customer/client surveys. Incorporated review of research and regulatory texts in evaluation of programs designed to enhance energy conservation. Managed annual budgets exceeding \$500,000; coordinated and supervised project staffs ranging from 3 to 10 persons. Responsible for written reports, client relationships, and assisted with internal staff development processes.

#### Assistant Professor, Adjunct University of Portland Portland State University Oregon State University

(1990 to 1993) Taught undergraduate courses in gerontology, social policy, and social problems. -Wrote funded grant to survey special care units for Alzheimer's patients in Oregon nursing homes. Developed survey instruments for sample of 483 facilities, with return rate of 82 percent. Supervised interviewers and coding staff; analyzed data; developed a consumer guide to special care units; and prepared technical report.

#### Project Manager Portland State University, Institute on Aging

(1987 to 1989) Managed grant budget and reduced project costs. Trained and supervised research staff and coordinated faculty team. Developed telephone survey for Oregon city planners and trained and supervised survey that had a 93% response rate. Developed an evaluation instrument for training; analyzed data and wrote evaluation report. Designed a one-day training seminar for city planners.

### PUBLICATIONS: BOOKS

Baggett, S.A. (1989). Residential Care for the Elderly: Critical Issues in Public Policy. Westport, CT: Greenwood.

### SELECTED PUBLICATIONS: REFEREED JOURNALS

Baggett, S.A. & Adler, S. (1990). Regulating the residential care industry: Historical precedents and current dilemmas. *JOURNAL OF AGING AND SOCIAL POLICY*, 2(1), 15-31.

Baggett, S.A. (1981). Attitudinal Consequences of Older Adult Volunteers in Public School Setting. *EDUCATIONAL GERONTOLOGY*, July, 35-49.

#### **PUBLICATIONS: CHAPTERS**

Baggett, S.A. (1983). Historical perspective of the long term care facility. In M.L. Hogstel (Ed.), *MANAGEMENT OF PERSONNEL IN LONG TERM CARE*. Robert J. Brady, 1983.

#### **SELECTED UNIVERSITY PUBLICATIONS**

Baggett, S.A., & Pratt, C. (1992). An Oregon guide to special care units for persons with dementia. SP55-596, August 1992. Covallis, OR: Oregon State University Extension Service.

Baggett, S.A., & Scannell, A. (1989). The demographics of aging. In *RESOURCE PAPERS: LIVING ENVIRONMENTS FOR OLDER PEOPLE - NEW CHALLENGES FOR THE PLANNING PROFESSION*. Portland, OR: Institute on Aging, Portland State University.

Baggett, S.A., & Scannell, A. (1989). Physical changes with age. In *RESOURCE PAPERS: LIVABLE ENVIRONMENTS FOR OLDER PEOPLE - NEW CHALLENGES FOR THE PLANNING PROFESSION*. Portland, OR: Institute on Aging, Portland State University.

Baggett, S.A., & Snouffer, K. (1984). Frail elderly in the senior center: A manual for successful programming. Portland, OR: Neighborhood House, Inc.

Baggett, S.A. (1981). Informal support systems. In *ISSUES - WORKING PAPERS FOR STATE WHITE HOUSE CONFERENCE ON AGING*. Austin, TX: Governor's Committee on Aging.

#### **SELECTED PAPERS PRESENTED AT PROFESSIONAL MEETINGS**

Baggett, S.A. (1998, November[Accepted]) Youth At-risk mentor program: Rethinking evaluation and outcomes. Paper presented at American Evaluation Association Conference, Chicago, IL.

Baggett, S.A., Peters, J.S., Seiden, K., & Morander, L. (1998, July) Changing consumer attitudes to energy efficiency: Midterm Results from and advertising campaign. Paper presented at the American Council on Energy Efficiency Conference, CA.

Baggett, S.A., & Johnson, K. (1995, August). Federal Regulations: The carrot or the stick for Motors Programs Paper presented at the International Energy Program Evaluation

#### **SELECTED GRANT HISTORY**

##### **External support:**

Evaluation Consultant (1998) Multnomah County Aging and Disability Services. Assist in development and implementation of Quality Case Management Initiative. Includes development of standards of performance; revised assessment system; and care planning protocols.

Evaluation Consultant (1998) Committed Partners for Youth. Development and implementation, using volunteer staff, of program evaluation. Identification and development of outcomes measurement tools for youth, partners, schools, and parents involved in the mentoring program.

Evaluation Consultant (1998) In coordination with Research Into Action, three-year evaluation of the Building Operators Certification program, offered by the Northwest Energy Efficiency Council. Development of surveys, monitoring of survey implementation, revision of instruments as needed, analysis of quantitative and qualitative data, and reports.

Evaluation Consultant (1997). Multnomah County Aging Services, contract to establish best practice in case management, evaluate Aging Services case management in relation to best practice, and

develop policy and program recommendations. Conducted literature review and key informant interviews. Developed surveys and case record review protocols, conducted surveys and reviews, analyzed qualitative data, and prepared program recommendations for committee. Provided assistance with development of measures of customer satisfaction.

**Budget Information - Non-Construction Programs**

**Section A - Budget Summary**

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.						
2.				75,000		75,000
3.						
4.						
5. Totals						75,000

**Section B - Budget Categories**

6. Object Class Categories	Grant Program, Function or Activity				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel					31,067
b. Fringe Benefits					10,858
c. Travel					3,000
d. Equipment					
e. Supplies					8,250
f. Contractual					20,825
g. Construction					
h. Other (Training Events)					1,000
i. Total Direct Charges (sum of lines 6a - 6h)					75,000
j. Indirect Charges					
k. Totals (sum of lines 6i-6j)					75,000
7. Program Income/Third Party In/Kind					

Section C - Non Federal Resources					
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) Total	
8.				0	
9.					
10.					
11.					
12. Totals (Sum of lines 8 - 11)	0	0	0	0	
Section D - Forecasted Cash Needs					
	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	75,000	9,375	18,749	23,438	23,438
14. Non-Federal					
15. Total (Sum of lines 13 - 14)	75,000	9,375	18,749	23,438	23,438
Section E - Budget Estimates of Federal Funds Needed for Balance of the Project					
(a) Grant Program	Future Payment Periods (Years)				
	(b) First	(c) Second	(d) Third	(e) Fourth	
16.	75,000				
17.					
18.					
19.					
20. Totals (Sum of lines 16 - 19)					
Section F - Other Budget Information (Attach additional sheets if necessary)					
21. Direct Charges:		22. Indirect Charges			
23. Remarks					

**Senior and Disabled Services Division**

**AAA Model State Project**

**Detail by Object Class Category**

Revised: November 8, 1998

**Personnel**

Project Coordinator: 0.75 FTE	26,250
Information & Referral Staff	4,817

Total Personnel 31,067

Fringe 10,858

**Travel**

Travel & Conferences	3,000
----------------------	-------

Total Travel 3,000

**Supplies**

Printing	750
----------	-----

Copying	500
---------	-----

Computer Memory & Software	7,000
----------------------------	-------

Total 8,250

**Contracts**

Project Researcher 140 hrs @ \$125	17,500
------------------------------------	--------

Translation Services 5 languages 4 pieces	3,325
---	-------

Total Contracts 20,825

**Other**

Training events	1,000
-----------------	-------

Total Other 1,000

Total Grant 75,000

## ASSURANCES — NON-CONSTRUCTION PROGRAMS

**Note:** Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

• Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age;

(e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. § 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.

Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of lands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11888; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) uniformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. § 1701 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

NATURE OF AUTHORIZED CERTIFYING OFFICIAL <i>David B. K. P.</i>	TITLE DEPUTY ADMINISTRATOR
PLICANT ORGANIZATION SENIOR + DISABLED SERVICES DIVISION	DATE SUBMITTED 11/9/98

**Certification Regarding Lobbying**

**Certification for Contracts, Grants, Loans,  
and Cooperative Agreements**

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal Appropriated Funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee or any agency, a Member of Congress, an officer or employee of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee or any agency, a Member of Congress, an officer or employee of Congress, or an Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

SENIOR + DISABLED SERVICES DIVISION  
Organization

David B. Kay Deputy Administrator 11/9/98  
Authorized Signature Title Date

NOTE: If Disclosure Forms are required, please contact: Margaret A. Tolson, Director; Grants Management Division; 330 Independence Avenue, S.W., Room 4256-COHEN; Washington, D.C. 20201-0001

Certification Regarding Debarment, Suspension, and Other  
Responsibility Matters - Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR Part 76, certifies to the best of its knowledge and believe that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1) (b) of this certification; and

(d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower Tier Covered Transaction." provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

**U.S. Department of Health and Human Services**  
**Certification Regarding Drug-Free Workplace Requirements**  
**Grantees Other Than Individuals**

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR Part 76, Subpart F. The regulations, published in the May 25, 1990 Federal Register, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the Department of Health and Human Services (HHS) determines to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, HHS, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios.)

If the workplace identified to HHS changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see above).

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

"Controlled substance" means a controlled substance in Schedules I through V of the Controlled Substances Act (21 USC 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15).

"Conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

"Criminal drug statute" means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

"Employee" means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All "direct charge" employees; (ii) all "indirect charge" employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace; (2) The grantee's policy of maintaining a drug-free workplace; (3) Any available drug counseling, rehabilitation, and employee assistance programs; and, (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and, (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

*(Continued on reverse side of this sheet)*

**HHS—Certification Regarding Drug-Free Workplace Requirements—continued from reverse page**

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or, (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).



# CLACKAMAS COUNTY

Department of Human Services

Social Services Division

Community Action Agency  
Aging and Disability Services

JOHN MULLIN  
DIRECTOR

November 6, 1998

Roger Auerbach  
Director, Senior and Disabled Services Division  
500 Summer St. NE  
Salem, OR 97310-1015

Dear Roger,

Clackamas County Social Services is committed to planning for and providing coordinated state, regional and local outreach and response to Medicare beneficiaries on the changes to Medicare. To date, the Agency:

- wrote the grant that created the statewide Medicare Education coalition;
- devoted staff time to assist with the Oregon Medicare + Choice Coalition's work,
- worked with regional partners to explore opportunities to share resources,
- is working within Clackamas County to develop a network of informed senior advocates,
- provided initial staff training and will continue to provide educational opportunities to staff and local partners, and
- has developed an preliminary plan to handle the expected influx of calls.

We now look forward to the opportunity to take our involvement one step further by partnering with Multnomah County to develop protocols that will assist other Area Agencies on Aging to provide complete and accurate information to seniors and people with disabilities in the most efficient manner possible through our participation in the Model State Projects to Develop Medicare Information and Referral Protocols and Reports program.

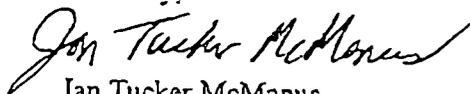
Clackamas County Social Services brings to this endeavor a number of strength, including:

- A well trained staff that is willing to collect data and serve on the project's Steering Committee,
- A diverse population base that includes hard to reach rural residents and significant Russian and Spanish speaking populations,
- An existing I&R system that is highly integrated into the whole agency and throughout the local aging network.

The area served by Clackamas County Social Services and Multnomah Aging and Disability Services is diverse ethnically and geographically. This, combined with high managed care penetration, will provide an excellent proving ground for proposed protocols that will be useful to other agencies throughout the country.

We strongly support the Senior and Disabled Services Division's request to the Administration on Aging for funding for this project.

Sincerely,



Jan Tucker McManus  
Administrative Services Manager



# MULTNOMAH COUNTY OREGON

AGING SERVICES DEPARTMENT  
AREA AGENCY ON AGING  
421 S.W. 5TH, 3RD FLOOR  
PORTLAND, OREGON 97204  
SENIOR HELPLINE: (503) 248-3646 ADMINISTRATION: 248-3620  
TDD: 248-3683 FAX: 248-3656

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR OF THE BOARD  
DAN SALTZMAN • DISTRICT 1 COMMISSIONER  
GARY HANSEN • DISTRICT 2 COMMISSIONER  
TANYA COLLIER • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

November 9, 1998

Roger Auerbach, Director  
Senior and Disabled Services  
Human Services Building  
500 Summer St. NE  
Salem, OR 97310-1015

Dear Roger:

The Multnomah County Aging and Disability Services supports the SDSA proposal for a model state project to develop Medicare Information and Referral (I&R) protocols and reports. We have worked closely with SDSA and O4AD to develop training and prepare for the Oregon Medicare + Choice Information Campaign. This proposal is an important addition to Oregon's leadership role in assuring that older adults and persons with disabilities have access to the best information and assistance in planning for their health and care needs.

We are pleased to participate with Clackamas County in providing the data collection, analysis and development of protocols to improve the I&R we may provide to the over 131,000 Medicare beneficiaries in the Portland area. The role of Area Agencies on Aging is critical for the specialized assistance that some older people, their families and caregivers may need to understand the issues when making health care decisions. Our many years of experience in working with older people and individuals with disabilities around managed care issues make us appreciate the need for high quality I & R.

We wish you every success with this important proposal.

Sincerely,

  
Jim McConnell, Director

"To assure a vibrant community through the active involvement of older adults"

November 5, 1998

Jim McConnell, Director  
Multnomah County Aging and Disability Services  
421 SW 5<sup>th</sup> Ave.  
Portland, OR 97204

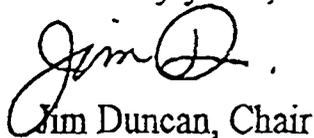
Dear Jim:

Elders in Action is pleased to support your grant proposal to the Administration on Aging for a "Model State Project to Develop Medicare Information and Referral Protocols and Reports" This collaborative effort with Clackamas County Area Agency on Aging will provide a very useful service in helping area Medicare beneficiaries through the myriad questions and concerns they may have with the new changes in Medicare.

Our agency is a strong consumer organization with active senior advocates and we understand the critical importance of having an "Elder Friendly" program in all areas of information and referral services. We have been working in concert with your agency and others for the past few months in preparing for the Medicare + Choice program. We know first hand the need for comprehensive I & R protocols for quick and effective responsiveness to Medicare and Medicare + Choice related calls in Multnomah and Clackamas Counties.

As the advisory Commission for Multnomah Aging and Disability Services, we know the critical services you provide, and the professional manner in which your agency operates. We are confident that you will be successful in fulfilling the terms of the grant and we hope that you will receive it in a timely manner so that the public can be educated and informed on these vital issues.

Sincerely yours,



Jim Duncan, Chair  
Elders in Action Commission



501 SW WASHINGTON STREET • PORTLAND, OR 97204-2238  
PH: (503) 823-5269 FAX: (503) 823-5826  
EMAIL: [volunteer@eldersaction.org](mailto:volunteer@eldersaction.org)



DEC 18 1998

Washington, D.C. 20201

Ref: 90AM2229  
Federal Funds Awarded: \$75,000

Dan Kaplan  
Deputy Administrator  
Senior & Disabled Services Division  
Consumer Relations and Community Education.  
500 Summer Street, N.E., 2nd Floor  
Salem, OR 97310-1015

SENIOR AND DISABLED  
SERVICES DIVISION

JAN 04 1999

ADMINISTRATION

Dear Mr. Kaplan:

I am pleased to inform you that your grant application entitled, "Model State Project to Develop Medicare Information and Referral Protocols and Reports," has been approved for funding by the Administration on Aging. Your grant award is made pursuant to the legislative authority of the Economy Act - 31 U.S.C. 1535 and Section 1851(e)(3)(D) of the Social Security Act.

The enclosed Financial Assistance Award specifies the amount and duration of your grant. Also enclosed are copies of the instructions and regulations pertinent to the administration of your grant. The number referenced above has been assigned to your grant and should be used on all grant-related correspondence.

The Project Officer responsible for monitoring and assisting in the programmatic activities of the project is:

Ms. Sherri Clark  
Administration on Aging  
330 Independence Avenue, SW  
Washington, DC 20201  
Telephone: (202) 619-3955  
(202) 260-1012

The Grants Management Official assigned to your project and available to assist you in the non-programmatic aspects of the grant is:

Reginald Newsome  
Administration on Aging  
330 Independence Avenue, SW  
Washington, D.C. 20201  
Telephone: (202) 619-3098

Please note that all correspondence and reports related to your grant should be transmitted both to the Grants Management Official and the Project Officer.

Progress reports must be submitted quarterly (at three-month intervals) throughout the entire period. The Financial reports must be submitted semiannually (at six-month intervals) throughout the entire project period. The enclosed "Instructions for Quarterly Progress Reporting" and "Financial Reporting Requirements" detail the reporting schedule and format. Progress reports must contain information regarding the number of Medicare+Choice (M+C) related calls by the following predetermined categories:

- Explanation of M+C;
- M+C Eligibility, Enrollment, and Disenrollment;
- Specific Medicare Plan Information; and
- Inquiries regarding the Qualified Medicare Beneficiary and Specified Low-Income Medicare Beneficiary programs.

Progress reports also should contain the number of referrals made to State Health Insurance Assistance Programs, Medicare Carriers, Medicare Fiscal Intermediaries, Social Security District Offices, State Insurance Commissioners, and M+C Plans.

If we can be of any assistance, please feel free to contact your Project Officer. We are looking forward to working with you on this important project

Sincerely,

  
Jeanette C. Takamura  
Assistant Secretary for Aging

Enclosures

DEPARTMENT OF HEALTH AND HUMAN SERVICES  
Administration on Aging  
FINANCIAL ASSISTANCE AWARD

PMS DOCUMENT NUMBER  
02 90AM222901

1. AWARDING OFFICE: <b>Administration on Aging</b>	2. ASSISTANCE TYPE: <b>Grant</b>	3. AWARD NO.: <b>90AM2229</b>	4. AMEND NO.: <b>0</b>
---	-------------------------------------	----------------------------------	---------------------------

5. TYPE OF AWARD: <b>Demonstration</b>	6. TYPE OF ACTION: <b>New Award</b>	7. AWARD AUTHORITY: <b>42 USC 3031-3037B</b>
---	--	---

8. BUDGET PERIOD: <b>12/1/1998</b> THRU <b>11/30/1999</b>	9. PROJECT PERIOD: <b>12/1/1998</b> THRU <b>11/30/1999</b>	10. CAT. NO.: <b>93.048</b>
---	--	-----------------------------

11. RECIPIENT ORGANIZATION: <b>OREGON SENIOR AND DISABLED SERVICES DIVISION CONSUMER RELATIONS AND COMMUNITY EDUCATION 500 SUMMER STREET, N.E., 2ND FLOOR SALEM, OR 97310-1015 DAN KAPLAN, DEPUTY ADMINISTRATOR</b>	12. PROJECT/PROGRAM TITLE: PRIORITY AREA-- <b>99-02</b> <b>MODEL STATE PROJECTS TO DEVELOP MEDICARE INFORMATION AND REFERRAL PROTOCOLS AND REPORTS</b>
--	--

13. COUNTY: <b>POLK</b>	14. CONGR. DIST.: <b>5</b>	15. PRINCIPAL INVESTIGATOR OR PROGRAM DIRECTOR: <b>JANE-ELLEN WEIDANZ</b>
----------------------------	-------------------------------	--

16. APPROVED BUDGET :		17. AWARD COMPUTATION:	
PERSONNEL..... \$	<b>31,067</b>	A. NON-FEDERAL SHARE.....\$	<b>0</b> <b>0.0 %</b>
FRINGE BENEFITS.....	<b>10,858</b>	B. FEDERAL SHARE.....\$	<b>75,000</b> <b>100.0 %</b>
TRAVEL.....	<b>3,000</b>	18. FEDERAL SHARE COMPUTATION:	
EQUIPMENT.....	<b>0</b>	A. TOTAL FEDERAL SHARE.....\$	<b>75,000</b>
SUPPLIES.....	<b>8,250</b>	B. UNOBLIGATED BALANCE FEDERAL SHARE.....\$	
CONTRACTUAL.....	<b>20,825</b>	C. FED. SHARE AWARDED THIS BUDGET PERIOD.....\$	<b>75,000</b>
OTHER.....	<b>1,000</b>	19. AMOUNT AWARDED THIS ACTION:      \$ <b>75,000</b>	
TOTAL DIRECT COSTS.....	<b>75,000</b>	20. FEDERAL \$ AWARDED THIS PROJECT PERIOD:	
TOTAL INDIRECT COSTS CALCULATED \$	<b>0</b>	21 AUTHORIZED TREATMENT OF PROGRAM INCOME: <b>Additional Costs</b>	
AT % OF \$		22. APPLICANT EIN: <b>1930592162A3</b>	
TOTAL IN-KIND CONTRIBUTIONS..... \$	<b>0</b>	23. OBJECT CLASS: <b>4145</b>	
TOTAL APPROVED BUDGET	\$ <b>75,000</b>	24. FINANCIAL INFORMATION	

APPROPRIATION	CAN NO	NEW AMT.	UNOBLIG.
<b>75X0511</b>	<b>92994257</b>	<b>75,000</b>	

Remarks:

ATTACHED ARE TERMS AND CONDITIONS, INSTRUCTIONS FOR REQUESTING FUNDS, REPORTING REQUIREMENTS, THE AOA GRANTS ADMINISTRATION MANUAL, 45 CFR PART 74 (IN THE AOA/GAM), 45 CFR PART 92 (FOR STATE, LOCAL, AND FEDERALLY RECOGNIZED TRIBAL GOVERNMENTS ONLY), AND A COPY OF THE ANTI-LOBBYING NOTICE. THE INITIAL EXPENDITURE OF FUNDS BY THE GRANTEE CONSTITUTES ACCEPTANCE OF THIS AWARD. NO FUTURE SUPPORT IS ANTICIPATED.

THERE ARE SPECIAL CONDITIONS ATTACHED TO THIS AWARD.

(\* ) REFLECTS ONLY FEDERAL SHARE OF APPROVED BUDGET.

25. SIGNATURE-AoA GRANTS OFFICER <i>Margaret A. Tolson</i> Margaret A. Tolson	DATE: <b>12-18-98</b>	26. SIGNATURE(S) CERTIFYING FUND AVAILABILITY <i>Mary-Michelle Haddix</i> Mary-Michelle Haddix	DATE:
27. SIGNATURE AND TITLE- PROGRAM OFFICIAL(S) <i>Jane-ellen Weidanz</i>	DATE:		

**APPLICATION FOR  
GENERAL ASSISTANCE**

OMB Approval No. 8348-0043

TYPE OF SUBMISSION: Application <input type="checkbox"/> Construction <input checked="" type="checkbox"/> Non-Construction Preapplication <input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction	2. DATE SUBMITTED 11/9/98	Applicant Identifier
	3. DATE RECEIVED BY STATE Not Applicable	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

**APPLICANT INFORMATION**

Name: Senior and Disabled Services Division  
 Address (give city, county, state, and zip code):  
 500 Summer Street, NE 2nd Floor  
 Salem, OR 97310-1015

Organizational Unit:  
Consumer Relations and Community Education

Name and telephone number of the person to be contacted on matters involving this application (give area code):  
 Jane-ellen Weidanz  
 (503) 945-6444

EMPLOYER IDENTIFICATION NUMBER (EIN):  
 933 - 0794831

TYPE OF APPLICATION:  
 New  Continuation  Revision

Check appropriate letter(s) in box:  
 1. Increase Award    2. Decrease Award    3. Increase Duration  
 4. Decrease Duration    Other (specify):

7. TYPE OF APPLICANT: (enter appropriate letter in box)

A. State	H. Independent School Dist.
B. County	I. State Controlled Institution of Higher Learning
C. Municipal	J. Private University
D. Township	K. Indian Tribe
E. Interstate	L. Individual
F. Intermunicipal	M. Profit Organization
G. Special District	N. Other (Specify) _____

8. NAME OF FEDERAL AGENCY:  
Administration on Aging

CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 93.048

NAME: Special Programs for the Aging— Title IV

AREAS AFFECTED BY PROJECT (check appropriate box):  
Nation-wide Applicability

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:  
 Model State Projects to Develop Medicare Information and Referral Protocols and Reports - A Proposal to enhance the capacity of the I&R systems to provide information and make referrals for Medicare+Choice inquiries and to test and improve current I&R protocols.

14. CONGRESSIONAL DISTRICTS OF:

Part Date	Ending Date	a. Applicant	b. Project
1/9/98	11/8/99	Oregon 5th Congressional Dist.	1st, 3rd, 5th Congressional Dist.

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON \_\_\_\_\_ DATE \_\_\_\_\_

b. NO.  PROGRAM IS NOT COVERED BY E.O. 12372  
 OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?  
 Yes     No    If "Yes" attach an explanation.

Item	Amount
total	75,000 .00
applicant	.00
no	.00
ad	.00
for	.00
after interest	.00
TOTAL	75,000 .00

I, THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA ON THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN FULLY REVIEWED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

Name of Authorized Representative: Jan Kaplan  
 Title: Deputy Administrator  
 Telephone number: (503) 945-5811  
 Date Signed: 11/9/98

(This budget is the final budget approved by HCFA. If the November 8, 1998 projected budget and the January 22, 1999 revised budget differ, this document controls.)

January 22, 1999

To: Jane-ellen Weidenz  
From: Brenda Durbin  
Re: Revised Grant Budget

Here is the final revision for our budget, and why we made the changes we did.

Model Project Revised Budget

Project Coordinator	\$14,600.00
Fringes & Benefits	6,200.00
Research Consultant (50 hrs@\$125/hr)	6,250.00
I&R Staff Person	3,250.00
Outreach Coordinator, Clackamas County	15,000.00
Outreach Activities	3,500.00
Translation Services	3,400.00
Printing	3,000.00
Travel/Conferences	3,000.00
Copying	700.00
SHIBA Enhancement	7,600.00
Advertising	1,500.00
Technology Upgrades	7,000.00
Total	\$75,000.00

- Project Coordinator will work .5FTE for 10 months (February through November) instead of .75 for 12 months. Remaining .25FTE will be put toward paying for Outreach Coordinator for Clackamas County.
- Due to the decreased focus on developing protocols, we feel that we only need 50 hours of the consultant's time, not 140.
- I&R staff person only works .5FTE for 10 weeks. Remaining .5FTE will be put toward pay for Outreach Coordinator for Clackamas County.
- New line item, Outreach Coordinator for Clackamas County, will work on a contractual basis at .5FTE.
- Increased budget for printing and copying due to increased focus on creating outreach materials.
- New line item for SHIBA enhancement, which takes the place of the training line item.
- New lint item for advertising will support increased outreach activities.

Give me a call if you have any questions. I'll be working at home today. The number is 503(230-1843).

MEETING DATE: JUN 10 1999

AGENDA NO.: C-3

ESTIMATED START TIME: 9:30

(Above space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Intergovernmental Agreement with the Multnomah Education Service District

BOARD BRIEFING Date Requested:

Requested By:

Amount of Time Needed:

REGULAR MEETING Date Requested:

Amount of Time Needed: n/a

DEPARTMENT: Health

DIVISION: Disease Prevention & Control

CONTACT: \* Peggy Hillman

TELEPHONE #: X26733

BLDG/ROOM #: 160/10

PERSON(S) MAKING PRESENTATION: Consent Calendar

ACTION REQUESTED:

[ ] INFORMATIONAL ONLY [ ] POLICY DIRECTION [X] APPROVAL [ ] OTHER

SUGGESTED AGENDA TITLE:

Renewal of Intergovernmental Agreement #0010342 with the Multnomah Education Service District for assistance in ensuring that all school students comply with state immunization and TB requirements.

6/10/99 ORIGINALS TO MARIANNE METZGER

SIGNATURES REQUIRED:

ELECTED OFFICIAL:

Or

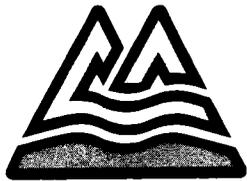
DEPARTMENT MANAGER:

[Handwritten signature]

BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY OREGON
99 JUN - 2 AM 9:27

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk at 248-3277



# MULTNOMAH COUNTY OREGON



HEALTH DEPARTMENT  
BUSINESS SERVICES DIVISION  
426 SW STARK, 7TH FLOOR  
PORTLAND, OREGON 97204-2394  
(503) 248-3056  
FAX (503) 248-3015  
TDD (503) 248-3816

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR OF THE BOARD  
DIANE LINN • DISTRICT 1 COMMISSIONER  
SERENA CRUZ • DISTRICT 2 COMMISSIONER  
LISA NAITO • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

## MEMORANDUM

**Date:** May 25, 1999  
**To:** Board of County Commissioners  
**Via:** ~~RD~~ Gary Oxman, M.D., Acting Director, Health Department  
**From:** Dave Houghton, Director, Disease Prevention and Control  
**Subject:** Contract #0010342 with the Multnomah Education Service District (MESD) for immunization and TB liaison services

### HONOR CULTURE, CELEBRATE DIVERSITY AND INSPIRE QUALITY

- I. Recommendation/Action Requested: The Health Department recommends Board ratification of Contract #0010342 with the Multnomah Education Service District for the period July 1, 1999, through June 30, 2000.
- II. Background/Analysis: The Oregon Health Division requires the County to ensure that all public and private schools and children's facilities are in compliance with immunization and TB requirements for students. MESD will assist the County with the compliance process for public school students. Services will include processing the exclusion letters, responding to inquiries from parents and school personnel, and compiling data.  

The Oregon Health Division has provided additional one-time only funding of \$42,758 for costs related to the expanded school immunization law for adolescent children to include: 1) \$5,600 for computer programming and testing for ALERT; 2) \$14,064 for temporary employee for data entry; and 3) \$23,094 for expenses related to parent-notification requirements.

This agreement has been renewed annually since 1983.
- III. Financial Impact: The County will reimburse MESD for costs incurred up to a maximum of \$59,078 for the services provided.
- IV. Legal Issues: None
- V. Controversial Issues: None
- VI. Link to Current County Policies: Continuing to collaborate with community agencies in the provision of health care.
- VII. Citizen Participation: None
- VIII. Other Government Participation: None

# MULTNOMAH COUNTY CONTRACT APPROVAL FORM

(See Administrative Procedure CON-1)

Pre-approved Contract Boilerplate (with County Counsel signature)  Attached  Not Attached Contract #: 0010342  
 Amendment #: \_\_\_\_\_

<p style="text-align: center;"><b>CLASS I</b></p> <input type="checkbox"/> Professional Services not to exceed \$50,000 (and not awarded by RFP or Exemption) <input type="checkbox"/> Revenue not to exceed \$50,000 (and not awarded by RFP or Exemption) <input type="checkbox"/> Intergovernmental Agreement (IGA) not to exceed \$50,000 <input type="checkbox"/> Expenditure <input type="checkbox"/> Revenue <input type="checkbox"/> Architectural & Engineering not to exceed \$10,000 (for tracking purposes only)	<p style="text-align: center;"><b>CLASS II</b></p> <input type="checkbox"/> Professional Services that exceed \$50,000 or awarded by RFP or Exemption (regardless of amount) <input type="checkbox"/> PCR B Contract <input type="checkbox"/> Maintenance Agreement <input type="checkbox"/> Licensing Agreement <input type="checkbox"/> Construction <input type="checkbox"/> Grant <input type="checkbox"/> Revenue that exceeds \$50,000 or awarded by RFP or Exemption (regardless of amount)	<p style="text-align: center;"><b>CLASS III</b></p> <input checked="" type="checkbox"/> Intergovernmental Agreement (IGA) that exceeds \$50,000 <input checked="" type="checkbox"/> Expenditure <input type="checkbox"/> Revenue <p style="text-align: center;"><b>APPROVED MULTNOMAH COUNTY BOARD OF COMMISSIONERS</b></p> <p>AGENDA # <u>C-3</u> DATE <u>6/10/99</u>  <u>DEB BOGSTAD</u>  <b>BOARD CLERK</b></p>
---	--	---

Department: Health Department Division: Disease Prevention and Control Date: 05/21/99  
 Originator: Peggy Hillman Phone: x26733 Bldg/Rm: 160/10  
 Contact: Marianne Metzger Phone: x26207 Bldg/Rm: 160/7

Description of Contract:  
 Assistance in ensuring that all school students comply with state immunization and TB requirements.

RENEWAL:  PREVIOUS CONTRACT NO(S): 10???784, 1005885, 1015186, 1020587, 102368, 103209, 102670, 102931, 103582, 201193, 200604, 200535, 201336, 200987, 200778, 9910426

RFP/BID: \_\_\_\_\_ RFP/BID DATE: \_\_\_\_\_  
 EXEMPTION NO/DATE: \_\_\_\_\_ EXEMPTION EXPIRATION DATE: \_\_\_\_\_ ORS/AR #: \_\_\_\_\_

CONTRACTOR IS:  MBE  WBE  ESB  QRF  N/A  NONE (Check all boxes that apply)

Contractor <u>Multnomah Education Service District</u> Address <u>PO Box 301039</u> <u>Portland, Oregon 97294-3039</u> <u>(11611 NE Ainsworth Circle, 97220-9017)</u> Phone <u>255-1841 (FAX 257-1519)</u>	Dee Bauer, Director, School Health Services, 257-1733, FAX 257-1779 Remittance address _____ (If different) _____
Employer ID# or SS# <u>93-6000829</u> Effective Date <u>July 1, 1999</u> Termination Date <u>June 30, 2000</u> Original Contract Amount \$ <u>59,078</u> Total Amt of Previous Amendments \$ <u>n/a</u> Amount of Amendment \$ <u>n/a</u> Total Amount of Agreement \$ <u>59,078</u>	Payment Schedule / Terms <input type="checkbox"/> Lump Sum \$ _____ <input type="checkbox"/> Due on Receipt <input type="checkbox"/> Monthly \$ _____ <input checked="" type="checkbox"/> Net 30 <input checked="" type="checkbox"/> Other \$ <u>(Invoice)</u> <input type="checkbox"/> Other <input type="checkbox"/> Requirements Not to Exceed \$ _____ Encumber <input type="checkbox"/> Yes <input type="checkbox"/> No

REQUIRED SIGNATURES:

Department Manager [Signature] DATE 5/20/99  
 Purchasing Manager \_\_\_\_\_ DATE \_\_\_\_\_  
 County Counsel [Signature] DATE 6/11/99  
 County Chair [Signature] DATE June 10, 1999  
 Sheriff \_\_\_\_\_ DATE \_\_\_\_\_  
 Contract Administration \_\_\_\_\_ DATE \_\_\_\_\_  
 (Class I, Class II Contracts only)

LGFS VENDOR CODE 629561B						DEPT REFERENCE					
LINE #	FUND	AGENCY	ORG	SUB ORG	ACTIVITY	OBJ/ REV	SUB OBJ	REP CAT	LGFS DESCRIPTION	AMOUNT	INC DEC
01	156	015	0307			6110		0300	ESD Immunization	16,320	
02	156	015	0307			6110		0470	ESD Immunization	42,758	
03											

**INTERGOVERNMENTAL AGREEMENT  
FOR IMMUNIZATION AND TB LIAISON SERVICES**

THIS INTERGOVERNMENTAL AGREEMENT is between MULTNOMAH COUNTY, acting by and through its Health Department, hereafter "COUNTY," and the MULTNOMAH EDUCATION SERVICE DISTRICT, hereafter "MESD."

WITNESSETH:

WHEREAS, the State of Oregon requires COUNTY to ensure that all public and private schools and children's facilities in Multnomah County are in compliance with the immunization and tuberculosis requirements for students; and

WHEREAS, COUNTY's Health Department requires assistance with this process which MESD is capable of providing, under the terms and conditions hereinafter described; and

WHEREAS, MESD is able and prepared to provide such services as COUNTY does hereinafter require, under those terms and conditions set forth;

NOW THEREFORE, in consideration of those mutual promises and the terms and conditions set forth hereafter, the parties agree as follows:

1. TERM

This Agreement shall become effective July 1, 1999 and shall expire June 30, 2000, unless sooner terminated under the provisions hereof.

2. SERVICES

A. MESD's services under this Agreement shall consist of the following:

- 1) Plan activities and staffing for conducting secondary review for the exclusion process for students enrolled in public schools in Multnomah County.
- 2) Develop and coordinate computer printouts, manually processed letters, and other related exclusion materials and activities for children enrolled in public schools in Multnomah County.
- 3) Evaluate computer programs to process Multnomah County immunization and tuberculosis exclusion letters.
- 4) Print from computer database all exclusion orders and other necessary documents for Multnomah County public school students who are not in compliance with state immunization or tuberculosis rules or statutes.
- 5) Respond to inquiries from parents of public school students, school personnel, COUNTY's Health Department staff, and community health care providers regarding the exclusion process and access to student records at MESD site.

- 6) Provide the follow-up reports from public schools needed by COUNTY to meet its reporting requirements to the Oregon Health Division.
- 7) Develop the programming and testing of the PPS/MESD computer systems and the state-wide immunization registry (ALERT).
- 8) Conduct the parent-notification requirements of the Oregon Health Division to all parents of children enrolled in public schools from 2<sup>nd</sup> grade through 6<sup>th</sup> grade informing them of the new school immunization requirements. This project would include providing all materials, printing, postage, labels and envelopes and the temporary staff necessary to complete the process.
- 9) Provide staff assistance to the Health Department during the six area immunization clinics held three times a year in each area. Assistance would include processing paper-work, forecasting and documenting immunizations into the school computer systems.
- 10) Collect immunization information for school-age children necessary for meeting the new requirements and entering said information into the school immunization tracking systems.

B. COUNTY agrees to:

- 1) Prepare and print materials required for secondary review including envelopes, cover letters, and single form exclusion orders.
- 2) Distribute packets to private and parochial schools and children's facilities in Multnomah County, provide follow-up calls to remind the facilities of when the initial reports are due, and deliver the reports to MESD. COUNTY will ensure that all reports are received.
- 3) Provide space and supervision for the exclusion process for private and parochial schools and children's facilities.
- 4) Provide one clerical staff person to assist with folding and preparing exclusion orders for mailing, and two staff persons to write the exclusion orders for the private and parochial schools and children's facilities. COUNTY will arrange for staff training prior to the beginning of the exclusion process.
- 5) Pick up envelopes and deliver them to COUNTY's distribution center for postage and mailing.
- 6) Respond to inquiries from parents and school personnel from private and parochial schools and children's facilities regarding the exclusion process.
- 7) Provide follow-up reports from private and parochial schools and children's facilities needed by COUNTY to meet its reporting requirements to the Oregon Health Division.

3. COMPENSATION

A. COUNTY agrees to pay MESD a maximum of \$59,078 for the performance of those services provided hereunder, which payment shall be based upon the following terms:

- 1) COUNTY will reimburse MESD for expenses incurred in accordance with the following budget:
  - a) A maximum of \$14,520 for staff services to provide services outlined in Paragraph 2.A above.
  - b) A maximum of \$1,400 for printing and data processing personnel costs.
  - c) A maximum of \$400 for reimbursement of mailing costs for tuberculosis exclusion letters.
  - d) A maximum of \$5,600 for computer programming and testing for ALERT.
  - e) A maximum of \$14,064 for temporary employee for data entry.
  - f) A maximum of \$23,094 for costs related to parent-notification of approximately 40,000 families.
- 2) COUNTY will pay MESD upon receipt of an invoice. Payment terms shall be net 30 days. Invoices shall be submitted no later than May 1, 2000, to:

Peggy Hillman  
Community Immunizations Unit  
Multnomah County Health Department  
426 SW Stark Street, 10th Floor  
Portland, OR 97204

B. COUNTY certifies that sufficient funds are available and authorized to finance the costs of this Agreement through the fiscal year ending June 30, 2000. In the event that funds cease to be available to COUNTY in the amounts anticipated during the remainder of the fiscal year, either COUNTY or MESD may terminate the Agreement or the parties by mutual agreement may reduce Agreement funding accordingly. COUNTY will notify MESD as soon it receives notification from funding source. Reduction or termination will not affect payment for expenses incurred prior to the effective date of such action.

C. MESD shall submit all invoices for services provided under this Agreement within 45 days after the end of the Agreement period. COUNTY shall not be responsible for payment of invoices submitted more than 45 days after the end of the Agreement period.

4. CIRCUMSTANCES BEYOND MESD'S CONTROL

MESD shall not be held responsible for delay or failure to perform hereunder when such delay or failure is due to fire, flood, epidemic, strikes, act of God or the public enemy, unusually severe weather, legal act of public authority or delays or defaults caused by public carrier, which cannot reasonably be forecast or provided against. MESD shall not be held responsible for delay or failure to perform hereunder when such delay or failure is due to fire, flood, epidemic, strikes, act of God or the public enemy, unusually severe weather, legal act of public authority or delays or defaults caused by public carrier, which cannot reasonably be forecast or provided against.

**INTERGOVERNMENTAL AGREEMENT  
STANDARD CONDITIONS**

1. INDEPENDENT CONTRACTOR STATUS

MESD is an independent contractor and is solely responsible for the conduct of its programs. MESD, its employees and agents shall not be deemed employees or agents of COUNTY.

2. INDEMNIFICATION

A. MESD shall defend, hold and save harmless COUNTY, its officers, agents, and employees from damages arising out of the tortious acts of MESD, or its officers, agents, and employees acting within the scope of their employment and duties in performance of this Agreement subject to the limitations and conditions of the Oregon Tort Claims Act, ORS 30.260 through 30.300, and any applicable provisions of the Oregon Constitution.

B. COUNTY shall defend, hold and save harmless MESD, its officers, agents, and employees from damages arising out of the tortious acts of COUNTY, or its officers, agents, and employees acting within the scope of their employment and duties in performance of this Agreement subject to the limitations and conditions of the Oregon Tort Claims Act, ORS 30.260 through 30.3000, and any applicable provisions of the Oregon Constitution.

3. WORKERS' COMPENSATION INSURANCE

MESD shall maintain workers' compensation insurance coverage for all non-exempt workers, employees, and subcontractors either as a carrier-insured employer or a self-insured employer as provided in ORS Chapter 656.

4. TAXPAYER IDENTIFICATION NUMBER

MESD shall furnish to COUNTY its federal employer identification number, as designated by the Internal Revenue Service.

5. SUBCONTRACTS AND ASSIGNMENT

MESD shall neither subcontract with others for any of the work prescribed herein, nor assign any of MESD's rights acquired hereunder without obtaining prior written approval from COUNTY. COUNTY by this Agreement incurs no liability to third persons for payment of any compensation provided herein to MESD.

6. RECORD CONFIDENTIALITY

COUNTY and MESD agree to keep all client records confidential in accordance with state and federal statutes and rules governing confidentiality.

7. ACCESS TO RECORDS

MESD agrees to permit authorized representatives of COUNTY, and/or the applicable federal or state government audit agency, to make such review of the records of MESD or COUNTY or auditor may deem necessary to satisfy audit and/or program evaluation purposes. MESD shall permit authorized representatives of COUNTY's Health Department to site-visit all programs covered by this Agreement. Agreement costs disallowed as the result of such audits, review or site visits will be the sole responsibility of MESD. If an Agreement cost is disallowed after reimbursement has occurred, MESD will make prompt repayment of such cost.

8. ADHERENCE TO LAW

- A. MESD shall adhere to all applicable laws governing its relationships with its employees, including but not limited to laws, rules, regulations and policies concerning workers' compensation, and minimum and prevailing wage requirements.
- B. MESD shall not discriminate against any individual with respect to hiring, compensation, terms, conditions or privileges or employment, nor shall any person be excluded from participation in, be denied the benefits, or be subjected to discrimination under any program or activity because of such individual's race, color, religion, sex, national origin, age or handicap. In that regard, MESD must comply with all applicable provisions of Executive Order Number 11246 as amended by Executive Order Number 11375 of the President of the United States dated September 24, 1965, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d)) and Section 504 of the Rehabilitation Act of 1973 as implemented by 45 C.F.R.84.4 and the Americans with Disabilities Act of 1990, Public Law Number 101-336 and all enacting regulations of the EEOC and Department of Justice. MESD will also comply with all applicable rules, regulations and orders of the Secretary of Labor concerning equal opportunity in employment and the provisions of ORS Chapter 659.

9. AMENDMENTS

- A. In the event that COUNTY's Agreement obligation is amended by a federal- or state-initiated change, COUNTY shall amend this Agreement through written notification of changes sent to MESD by mail. MESD shall return to COUNTY within twenty (20) working days a signed acknowledgment of receipt of COUNTY's notification document.
- B. Any other amendments to the provisions of this Agreement, whether initiated by COUNTY or MESD, shall be reduced to writing and signed by both parties.

10. WAIVER OF DEFAULT

Waiver of a default shall not be deemed to be a waiver of any subsequent default. Waiver of any breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the provisions of this Agreement.

11. EARLY TERMINATION

- A. Violation of any of the rules, procedures, attachments, or conditions of this Agreement may, at the option of either party, be cause for termination of the Agreement and, unless and until corrected, of funding support by COUNTY and services by MESD, or be cause for placing conditions on said funding and/or service, which may include withholding of funds. Waiver by either party of any violation of this Agreement shall not prevent said party from invoking the remedies of this paragraph for any succeeding violations of this Agreement.
- B. This Agreement may be terminated by either party by sixty (60) days prior written notice to the other party, delivered by certified mail or in person.
- C. COUNTY may terminate this Agreement immediately, effective upon delivery of written notice to MESD by certified mail or in person, under any of the following conditions:
  - 1) Upon denial, revocation, suspension or non-renewal of any license or certificate required by law or regulation to be held by MESD to provide a service under this Agreement.
  - 2) If MESD fails to begin services on the date specified in this Agreement, or if MESD fails to continue to provide service for the entire Agreement period.

- 3) If COUNTY has evidence that MESD has endangered or is endangering the health and safety of clients/residents, staff, or the public.
- D. If the Agreement is terminated under this paragraph, COUNTY shall pay MESD only for services provided in accordance with the Agreement through the day of termination.
- E. Termination under any provision of this paragraph shall not affect any right, obligation or liability of MESD or COUNTY which accrued prior to such termination.

12. NOTICE OF LITIGATION

Each party shall give the other immediate notice in writing of any action or suit filed or any claim made against that party which may result in litigation in any way related to this Agreement.

13. OREGON LAW AND FORUM

This Agreement shall be construed and governed according to the laws of the State of Oregon.

14. INTEGRATION

This Agreement contains the entire Agreement between the parties pertaining to its subject matter and supersedes all prior written or oral discussions or agreements.

15. CERTIFICATION REGARDING LOBBYING

- A. MESD certifies, to the best of MESD's knowledge and belief, that no federally appropriated funds have been paid or will be paid, by or on behalf of MESD, to any person for influencing or attempting to influence an officer or an employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Agreement, MESD shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

16. OMB CIRCULAR 1-128

If MESD is a sub-recipient of federal funds passed through COUNTY, MESD shall submit to COUNTY an annual federal compliance audit in conformity with OMB Circular A-128 and the federal Single Audit Act of 1984.

IN WITNESS WHEREOF, the parties have caused this Contract, including the Standard Conditions and any attachments incorporated herein, to be executed by their duly authorized officers.

MULTNOMAH EDUCATION SERVICE DISTRICT

By \_\_\_\_\_  
Jerry W. Shively, Deputy Superintendent  
Date \_\_\_\_\_

\_\_\_\_\_  
93-6000829  
Contractor's Federal Tax ID Number

APPROVED AS TO LEGAL FORM:

By \_\_\_\_\_  
Staff Attorney, Multnomah ESD  
Date \_\_\_\_\_

MULTNOMAH COUNTY

By \_\_\_\_\_  
Beverly Stein, Multnomah County Chair  
Date June 10, 1999

By \_\_\_\_\_  
Gary Oxman, M.D., Acting Director  
Health Department  
Date 5.26.99

By \_\_\_\_\_  
Peggy Lou Hillman  
Peggy Hillman, Program Manager  
Date 5.25.99

REVIEWED:  
Thomas Sponsler, County Counsel for  
Multnomah County, Oregon

By \_\_\_\_\_  
Katie Gaetjens, Assistant County Counsel  
Date 6/11/99

APPROVED MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS  
AGENDA # C-3 DATE 6/10/99  
DEB BOGSTAD  
BOARD CLERK

JUN 10 1999

MEETING DATE: \_\_\_\_\_

AGENDA NO.: LC-1

ESTIMATED START TIME: 9:30

(Above space for Board Clerk's Use ONLY)

**AGENDA PLACEMENT FORM**

SUBJECT: Notice of Intent to respond to a grant announcement.

BOARD BRIEFING: DATE REQUESTED: \_\_\_\_\_

REQUESTED BY: \_\_\_\_\_

AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING:  DATE REQUESTED: June 10, 1999

AMOUNT OF TIME NEEDED: 5 to 10 minutes

DEPARTMENT: HEALTH

DIVISION: Disease Prev. & Control

CONTACT: Dave Houghton

TELEPHONE#: x22529

BLDG/ROOM#: 160/8

PERSON(S) MAKING PRESENTATION: Dave Houghton

**ACTION REQUESTED:**

INFORMATIONAL ONLY    POLICY DIRECTION    APPROVAL    OTHER

**SUGGESTED AGENDA TITLE:**

Notice of Intent of respond to Program Announcement to Participate in the HRSA Bureau of HIV/AIDS Special Projects of National Significance.

**SIGNATURES REQUIRED:**

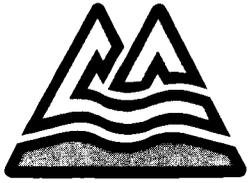
ELECTED OFFICIAL: \_\_\_\_\_

DEPARTMENT MANAGER: 

CLERK OF COUNTY COMMISSIONERS  
99 JUN - 7 PM 12:14  
MULTI-COUNTY COUNTY  
OREGON

**ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES**

**Any Questions: Call the Board Clerk @ 248-3277**



# MULTNOMAH COUNTY OREGON



HEALTH DEPARTMENT  
BUSINESS SERVICES DIVISION  
426 SW STARK, 7TH FLOOR  
PORTLAND, OREGON 97204-2394  
(503) 248-3056  
FAX (503) 248-3015  
TDD (503) 248-3816

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR OF THE BOARD  
DIANE LINN • DISTRICT 1 COMMISSIONER  
SERENA CRUZ • DISTRICT 2 COMMISSIONER  
LISA NAITO • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

## MEMORANDUM

**DATE:** June 4, 1999

**TO:** Beverly Stein, Chair, Multnomah County Board of Commissioners

**FROM:** Dave Houghton, Director  
Disease Control and Prevention Division

**THROUGH:**  Gary Oxman, M.D., Acting Director

**SUBJECT:** Notice of Intent to respond to a Program Announcement to Participate in the HRSA Bureau of HIV/AIDS Special Projects of National Significance (SPNS)

**REQUESTED PLACEMENT DATE:** June 10, 1999

### **I. Recommendation/Action Requested**

The Multnomah County Health Department is requesting approval from the Board of Commissioners to respond to a Program Announcement from the HRSA Bureau of HIV/AIDS Special Projects of National Significance (SPNS) program. The purpose of the SPNS Program Announcement is to invite eligible applicants to submit proposals for the assessment of programs designed to increase client adherence to anti-retroviral drug treatment.

### **II. Background/Analysis**

As in other communities, Multnomah County has experienced a dramatic decline in AIDS deaths due to the recent introduction of anti-retroviral (ARV) drug therapy. HIV/AIDS is becoming a chronic, manageable condition for individuals who are able to take advantage of ARV treatment. However, adherence to the prescribed ARV treatment regimen is essential in order to maintain therapeutically appropriate concentrations of drugs in the blood. Without proper adherence, HIV clients increase the likelihood that HIV will mutate into strains that are resistant to treatment. National studies indicate that adherence is most problematic for clients who are in the asymptomatic stages of the disease, or for those with relevant co-factors such as homelessness, substance abuse or mental illness. Consequently, as infected individuals look to a lifetime of therapy, effective adherence programs are a critical component to ARV treatment.

**II. Background/Analysis, continued**

Recognizing that adherence to ARV treatment is essential to the health of HIV clients, the Multnomah County Health Department's HIV Health Services Center implemented a multidisciplinary anti-retroviral treatment adherence program during April 1998 with funding provided through the Ryan White CARE. The ARV adherence program is also supported with client reimbursements for services through CareOregon. There is a need to assess the adherence program to determine if it is effective as a strategy to increase rates of adherence among clients prescribed ARV drugs. This proposed SPNS project will target all HIV/AIDS clients who receive anti-retroviral drugs and adherence services through the Multnomah County Health Department's HIV/AIDS Health Services Center.

**III. Financial Impact**

The Multnomah County Health Department will request \$300,000 from the SPNS program to cover the cost of a three-year assessment project. The project would begin on or about October 1, 1999 and continue through September 30, 2002.

**IV. Legal Issues**

None identified. The project involves an assessment of an existing services provided through the Health Department's HIV Health Services Center.

**V. Controversial Issues**

None identified. This proposed project is supported by numerous organizations including the Oregon Health Division, Case Management Partnership Project, and the HIV Services Planning Council.

**VI. Link to Current County Policies**

This evaluation project is consistent with Multnomah County's efforts to ensure that publicly sponsored activities are an effective method of service delivery.

**VII. Citizen Participation**

Results of the assessment will be shared with citizens-based organizations that have an interest in HIV-related care services in Multnomah County (i.e., Cascade AIDS Project, HIV Client Advisory Board, HIV Services Planning Council, etc.).

**VIII. Other Government Participation**

The project will involve collaboration with local, state and federal agencies responsible for delivering services to people living with HIV/AIDS.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 99-110**

Amending Resolution No. 99-61 to Withdraw One Parcel of Real Property Approved for Auction from the Tax Foreclosure Auction List and Directing the Property be Included in the Multnomah County Affordable Housing Development Program

The Multnomah County Board of Commissioners Finds:

- a) The public's interest will be served by removing one tax foreclosed property from the list of properties to be sold at the pending June 14, 1999 public auction, identified as Item No.2 on the; Tax Foreclosure Auction List originally established pursuant to Resolution No. 99-61 adopted April 22, 1999, and directing that the property be made available to the Multnomah County Affordable Housing Development Program for low-income housing.
- b) The legal description of the property is as follows:  
Lot 16, Block 4, BARTONS ADD, a recorded subdivision located in the City of Portland, County of Multnomah, and State of Oregon.

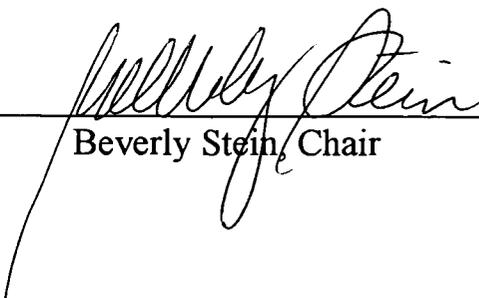
The Multnomah County Board of Commissioners Resolves:

1. The property described herein be removed from the June 14, 1999 Tax Foreclosure Auction List and be made available to the Multnomah County Affordable Housing Development Program for low-income housing.

Adopted this 10th day of June, 1999.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
\_\_\_\_\_  
Beverly Stein, Chair

REVIEWED:

Thomas Sponsler, County Counsel  
For Multnomah County, Oregon

By

  
\_\_\_\_\_  
Matthew O. Ryan, Assistant County Counsel

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
MULTNOMAH COUNTY

ORDER NO. 99-61

Authorizing Sale of Properties Acquired by Multnomah County through the Foreclosure of Liens for Delinquent Taxes.

The Multnomah County Board of Commissioners finds:

- a) Multnomah County has foreclosed for delinquent taxes 10 properties more particularly described in Exhibit "A"; which is attached.
- b) Multnomah County now holds title to the above referenced properties as authorized under ORS 312.200.
- c) These 10 properties are not needed for County purposes or use; it is deemed to be in the best interest of the County to offer said properties at a public sale in accordance with the provisions of ORS 275.110 THROUGH 275.190.

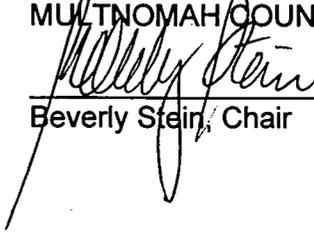
The Multnomah County Board of Commissioners Orders:

- 1) The Multnomah County Sheriff is directed to conduct a public sale at a time and place to be determined, of the properties described in the attached Exhibit "A" for not less than the minimum price set for each property therein.
- 2) The terms of the sale shall require all properties to be sold for cash and
  - a. A "**CASH**" sale shall included a sale made pursuant to a short term purchase and sale agreement, which shall be designated as a "**Cash with Option**" sale.
  - b. The Tax Title Division is authorized to designate at its discretion which specific properties are to be sold for cash or cash with option.

Dated this 22nd day of April, 1999.

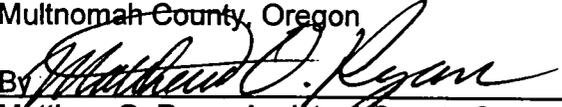


BOARD OF COUNTY COMMISSIONERS  
MULTNOMAH COUNTY, OREGON

  
Beverly Stein, Chair

REVIEWED:

Thomas Sponsler, County Counsel  
Multnomah County, Oregon

By   
Matthew O. Ryan, Assistant County Counsel

**EXHIBIT "A"**

**10 TAX FORECLOSED PROPERTIES  
PROPOSED FOR PUBLIC SALE BY MULTNOMAH COUNTY**

1. Legal Description: Excluding point in Street, North 12'4" of Lot 14, Block 29, Excluding point in Street, South 9' 8" of Lot 15, Block 29, Albina, a recorded subdivision in the City of Portland, County of Multnomah and State of Oregon.

Property Location: Vacant lot Formerly 2839 NE Rodney Ave  
Tax Account Number: R-00961-1140  
Minimum Bid: \$14,420  
Greenspace Designation: ---- No designation assigned  
Made Available for Transfer: Fiscal Year 1995/96

2. Legal Description: Lot <sup>16</sup>0, Block 4, Bartons add, a recorded subdivision in the City of Portland, County of Multnomah and State of Oregon.

Property Location: Vacant lot south of 10125 N Allegheny  
Tax Account Number: R-05630-0380  
Minimum Bid: \$15,890  
Greenspace Designation: ---- No designation assigned  
Made Available for Transfer: Fiscal Year 1993/94

3. Legal Description: West 1/2 of Lot 2, Block "A", North Irvington, a recorded subdivision in the City of Portland, County of Multnomah and State of Oregon.

Property Location: Formerly 424 NE Failing, vacant lot west of 430 NE Failing  
Tax Account Number: R-61150-0020  
Minimum Bid: \$12,950  
Greenspace Designation: ---- No designation assigned  
Made Available for Transfer: Fiscal Year 1993/94

4. Legal Description: North 37' of East 53' of Lot 10, Block 5, North Irvington, a recorded subdivision in the City of Portland, County of Multnomah and State of Oregon.

Property Location: Vacant lot adjacent to 833-839 NE Failing  
Tax Account Number: R-61150-1210  
Minimum Bid: \$6,720  
Greenspace Designation: ---- No designation assigned  
Made Available for Transfer: Fiscal Year 1993/94

5. Legal Description: East ½ of Lot 4, Block 1, Oak Park Add 2, a recorded subdivision in the City of Portland, County of Multnomah and State of Oregon.
- Property Location: Formerly 8132 N Swenson St, vacant lot adjacent to 8146 N Swenson  
Tax Account Number: Swenson  
Minimum Bid: R-62130-0040  
Greenspace Designation: \$10,000  
Made Available for Transfer: --- No designation assigned  
Fiscal Year 1994/95
6. Legal Description: Excluding point in highway, Lot 8, Block 13, Town of Linnton, a recorded subdivision in the City of Portland, County of Multnomah and State of Oregon.
- Property Location: Vacant lot corner of NW 111<sup>th</sup> & St Helens Rd  
Tax Account Number: R-83940-0400  
Minimum Bid: \$1,500  
Greenspace Designation: --- No designation assigned  
Made Available for Transfer: Fiscal Year 1993/94
7. Legal Description: West ½ of Lot 23, Block 6, Tremont Place, a recorded subdivision in the City of Portland, County of Multnomah and State of Oregon.
- Property Location: Vacant lot between 5800 & 5742 SE Woodstock  
Tax Account Number: R-84240-1690  
Minimum Bid: \$2,500  
Greenspace Designation: ---P-  
Made Available for Transfer: Fiscal Year 1995/96
8. Legal Description: Excluding point in street, Lot 6 & 7, Block 102, University Park, a recorded subdivision in the City of Portland, County of Multnomah and State of Oregon.
- Property Location: Vacant lot Formerly 7910 N Courtney Ave  
Tax Account Number: R-85131-1920  
Minimum Bid: \$2,170  
Greenspace Designation: --- No designation assigned  
Made Available for Transfer: Fiscal Year 1996/97
9. Legal Description: Lot 6, Block 34, Vernon, a recorded subdivision in the City of Portland, County of Multnomah and State of Oregon.
- Property Location: 4834 NE 23<sup>rd</sup> Ave (Rehab by County)  
Tax Account Number: R-86070-6090  
Minimum Bid: \$60,000  
Greenspace Designation: --- No designation assigned  
Made Available for Transfer: Not made available, due to expenses of \$58,671.56 for rehab incurred by Multnomah County.

10. Legal Description: Lot 14, Block 29, West Portland, a recorded subdivision in the City of Portland, County of Multnomah and State of Oregon.

Property Location: Vacant lot adjacent to and North of 4716 & 4721 SW Brugger  
Tax Account Number: R-89420-5570  
Minimum Bid: \$8,750  
Greenspace Designation: G—  
Made Available for Transfer: Fiscal Year 1996/97

MEETING DATE: June 10, 1999

AGENDA NO: R-2

ESTIMATED START TIME: 9:30

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Adopting the 1998-99 Multnomah County Supplemental Budget

BOARD BRIEFING: DATE REQUESTED: REQUESTED BY: AMOUNT OF TIME NEEDED:

REGULAR MEETING: DATE REQUESTED: June 10, 1999 AMOUNT OF TIME NEEDED: 5 Minutes

DEPARTMENT: Support Svcs DIVISION: Budget and Quality

CONTACT: Dave Warren TELEPHONE #: 248-3822 BLDG/ROOM #: 160-1400

PERSON(S) MAKING PRESENTATION: Dave Warren

ACTION REQUESTED:

[ ] INFORMATIONAL ONLY [ ] POLICY DIRECTION [x] APPROVAL [ ] OTHER

SUGGESTED AGENDA TITLE:

Resolution adopting the 1998-99 Multnomah County Supplemental Budget and making appropriations as required by ORS 294.435

4/10/99 copies to Dave Warren

99 JUN - 2 PM 1:39 BOARD OF COUNTY COMMISSIONERS MULTNOMAH COUNTY OREGON

SIGNATURES REQUIRED:

ELECTED OFFICIAL: (OR) DEPARTMENT MANAGER: Vickie S. Gates

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277



# MULTNOMAH COUNTY, OREGON

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN  
DIANE LINN  
GARY HANSEN  
LISA NAITO  
SHARRON KELLEY

BUDGET AND QUALITY  
PORTLAND BUILDING  
1120 S.W. FIFTH - ROOM 1400  
P. O. BOX 14700  
PORTLAND, OR 97214  
PHONE (503) 248-3883

## SUPPLEMENTAL STAFF REPORT

TO: Board of County Commissioners

FROM: Dave Warren, Budget Manager **DCW**

DATE: June 2, 1999

RE: Supplemental Budget

### 1. Recommendation/Action Requested:

It is recommended that the Board adopt the 1998-99 Supplemental Budget for Multnomah County, make appropriations pursuant to ORS 294.480, and direct the Budget Manager to file the necessary documentation with the Tax Supervising and Conservation Commission.

### 2. Background/Analysis:

A Supplemental Budget is the vehicle allowed by ORS 294.480 for the Board to address changes in financial conditions not anticipated at the time the budget was adopted. In cases where no fund's expenditures are increased by more than 10 percent of the adopted budget figure, the law allows the Board to make additional appropriations after advertising a hearing on the Supplemental Budget. However, this supplemental budget increases several funds by more than 10 percent of the adopted budget and adjusts certain other funds, thus requiring the Board to go through the following process:

<b>Date Completed</b>	<b>Step</b>
4/13/99	Approve the Supplemental Budget.
4/27/99	Submit the approved Supplemental Budget to Tax Supervising,
5/25/99	Attend a Tax Supervising hearing on the Supplemental Budget.
5/25/99	Tax Supervising certified that Supplemental Budget is legal.
6/10/99	<b>Today's action: Adopt the Supplemental Budget and file a copy of the adopted Supplemental Budget with Tax Supervising within fifteen (15 days) of adoption.</b>

Tax Supervising met on May 25, 1999 to review, discuss and conduct a public hearing on the Supplemental Budget pursuant to ORS 294.480 and certified the budget with no objections or recommendations. The next step is for the Board of County Commissioners to adopt the supplemental budget and direct the Budget Manager to file it with Tax Supervising within fifteen days of adoption.

**Summary of Supplemental Budget actions:**

- I. Record additional Community Service Fee revenue and beginning working capital in the Strategic Investment Fund.
- II. Record additional beginning working capital in the Road Fund and the Bridge Fund, and a transfer from the Road Fund to the Bicycle Paths Construction Fund.
- III. Record fund raising receipts dedicated to construction in the Edgefield Children’s Center Fund.
- IV. Record proceeds from COP’s to buy the US Bank Building in the Lease Purchase Project Fund.
- V. Increase beginning working capital in the Equipment Lease Purchase Fund and redirect an erroneous cash transfer from that fund to the Capital Improvement Fund to the Lease Purchase Project Fund.
- VI. Shift PC Flat Fee revenues and expenditures out of the Data Processing Fund to the Capital Acquisition Fund; in addition, record property sale revenues in the Capital Acquisition Fund so that tenant improvements can be supported for Library projects.
- VII. Show the full revenue and expenditure from a lease/purchase agreement to upgrade the enterprise server in the Data Processing Fund.

3. Financial Impact:

The full additional revenue recorded in the supplemental budget is \$50,740,297 as shown in the Appropriation Schedule - Attachment A

General Fund	2,690
Strategic Investment Fund	416,258
Road Fund	1,209,523
Bicycle Paths Fund	182,954
Bridge Fund	2,043,956
Edgefield Children's Center Fund	2,360,000
Equipment Lease Purchase Fund	3,500,000
Lease Purchase Project Fund	37,485,357
Capital Improvement Fund	(485,357)
Capital Acquisition fund	2,525,210
Data Processing Fund	<u>1,499,706</u>
	\$50,740,297

4. Legal Issues:

Supplemental Budgets are required by ORS 294. 480

5. Controversial Issues:

None.

6. Link to Current County Policies:

N/A.

7. Citizen Participation:

N/A.

8. Other Government Participation:

N/A.



**Tax Supervising  
& Conservation  
Commission**

724 Mead Building  
421 S.W. Fifth Avenue  
Portland, Oregon  
97204-2189

TELEPHONE (503) 248-3054  
FAX (503) 248-3053

E-Mail  
TSCC@co.multnomah.or.us

Web Site  
www.multnomah.lib.or.us/tscc/

BOARD OF  
COUNTY COMMISSIONERS

99 JUN 1 AM 11:12

MULTNOMAH COUNTY  
OREGON

May 25, 1999

Board of County Commissioners  
Multnomah County  
1515 Portland Building  
Portland, Oregon 97204

The Tax Supervising and Conservation Commission met on May 25, 1999 to review, discuss and conduct a public hearing on the Multnomah County Spring Supplemental Budget pursuant to ORS 294.480. The 1998-99 supplemental budget, filed April 27, 1999, is hereby certified with no objections or recommendations. Supplemental budget amounts certified are as follows:

Fund	1998-99 Current Budget	Supplemental Request	1998-99 Revised Budget
General Fund	\$285,722,361	\$ 2,690	\$285,725,051
Strategic Investment Fund	1,646,646	416,258	2,062,904
Road Fund	42,768,729	1,209,523	43,978,252
Bike Fund	207,223	182,954	390,177
Bridge Fund	5,273,513	2,043,956	7,317,469
Edgefield Children's Fund	2,800,000	2,360,000	5,160,000
Equipment Lease Purchase Fund	660,357	3,500,000	4,160,357
Lease Purchase Project Fund	35,298,511	37,485,357	72,783,868
Capital Improvement Fund	17,616,874	(485,357)	17,131,517
Capital Acquisition Fund	298,835	2,525,210	2,824,045
Data Processing Fund	14,168,095	1,499,706	15,667,801
<b>Total</b>	<b>\$406,461,144</b>	<b>\$50,740,297</b>	<b>\$457,201,441</b>

Please file a copy of the adopted supplemental budget and supporting documentation within 15 days of adoption.

Sincerely,

Linda Burtlehaus,  
Director

**Commissioners**

Richard Anderson  
Nancy Conrath  
Anthony Jankans  
Charles Rosenthal  
Carol Samuels

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 99-108**

Adopting the 1998-99 Supplemental Budget for Multnomah County and Making Appropriations Thereunder, Pursuant to ORS 294.435

The Multnomah County Board of Commissioners Finds:

- a. The Supplemental Budget addresses the following actions to:
  - Record additional Community Service Fee revenue and beginning working capital in the Strategic Investment Fund
  - Record additional beginning working capital in the Road Fund and the Bridge Fund, and a transfer from the Road Fund to the Bicycle Paths Construction Fund
  - Record fund raising receipts dedicated to construction in the Edgefield Children's Center Fund
  - Record proceeds from COP's to buy the US Bank Building in the Lease Purchase Project Fund
  - Increase beginning working capital in the Equipment Lease Purchase Fund and redirect an erroneous cash transfer from that fund to the Capital Improvement Fund to the Lease Purchase Project Fund
  - Shift PC Flat Fee revenues and expenditures out of the Data Processing Fund to the Capital Acquisition Fund; in addition, record property sale revenues in the Capital Acquisition Fund so that tenant improvements can be supported for Library projects
  - Show the full "revenue" and expenditure from a lease/purchase agreement to upgrade the enterprise server in the Data Processing Fund
- b. The Supplemental Budget is on file in the Office of the Chair of Multnomah County.
- c. The change in the Supplemental Budget includes requirements in the sum of \$50,740,297.
- d. The appropriations authorized are attached to this resolution as Attachment A.

- e. A public hearing on this Supplemental Budget was held before the Multnomah County Tax Supervising and Conservation Commission on the 25th day of May 1999.
- f. The Tax Supervising and Conservation Commission has certified the budget without objections or recommendations.

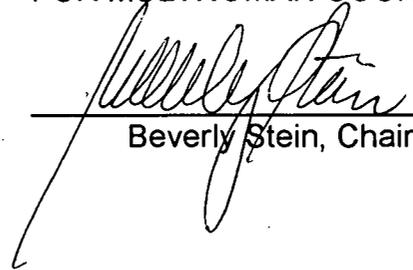
The Multnomah County Board of Commissioners Resolves:

- 1. The FY 98-99 Supplemental Budget, including Attachment A, is adopted.
- 2. The attached appropriations are authorized for the fiscal year July 1, 1998 to June 30, 1999.

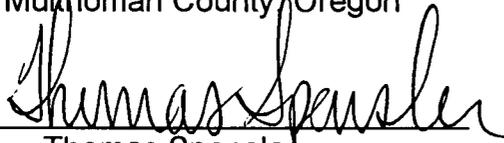
ADOPTED this 10th day of June, 1999.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
\_\_\_\_\_  
Beverly Stein, Chair

Thomas Sponsler, County Counsel  
For Multnomah County Oregon

By   
\_\_\_\_\_  
Thomas Sponsler

**Attachment A**

**Supplemental Budget Appropriations Schedule**

Multnomah County, Oregon  
Fiscal Year July 1, 1997 to June 30, 1998

<b>GENERAL FUND (100)</b>	
<i>Contingency</i>	2,690
<b>Total Supplemental Budget Appropriation</b>	<b>2,690</b>
<b>STRATEGIC INVESTMENT PROGRAM FUND (140)</b>	
<i>Nondepartmental</i>	416,258
<b>Total Supplemental Budget Appropriation</b>	<b>416,258</b>
<b>ROAD FUND (150)</b>	
<i>Environmental</i>	1,209,523
<b>Total Supplemental Budget Appropriation</b>	<b>1,209,523</b>
<b>BICYCLE PATH CONSTRUCTION FUND (154)</b>	
<i>Environmental</i>	182,954
<b>Total Supplemental Budget Appropriation</b>	<b>182,954</b>
<b>WILLAMETTE RIVER BRIDGES FUND (161)</b>	
<i>Environmental</i>	2,043,956
<b>Total Supplemental Budget Appropriation</b>	<b>2,043,956</b>
<b>EDGEFIELD CHILDREN'S PROJECT FUND (231)</b>	
<i>Environmental</i>	2,360,000
<b>Total Supplemental Budget Appropriation</b>	<b>2,360,000</b>
<b>EQUIPMENT LEASE/PURCHASE FUND (234)</b>	
Capital Improvement Fund	3,500,000
<b>Total Supplemental Budget Appropriation</b>	<b>3,500,000</b>
<b>LEASE/PURCHASE PROJECT FUND (235)</b>	
<i>Environmental</i>	37,485,357
<b>Total Supplemental Budget Appropriation</b>	<b>37,485,357</b>
<b>CAPITAL IMPROVEMENT FUND (240)</b>	
<i>Environmental</i>	(485,357)
<b>Total Supplemental Budget Appropriation</b>	<b>(485,357)</b>
<b>CAPITAL ACQUISITION FUND (245)</b>	
<i>Support</i>	2,377,710
<i>Nondepartmental</i>	147,500
<b>Total Supplemental Budget Appropriation</b>	<b>2,525,210</b>
<b>DATA PROCESSING FUND (403)</b>	
<i>Support</i>	1,499,706
<b>Total Supplemental Budget Appropriation</b>	<b>1,499,706</b>

MEETING DATE: June 10, 1999  
AGENDA NO: R-3  
ESTIMATED START TIME: 9:35 AM

(Above Space for Board Clerk's Use ONLY)

**AGENDA PLACEMENT FORM**

SUBJECT: Proclaiming June 5 through 12, 1999 as Home Ownership Week

BOARD BRIEFING: DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING: DATE REQUESTED: June 10, 1999  
AMOUNT OF TIME NEEDED: 5 minutes

DEPARTMENT: Non-Departmental DIVISION: Commissioner Diane Linn

CONTACT: Ramsay Weit TELEPHONE #: 248-5137  
BLDG/ROOM #: 106/1500

PERSON(S) MAKING PRESENTATION: Manny Lee (HUD), Peg Malloy (Portland Housing Center)

ACTION REQUESTED:

INFORMATIONAL ONLY  POLICY DIRECTION  APPROVAL  OTHER

SUGGESTED AGENDA TITLE:

*Proclaiming June 5 through 12, 1999 as Home Ownership Week  
in Multnomah County, Oregon*

*6/10/99 originals to Tom Cusak &  
Peg Malloy; copies to Colinn*

SIGNATURES REQUIRED:

ELECTED OFFICIAL: *Joan M J*  
(OR)  
DEPARTMENT  
MANAGER: \_\_\_\_\_

CLERK OF  
COUNTY COMMISSIONERS  
99 JUN - 2 PM 12 37  
MULTNOMAH COUNTY  
OREGON

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277



U.S. Department of Housing and Urban Development

Northwest/Alaska

Northwest/Alaska

May 18, 1999

Beverly Stein, Chair  
Multnomah County Board of Commissioners  
1120 SW 5th Avenue, Ste. 1515  
Portland, Oregon 97204

*Bev / Bill*  
*I'm on it - am preparing Resolution - hope to file for ~~the~~ 6/10*  
*Carol*  
*Maxine*  
*Wen*  
*RaeSue*

Dear County Chair Stein:

During the week of June 5 through 12, the nation will be celebrating the third annual National Homeownership Week sponsored by the National Partners in Homeownership with over 1000 planned events across the country to promote homeownership initiatives.

Founded in 1995 by President Clinton and led by HUD Secretary Andrew Cuomo, this Partnership works toward the goal to increase the nation's homeownership rate to an all-time high of 67.5% by the end of the year 2000. The National Partners in Homeownership is an organization with over 60 diverse national organizations who recognize and support the value of homeownership as part of the "American Dream". At the close of 1998, the nation reached its highest homeownership rate in its history with the US Bureau of Census reporting that a record 66.3% Americans own their own homes. This translates into 69.1 million households, a 2.2 percent increase since the formation of the Partnership.

There is no question that homeownership provides tremendous social and economic benefits to our society. It strengthens our economy, builds communities and to the individual family, represents a powerful tool for building economic stability and self-esteem.

This year also marks the 65<sup>th</sup> anniversary of the start of one of the most successful government programs of the 20<sup>th</sup> century, HUD's FHA home loan program which assists home buyers to qualify for mortgage loans by guaranteeing their loans. In Oregon alone, the FHA has insured more than **280,000** loans guaranteeing over **\$10.6 billion dollars** in home ownership investment with an astounding **97%** success rate!

Your County has an even MORE IMPRESSIVE achievement, joining the ranks of 14 Oregon counties in the \$100 MILLION DOLLAR PLUS LOAN CLUB!! To date, in **Multnomah County**, FHA has guaranteed **\$3,304,683,420** in home ownership loans involving **110,617** loans. Just last year in 1998, FHA guaranteed **\$203,363,991** on a volume of **1,966** loans in **Multnomah County**.

We believe your County's achievements in the FHA program working with private lenders, builders, Realtors and others in the lending industry, deserve SPECIAL RECOGNITION. Attached is a resolution for your consideration for adoption by the County Commission in recognition of the 65 years of FHA home ownership success in your County. As part of this recognition, we would like to present a framed plaque with a certificate from FHA and HUD recognizing your County's achievement.

400 SW Sixth Avenue, Suite 700, Portland, OR 97204-1632  
www.hud.gov.  
Manfert\_M\_Lee@hud.gov  
Phone: (503) 326-4067  
Fax: (503) 326-2568

Beverly Stein  
May 18, 1999  
page two

We would be pleased to work with you and/or your staff on scheduling a convenient time for this proclamation and award presentation. Manny Lee, Community Builder with the Portland HUD office, will be in contact with you within the week to follow up on this. In the meantime, please do not hesitate to contact him at 503-326-4067 for additional information.

Please contact me at 503-326-5348 if you have any questions. For more information on efforts underway to celebrate Homeownership Week, please access our web site at: <http://www.hud.gov/fha/fhahs.html>. Thank you very much for consideration of this request.

Sincerely,

Tom Cusack, Senior Community Builder  
Oregon HUD Office

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

PROCLAMATION NO. \_\_\_\_\_

Proclaiming June 5 through 12, 1999 as Home Ownership Week in Multnomah County, Oregon

The Multnomah County Board of Commissioners Finds:

- a. Home ownership acts as a catalyst to strengthen neighborhoods and stabilize communities, encourage savings and investment, and serves as a primary means of wealth accumulation for Oregonians.
- b. Home ownership has been reaffirmed as a fundamental policy objective in the National Housing Acts of 1934, 1949, 1968, and the GI Bill of Rights in 1944 and has been aggressively promoted by the Federal Housing Administration (FHA) of the U.S. Department of Housing and Urban Development (HUD), the U.S. Department of Agriculture, and the U.S. Department of Veteran's Affairs.
- c. Cooperation between the housing industry, government, and non-profit organizations such as the Portland Housing Center, a member of the NeighborWorks National Campaign for Homeownership offering counseling and education to prospective buyers has created home ownership opportunities for thousands of Oregon families.
- d. The FHA Single Family Program has made more than 285,000 home loans in Oregon over the past 65 years, thereby guaranteeing more than \$10.6 billion in loans and achieving a 97% success rate over those years.
- e. Multnomah County has joined the ranks of 14 Oregon counties in the \$100 MILLION LOAN CLUB in that FHA, to date, has guaranteed over \$3.3 billion in home ownership loans here, representing 110,617 homes. In 1998 alone, FHA guaranteed over \$203 million on a volume of 1,966 loans in the County.
- f. The Secretary of HUD has transmitted a National Homeownership Strategy to President Clinton designed to encourage partnerships between private and public entities to attain even higher rates of home ownership nationally by the end of the century.

The Multnomah County Board of Commissioners Proclaims:

1. Multnomah County proclaims June 5-12, 1999 as Home Ownership Week and recognizes the accomplishments of the Federal Housing Administration in Multnomah County and Oregon.
2. Multnomah County agrees to explore partnerships with its private and public colleagues to increase opportunities for first-time homeownership in Multnomah County.

Adopted this 10th day of June, 1999.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

\_\_\_\_\_  
Beverly Stein, Chair

# HUD/FHA Oregon HOME LOANS 1934-1999

## 1. *Why was FHA Created?*

- ❑ The FHA (Federal Housing Administration, now part of HUD) was created in 1934, 65 years ago, to LEAD banks into making MORE home loans, **without the 50% down payments then required.**
- ❑ The Fundamental principle of FHA Single Family Loan Programs was: **THE AMERICAN PEOPLE COULD BE TRUSTED TO MAKE LOAN PAYMENTS ON TIME**
- ❑ HUD's FHA loan programs have led the nation in expanding home ownership opportunities, converting a nation of renters into a nation of home owners. Since 1934, led by FHA, the national homeownership rate has increased from 44% to more than 66%--an increase of 50%.

## 2. *How Do FHA Home Loan Programs Work?*

- ❑ FHA offers LOAN GUARANTEES to PRIVATE LENDERS--the government does NOT lend the money.
- ❑ FHA charges an insurance premium to the home buyer for the insurance, while at same time offering LOW DOWNPAYMENT terms (3%) to the homebuyer.
- ❑ **BECAUSE OF THE FHA LOW DOWNPAYMENTS MORE THAN 60% OF LOANS ARE MADE TO FIRST TIME HOMEBUYERS.** As the chart on page 2 indicates, FHA also continues to lead ALL lenders in loans to minorities and in lower income neighborhoods.

## 3. *How Well Does the FHA Program Work? And Does it remain Financially Sound Today?*

- ❑ In the 65 years FHA has been in Oregon, it has produced 280,000+ home loans, representing a **\$10.6 BILLION PRIVATE SECTOR INVESTMENT IN HOME LOANS.**
- ❑ **Over that 65 year history FHA loans have been successful 97 times out of 100----surely one of the most successful government programs of the 21<sup>st</sup> century.**

- ❑ To insure the financial integrity of the FHA program, which is paid for by the insurance guarantee fees that are collected on each loan, Congress established capital ratios for the FHA insurance fund. These goals, a capital ratio of 2% before the year 2000, were reached YEARS ahead of time in 1997 when the ratio reached 2.81 percent.
- ❑ Further, the self *supporting nature of the FHA single family loan program*, was recognized by the Congressional Budget Office in 1998 when it projected that making MORE FHA loans would actually help **REDUCE THE NATIONAL BUDGET DEFECIT SINCE THE FHA PROGRAM GENERATES NET INCOME.**
- ❑ One way that FHA has continued to remain cost effective is through greater use of the private sector to do inspection, appraisals, and make loan decisions. This has permitted the office to **REDUCE staff, and contributed to a 60% overall REDUCTION in staff in the Oregon HUD office in the last 20 years, at a time when population GREW BY 25%.**

## 4. *WHATS THE VOLUME OF LENDING TAKING PLACE NOW?*

Annually FHA offers loan guarantees on more than 7,500 loans in Oregon/SW Washington, with NEW PRIVATE SECTOR INVESTMENT of more than \$700 million

## 5. *WHATS NEW WITH FHA INSURED LOANS?*

- ❑ **Higher Mortgage Limits**

FHA mortgage limits were increased this year for about 25 Oregon counties, meaning that more families can use FHA to purchase or refinance a home, including new construction homes. For example, in the Portland Metro area the FHA mortgage limit is now \$170,36, **meaning that homes costing up to \$175,000 can be purchased using FHA's 3% down payments.**

**□ Help for Seniors in Reverse Equity Mortgages**

The new FHA mortgage limits can be helpful to seniors who want to use a reverse equity mortgage and ALSO stay in their home. Since seniors may have built up significant equity, the increase in FHA mortgage limits helps seniors stay in their homes.

**□ Fee Reductions for First Time Homebuyers who Attend Training**

First time homebuyers who attend a HUD certified training program now also get a reduction in their initial insurance premium, which can save \$600 in closing costs on a \$120,000 mortgage

**6. Don't Other Financing Sources Offer the Same Kinds of Loans as FHA--What about Fannie Mae and Freddie Mac?**

**NO other lender serves the same markets as well as FHA.** See the chart and the quote below from the *Federal Reserve Bulletin* to see for yourself:

- ✓ **WHO serves first time homebuyers, lower income neighborhoods, and minority homebuyers?**
- ✓ **WHO makes low downpayment (HIGH RATIO) loans?**
- ✓ **WHO takes credit risk on behalf of these targeted lending groups?**

		FHA	Fannie	Freddie	FHA as % of Fannie	FHA as % of Freddie
1. First Time Homebuyers		70%	33%	29%	210%	245%
2. Below Median Income Homebuyers		67%	37%	35%	180%	191%
3. African American Homebuyers		14%	4%	4%	397%	325%
4. Hispanic Homebuyers		16%	5%	7%	330%	235%
5. Homebuyers in Underserved Areas		46%	19%	20%	243%	227%
6. % of Loans With Loan to Value Greater Than 95%		51%	2%	1%	2429%	8500%
7. <i>Credit Risk</i> for lower income and and minority borrowers and their neighborhoods		67%	Combined 5%		2680%	2680%
Notes: All Data is From 1996, Except Federal Reserve Credit Risk Assessment Which Used 1995 data						

**"FHA dominates all other institutions in [targeted lending] MARKET SHARE, holding about 2/3rds of the total credit risk borne by all institutions for FHA-eligible mortgages extended in 1995 to lower income and black or Hispanic borrowers and in lower-income and minority neighborhoods."**

**HUD/FHA HOME OWNERSHIP**

**MULTNOMAH COUNTY  
\$3.3 BILLION**



***65 Years of Successful FHA Lending***

***Charter Member of the HUD/FHA  
\$100 Million FHA Lending Group***

*Tom Cusack*

Tom Cusack, HUD Oregon State Coordinator

*June 10, 1999*

June, 1999

# FHA Single Family Loans Lead the Way for ALL LENDERS

In Service to:

- ✓ First Time Homebuyers
- ✓ Lower Income Neighborhoods
- ✓ Minorities

**FHA's 65 Year  
Oregon Anniversary  
1934-1999**

**\$10.6 Billion  
97% Success Rate**

	FHA	Fannie	Freddie	FHA as % of Fannie	FHA as % of Freddie
1. First Time Homebuyers	70%	33%	29%	210%	245%
2. Below Median Income Homebuyers	67%	37%	35%	180%	191%
3. African American Homebuyers	14%	4%	4%	397%	325%
4. Hispanic Homebuyers	16%	5%	7%	330%	235%
5. Homebuyers in Underserved Areas	46%	19%	20%	243%	227%
6. % of Loans With Loan to Value Greater Than 95%	51%	2%	1%	2429%	8500%
7. <u>Credit Risk</u> for lower income and and minority borrowers and their neighborhoods	67%	Combined 5%		2680%	2680%
Notes: All Data is From 1996, Except Federal Reserve Credit Risk Assessment Which Used 1995 data					

**"FHA dominates all other institutions in [targeted lending] MARKET SHARE, holding about 2/3rds of the total credit risk borne by all institutions for FHA-eligible mortgages extended in 1995 to lower income and black or Hispanic borrowers and in lower-income and minority neighborhoods."**

*Federal Reserve Bulletin, December 1996*

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR MULTNOMAH COUNTY, OREGON

**PROCLAMATION NO. 99-109**

Proclaiming June 5 through 12, 1999 as Home Ownership Week in Multnomah County, Oregon

The Multnomah County Board of Commissioners Finds:

- a. Home ownership acts as a catalyst to strengthen neighborhoods and stabilize communities, encourage savings and investment, and serves as a primary means of wealth accumulation for Oregonians.
- b. Home ownership has been reaffirmed as a fundamental policy objective in the National Housing Acts of 1934, 1949, 1968, and the GI Bill of Rights in 1944 and has been aggressively promoted by the Federal Housing Administration (FHA) of the U.S. Department of Housing and Urban Development (HUD), the U.S. Department of Agriculture, and the U.S. Department of Veteran's Affairs.
- c. Cooperation between the housing industry, government, and non-profit organizations such as the Portland Housing Center, a member of the NeighborWorks National Campaign for Homeownership offering counseling and education to prospective buyers has created home ownership opportunities for thousands of Oregon families.
- d. The FHA Single Family Program has made more than 285,000 home loans in Oregon over the past 65 years, thereby guaranteeing more than \$10.6 billion in loans and achieving a 97% success rate over those years.
- e. Multnomah County has joined the ranks of 14 Oregon counties in the \$100 MILLION LOAN CLUB in that FHA, to date, has guaranteed over \$3.3 billion in home ownership loans here, representing 110,617 homes. In 1998 alone, FHA guaranteed over \$203 million on a volume of 1,966 loans in the County.
- f. The Secretary of HUD has transmitted a National Homeownership Strategy to President Clinton designed to encourage partnerships between private and public entities to attain even higher rates of home ownership nationally by the end of the century.

The Multnomah County Board of Commissioners Proclaims:

1. Multnomah County proclaims June 5-12, 1999 as Home Ownership Week and recognizes the accomplishments of the Federal Housing Administration in Multnomah County and Oregon.
2. Multnomah County agrees to explore partnerships with its private and public colleagues to increase opportunities for first-time homeownership in Multnomah County.

Adopted this 10th day of June, 1999.

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

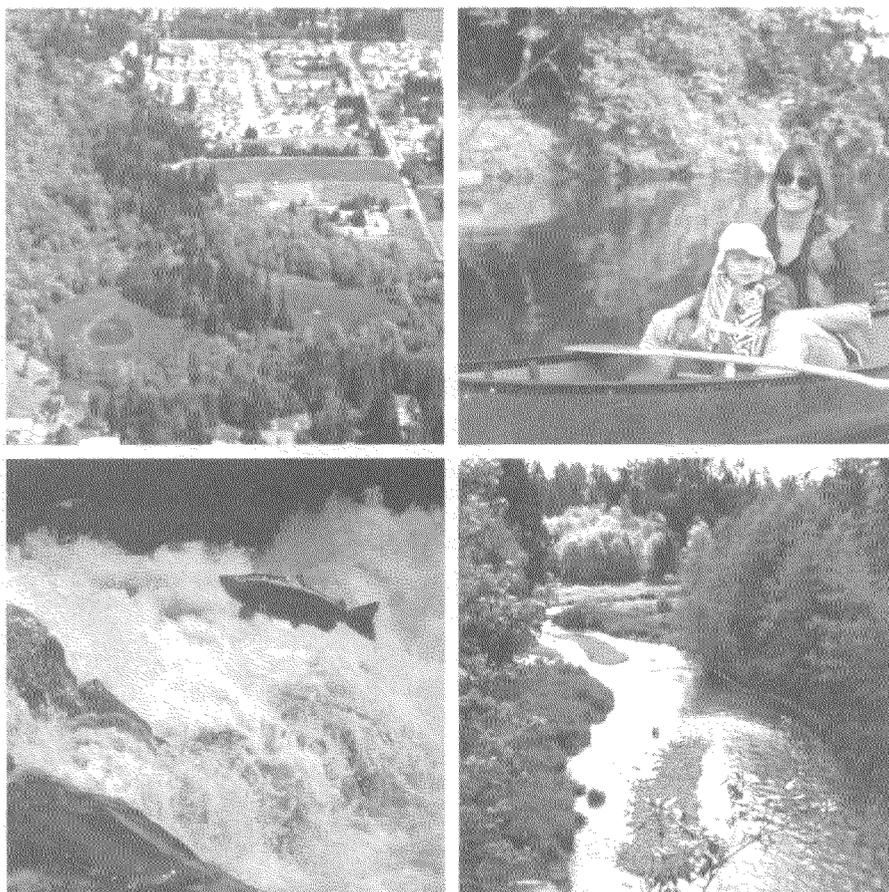
  
Beverly Stein, Chair





*Four years and 4,400 acres*

## Metro's Open Spaces Land Acquisition Report to Citizens



*May 1999*



**METRO**  
Regional Services  
*Creating livable  
communities*

---

**Metro***Creating livable communities*

If you live, work and play in the metropolitan area, Metro regional services matter to you and your family. That's because Metro is working to help ensure that you have

- access to nature
- clean air and water
- balanced transportation choices
- safe and stable neighborhoods
- access to arts and culture
- a strong regional economy
- resources for future generations

Metro serves 1.3 million people who live in Clackamas, Multnomah and Washington counties and the 24 cities in the Portland metropolitan area. Metro provides transportation and land-use planning services and oversees regional garbage disposal and recycling and waste reduction programs.

Metro manages regional parks and greenspaces and the Oregon Zoo (formerly the Metro Washington Park Zoo). It also oversees operation of the Oregon Convention Center, Civic Stadium, the Portland Center for the Performing Arts and the Portland Metropolitan Exposition (Expo) Center, all managed by the Metropolitan Exposition-Recreation Commission.

For more information about Metro or to schedule a speaker for a community group, call 797-1510 (public affairs) or 797-1540 (council).

Metro's web site: [www.metro-region.org](http://www.metro-region.org)

Metro is governed by an executive officer, elected regionwide, and a seven-member council elected by districts. An auditor, also elected regionwide, reviews Metro's operations.

<b>Executive Officer</b> Mike Burton	District 1 Rod Park
<b>Auditor</b> Alexis Dow, CPA	District 2 Bill Atherton
<b>Council</b>	District 3 Jon Kvistad
<b>Presiding Officer</b> District 6 Rod Monroe	District 5 Ed Washington
<b>Deputy Presiding Officer</b> District 4 Susan McLain	District 7 David Bragdon

**Metro Regional Center**  
600 NE Grand Ave.  
Portland, OR 97232  
(503) 797-1700  
TDD (503) 797-1804

---

**Regional Parks and Greenspaces Department**

Charles Ciecko, director

Jim Desmond, manager, Open Spaces Acquisition Division

Heather Nelson Kent, manager, Planning and Education Division

Dan Kromer, manager, Operations and Maintenance Division

For information, call 797-1555.

---

**Metro Regional Parks and Greenspaces Advisory Committee**

District 1 Robert Akers	District 5 J. Michael Reid
District 2 Sylvia Milne	District 6 Brian Scott
District 3 John Griffiths, chair	District 7 Jim Battan, vice-chair
District 4 Jay Hamlin	

Rick Charriere, Clackamas County, outside Metro boundary

Seth Tane, Multnomah County, outside Metro boundary

Faun Hosey, Washington County, outside Metro boundary; retired March 31, 1999

Julie Garver, Clark County, Wash.

---

**Photo credits**

Bergman Photography  
William Eadie  
Barbara Edwardson  
C. Bruce Forster  
Amy Kirschbaum  
Jim Morgan  
Linnea Nelson



*Rock Creek in Hillsboro*

## *Greetings*

Once again, we are proud to present a "Report to Citizens," a summary of Metro's open spaces land acquisition efforts to date.

It has been four years since voters of the region approved Metro's open spaces, parks and streams bond measure. Since then, Metro has acquired more than 4,400 acres of regionally significant land in 146 separate "willing seller" property transactions. Included are more than 27 miles of stream and river frontage and thousands of acres of valuable wetlands, riparian areas, meadows and forested habitat.

Metro's land acquisition effort is one of the most ambitious open spaces protection efforts under way in any region of the country. Other local jurisdictions are just now considering or beginning to implement similar open spaces protection initiatives. Due to the foresight of the residents here, our region is setting a national example by protecting our natural heritage and creating livable communities.

With all of the success in the land acquisition arena, many residents are interested in assisting with stewardship activities and understanding the "next steps" in making these areas accessible for public use and enjoyment.

We are pleased to announce that Metro's Regional Parks and Greenspaces Department has hired a volunteer services manager to coordinate citizen stewardship opportunities. We encourage you to contact Lupine Jones at 797-1733 or send e-mail to [jonesl@metro.dst.or.us](mailto:jonesl@metro.dst.or.us) to find out how you can get involved.

Additionally, later this year, the first "master planning" process will be undertaken for properties that have been acquired with bond measure funds – in this case, land Metro has purchased along the Tualatin River. This effort will allow citizens the opportunity to help shape the future public uses and facility development plans for these important additions to our regional parks system. For more information, contact Heather Nelson Kent at 797-1739 or [nelsonkenth@metro.dst.or.us](mailto:nelsonkenth@metro.dst.or.us).

This report details Metro's regional land acquisitions as well as acquisitions and parks improvement projects undertaken by our local government partners, each of which received a share of the bond funds. The report also details financial information relating to the bond measure and its administration.

We hope you'll take a few minutes to read this "Report to Citizens" and share your thoughts, concerns and questions with us. We look forward to hearing from you.

Best regards,

Mike Burton, Executive Officer

Charles Ciecko, Director, Metro Regional Parks and Greenspaces Department

Jim Desmond, Manager, Open Spaces Acquisition Division

May 1999

## *Report to Citizens*

In May 1995, voters of the Portland metropolitan region overwhelmingly supported the open spaces, parks and streams bond measure (Measure 26-26). This \$135.6 million measure (the largest of its type ever in Oregon) provides

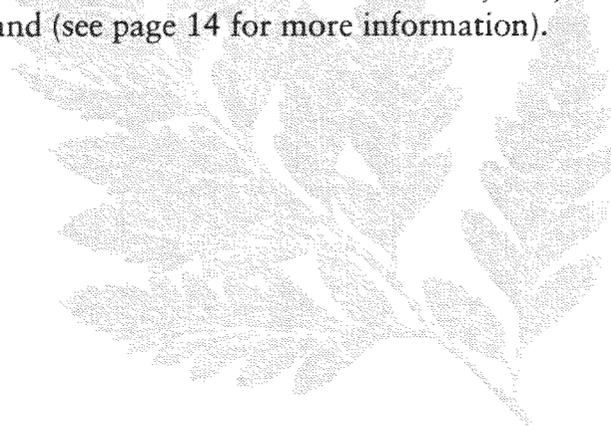
funds to acquire future regional park sites, natural areas, trail corridors and greenways for the protection of their natural qualities and associated recreational opportunities.



*Clear Creek Canyon*

With passage of the bond measure, current and future generations of Oregonians will benefit from cleaner water and air, and have access to nature for picnicking, hiking, fishing and boating, even as our population continues to grow. At the same time, because the newly acquired lands are protected now from threat of future development or timber harvesting, fish and wildlife also benefit.

The bond measure specified that Metro's land acquisitions occur in 14 regional "target areas" and six trail and greenway project areas. The goal is to acquire approximately 6,000 acres in the three-county (Multnomah, Clackamas and Washington) metropolitan area. To date, more than 4,400 acres have been purchased, donated or protected with conservation easements; \$58,852,354 have been spent to acquire the land (see page 14 for more information).



## Regional Acquisition Projects

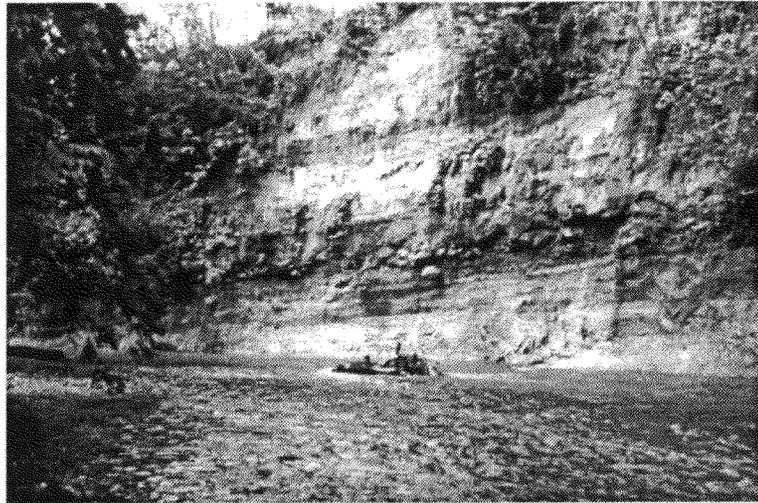
---

### **Clear Creek Canyon**

Minimum acreage goal: 343  
Acres acquired: 393

Clear Creek, a tributary of the Clackamas River, is a free-flowing stream with excellent water quality. It supports a variety of fish, including cutthroat trout, rainbow trout, steelhead, chinook and coho salmon.

To date, Metro has acquired 393 contiguous acres of land in the lower Clear Creek Canyon area. This land is a combination of open meadows, wetlands and forest. The forested land includes a mix of deciduous and coniferous species, including fir, hemlock, western red cedar, cottonwood, maple and alder. More than two miles of the creek runs through the property.



*This Clear Creek Canyon acquisition provides protection to more than two miles of creek frontage.*



*Metro's Cooper Mountain acquisitions are within one mile of thousands of households.*

### **Columbia River Shoreline**

Minimum acreage goal: 95  
Acres acquired: 219

Government Island, located in the Columbia River, is one of the largest islands in the metropolitan area. With Metro's 219-acre acquisition of the eastern tip, the island is now completely in public ownership. Accessible only by boat, Government Island is popular with recreational boaters; the closest public access point to the Columbia

River is Metro's Chinook Landing Marine Park, at Southeast 223rd Avenue and Marine Drive.

### **Cooper Mountain**

Minimum acreage goal: 428  
Acres acquired: 219

With views of the Chehalem Mountains, 210 contiguous acres on the southwestern

slope of Cooper Mountain include pockets of oak and madrone trees, perched wetlands and excellent habitat for birds and mammals.

Because much of this land was harvested prior to Metro's purchase, it has been replanted with a diverse assemblage of native trees – 48,000 in all.

In the fall of 1997, Metro (in conjunction with Tualatin Valley Fire and Rescue and the U.S. Bureau of Land Management) conducted a controlled burn on approximately 18 acres on Cooper Mountain. The purpose of the burn was to reduce the potential fire hazards on the property (due to the timber harvest); provide local fire departments with a training opportunity for wildland fire control; and suppress weeds and enhance wildlife habitat. Today, the burned areas are thriving with new growth.

---

### **East Buttes/Boring Lava Domes**

Minimum acreage goal: 545  
Acres acquired: 472

The East Buttes/Boring Lava Domes is the largest of the 14 target areas included in the bond measure. Metro's primary goals for this area are to acquire and protect a regionally and biologically significant natural area between Gresham and Damascus, and to work with local jurisdictions to acquire land on the tops of Mt. Talbert, Mt. Scott and Kelly, Rocky, Clatsop and Powell buttes.

Seventy-three contiguous acres have been acquired on one unnamed butte in Clackamas County. One of the highest and most visible in the area, and known to many people in Gresham, Happy Valley and Damascus, the butte is located north of Borges Road, east of 190th Avenue. It is predominantly forested with big leaf maple, alder, fir and cedar. At

almost 2,000 feet, with a meadow near the butte's crest, the property is an excellent viewing point for Mt. Hood, the Columbia River Gorge and the mountains of Washington state.

On Mt. Talbert in Clackamas County, 142 acres have been acquired jointly by Metro and North Clackamas Parks and Recreation District. The land, which includes the summit and the north, east and south

slopes of the butte, will be managed by the district.

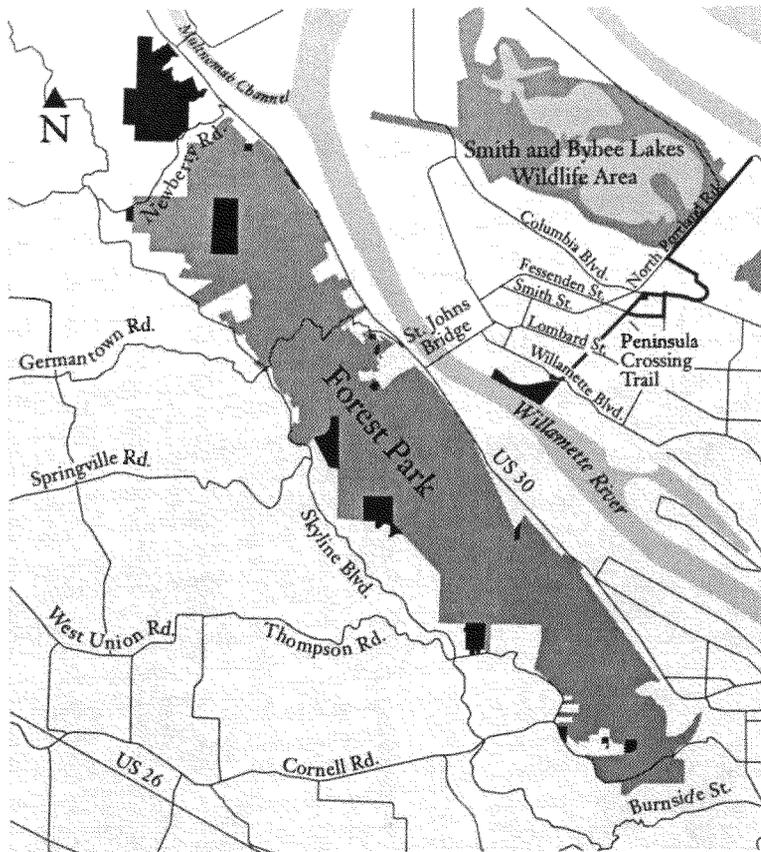
Mt. Talbert, located east of I-205 and south of Sunnyside Road, is one of the most visible and largest forested buttes remaining in the Portland metropolitan area. It was zoned residential and slated for hundreds of new homes. Now, however, the top of Mt. Talbert will be forever covered with trees, rather than a residential development.



*Seventy-three acres have been acquired on this butte, which includes spectacular mountain views.*



*The acquisition of 142 acres on Mt. Talbert protects it from the development of hundreds of homes.*



*Metro's new acquisitions at Forest Park (shown in black) help fill in gaps and holes within the park.*

### **Forest Park Expansion**

Minimum acreage goal: 320  
Acres acquired: 490

Following more than four years of negotiations, Metro acquired the last major in-holding in Forest Park in April 1999. The "hole in Forest Park," as the property is commonly known, is 73 acres in size and had been the subject of a 10-year land-use dispute and a contentious lawsuit between the city of Portland and the former owners of the land.

When Metro's open spaces, parks and streams bond measure was approved by voters in 1995, funds to buy the land became available and

Metro began negotiating with the landowners as "willing sellers." This 73-acre parcel was often cited as the type of land that would be purchased if the bond measure passed.

Another parcel was acquired in February 1999. Located off Northwest Skyline Boulevard and Saltzman Road, the 52-acre property is a favorite for hikers and mountain bikers. With the second highest elevations in the park (1,050 feet), several pinnacles on the property provide spectacular views of Mt. Hood, Mt. Rainier, Mt. St. Helens and Mt. Adams on a clear day.

An additional 267 acres lie north of the Forest Park boundary. Most of this land

was harvested of its timber prior to Metro's acquisition; it has since been replanted with a diverse assemblage of 80,000 native trees. In time, this land will look like the rest of Forest Park, which also was once harvested of its timber.

### **Gales Creek**

Minimum acreage goal: 775  
Acres acquired: 405

Gales Creek is one of the headwater streams of the Tualatin River. Its upper reaches have a "mountain stream" character and support trout and steelhead populations. South of Forest Grove, the lower portion of the creek flows more slowly through predominantly agricultural land. Metro's primary goal for the Gales Creek target area, located in and near Forest Grove, is to acquire property and conservation easements along the creek and the Tualatin River, with a focus on the confluence.

To date, 405 acres have been acquired. While much of this land is being farmed under lease agreements with local farmers, Metro has expanded riparian buffers and will consider additional restoration and enhancement in the future.

---

**Newell Creek Canyon**

Minimum acreage goal: 370  
Acres acquired: 136

One of the early success stories of the land acquisition program, 16 separate parcels of land have been acquired in Newell Creek Canyon.

Totaling 136 acres, many of these parcels form a contiguous, protected land mass in a natural area threatened by development in Oregon City.



*About 25 acres of land provide protection to Rock Creek, which flows through rapidly urbanizing Hillsboro.*

---

**Rock Creek Greenway**

Minimum acreage goal: 300  
Acres acquired: 78

Rock Creek flows from the Tualatin Mountains in Forest Park to the Tualatin River. Because the creek and its tributaries pass through rapidly urbanizing neighborhoods within the cities of Hillsboro and Beaverton, water quality is of concern.

To date, Metro has acquired seven parcels of land, including five that are contiguous, along Rock Creek. The city of Hillsboro, which acquired one of the properties with Metro, is managing most of the land.



*Gordon Creek, a tributary of the Sandy River, is a high-quality fish-bearing stream. One mile of Gordon Creek (on both sides) is now protected by Metro's acquisitions.*

---

**Sandy River Gorge**

Minimum acreage goal: 808  
Acres acquired: 736

The Sandy River cuts a 55-mile-long serpentine swath from Mt. Hood to the Columbia River. It is noted for its many oxbows, forests down to the waterline and populations of native salmon, steelhead and smelt. A 12.5-mile stretch of the river – from Dodge Park on the

south, downstream to the Stark Street Bridge on the north – meanders its way through the 800-foot-high basalt and sandstone canyons known as the Sandy River Gorge. This portion of the river, designated as both a State Scenic Waterway and a National Wild and Scenic River, is where Metro is focusing its acquisition efforts.

To date, Metro has acquired 736 acres in the Sandy River Gorge target area, including almost 340 acres of land in the Gordon Creek watershed. This land ensures a big game corridor “connectivity” between Larch Mountain and the lower Sandy River, and protection of critical habitat for steelhead, salmon and resident trout.

---

### **Tonquin Geologic Area**

Minimum acreage goal: 277  
Acres acquired: 135

The Tonquin Geologic Area, also known as the “scablands,” was created between 8,000 and 11,000 years ago when the Bretz or Missoula floods scoured out the Columbia River Gorge, ultimately backing up in the current vicinity of the city of Wilsonville. When the floodwaters subsided, unique geologic formations including “kolk” ponds, channels, basalt hummocks and knolls were left behind.

Metro’s goal for the area is to acquire the best of the remaining examples of “scablands” geology, including associated flora and fauna. To date, 135 acres have been acquired in the Tonquin Geologic Area.

---

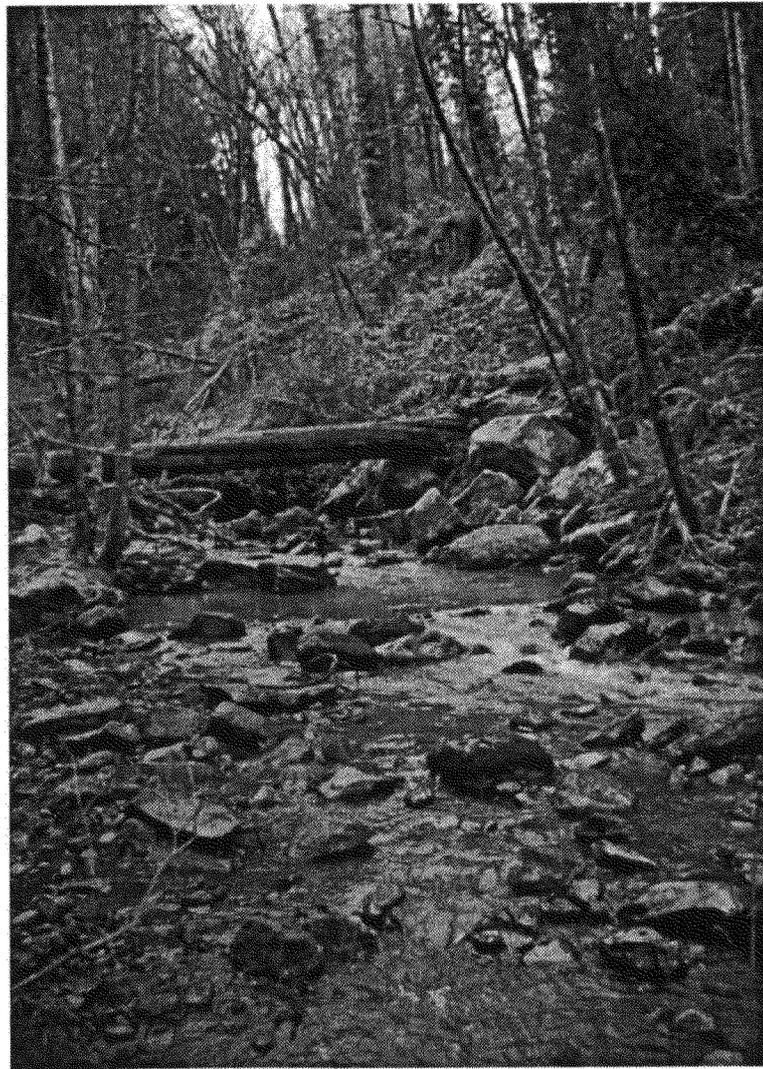
### **Tryon Creek Linkages**

Minimum acreage goal: 20  
Acres acquired: 43

Winding its way to the Willamette River through densely populated neighborhoods in Southwest Portland and Lake Oswego, Tryon Creek is still used by steelhead and coho salmon for spawning and rearing. This area presents a critical need to protect the streambed and riparian zone along Tryon Creek for habitat value, flood control and water quality

purposes. These acquisitions also provide an excellent opportunity for people to access nature close to where they live.

To date, Metro has acquired eight parcels of land totaling 43 acres in the Tryon Creek target area, doubling the goal established in the bond measure. The largest property is 10 acres in size and includes the confluence of Falling and Playhouse creeks with Tryon Creek. Another 8.5-acre parcel links 23-acre Marshall



*Tryon Creek flows through this 8.5-acre property, which links Marshall Park and Tryon Creek State Park.*



*Metro has acquired 62 acres on Canemah Bluff, along the east bank of the Willamette River south of Oregon City.*

Park and 645-acre Tryon Creek State Park, one of the most important objectives identified during refinement. The remaining acquisitions include key headwater sites of the creek system and a recent purchase of a Portland Public Schools property near Maricara Park.

---

**Tualatin River Access**

Minimum acreage goal: 266  
*(minimum of four access points)*  
 Acres acquired: 289

Despite its commanding length and presence, the Tualatin River – complete with slow-

moving water, quiet solitude and prolific wildlife – has been difficult to truly experience. Few public access points exist along its 70-mile length.

Since passage of the open spaces, parks and streams bond measure in May 1995, Metro has acquired 334 acres along the Tualatin River. The majority of this land (289 acres) is in four different areas between Wankers Corner, near Stafford and the community of Scholls. This land was acquired primarily to provide the public with future access to the river and to preserve floodplain, riparian and wetland habitat. Another 45

acres have been purchased near the confluence of Gales Creek (see page 4).

The Tualatin River Access target area will be the subject of the first “master planning” process. See the cover letter and page 15 for more information about the master planning process.

---

**Willamette River Greenway**

Minimum acreage goal: 1,103  
 Acres acquired: 598

Canemah Bluff, Multnomah Channel, OMSI to Springwater Corridor Trail, Willamette Cove and Willamette Narrows are part of the Willamette River Greenway target area.

**Canemah Bluff**

Acres acquired: 62

Located along the east bank of the river south of Oregon City, Canemah Bluff is noted for a diversity of habitats including steep cliffs, rock outcroppings, oak and madrone forest, well-established native plant communities, diverse topography, seeps and numerous wetlands.

To date, Metro has acquired about 62 acres of land along Canemah Bluff. One 39-acre parcel, located adjacent to the historic Canemah cemetery, is a dramatic combination of views, rock formations, wetlands and native woodlands. Had this property not been acquired by Metro, it would have been developed into a 136-lot planned-unit residential area.

### **Multnomah Channel**

Acres acquired: 326

Multnomah Channel is approximately four miles north of the Portland city limits. It extends from the southern tip of Sauvie Island, north six miles to Rocky Point. The area is characterized by ash, willow and

cottonwood forests, with some meadows and numerous wetlands.

To date, Metro has acquired four properties on Multnomah Channel. Together they total 326 acres and about two miles of channel frontage. A perennial creek system runs through these properties, refreshing wetlands, which are used heavily by resident and migratory waterfowl.



*Land acquired along Multnomah Channel provides good habitat for resident and migratory waterfowl.*



*Peach Cove Bog, in the Willamette Narrows, includes vegetation that is unique in the Willamette River Valley.*

In 1998, Metro planted 23,000 trees on the Multnomah Channel properties. The trees were planted mostly along the channel and stream banks in an effort to provide bank stabilization and shading benefits.

### **OMSI to Springwater Corridor Trail**

(see trail/greenway section, page 10)

### **Willamette Cove**

Acres acquired: 27

Willamette Cove is on the North Portland peninsula near the community of St. Johns. With nearly one-half mile of riverfront property, Willamette Cove has excellent scenic and wildlife value, as well as great promise as a future nature park. It also serves as the southern anchor for another bond measure project, the Peninsula Crossing Trail, a three-mile bike and pedestrian trail connecting the Willamette and Columbia rivers.

### **Willamette Narrows**

Acres acquired: 140

Willamette Narrows stretches along the westbank of the river from the mouth of the Tualatin River south to the Canby ferry crossing. The area contains a mixture of land uses including rural residential, agricultural and forest lands.

To date, Metro has acquired 140 acres in the Willamette Narrows including a property known as Peach Cove Bog.

This wetland is highly significant because of its relatively pristine condition. Occupying a depression scoured in bedrock by the Missoula Floods, the wetland includes a 20-acre shallow lake, a floating mat of peat and associated emergent marsh and aquatic vegetation. The lake level fluctuates with seasonal rains and the floating peat mat rises and falls with the water level of the lake. This floating peat mat is the only one of its kind remaining in the Willamette Valley.

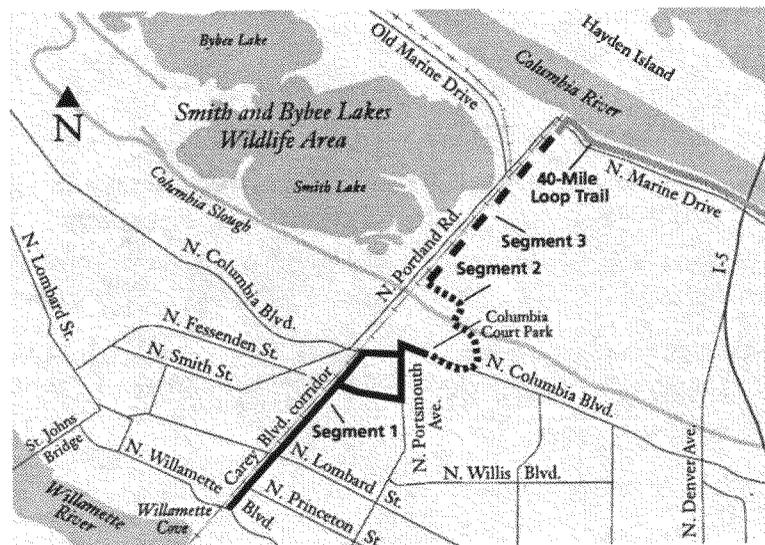


Children and adults celebrated the opening of the first segment of the Peninsula Crossing Trail in October 1998.

### **Jackson Bottom/Dairy/McKay creeks**

Minimum acreage goal: 333  
Acres acquired: 0

Metro's goals for this target area are to expand the Jackson Bottom Wetlands complex at the confluence of Dairy Creek and the Tualatin River; protect other significant wetlands associated with Dairy Creek and its tributaries; and provide a linear greenway connection extending north along Dairy and McKay creeks.



Segment 1 of the three-mile Peninsula Crossing Trail is constructed and open for use.

## *Regional Trail and Greenway Projects*

**Peninsula Crossing Trail** (a regional capital improvement project)  
Acres acquired: 1.5

Located on a publicly owned right of way, the Peninsula Crossing Trail will cross the

North Portland peninsula between the Willamette and Columbia rivers. The pedestrian and bike path will connect urban neighborhoods to workplaces, schools and regionally significant natural areas (Willamette Cove on the south and Smith and Bybee Lakes Wildlife Area on the north).

The Peninsula Crossing Trail is a collaborative effort between the residents of

North Portland, Metro, the 40-Mile Loop Land Trust, the city of Portland and the Oregon Department of Transportation.

Segment 1, from North Willamette Boulevard to Columbia Court, is now completed. Segment 3, along North Portland Road to Marine Drive, will be completed by 2000. Segment 2 (being constructed by Portland's Bureau of Environmental Services) is scheduled for completion by 2001.



*A 20-acre acquisition on the Clackamas River is west of Barton Bridge.*

---

**OMSI to Springwater Corridor Trail** *(part of the Willamette River Greenway; see page 7)*  
Acres acquired: 44

Last spring (1998), Metro acquired 44 acres along the east bank of the Willamette River. The acquisition of this linear property, almost three miles in length, was the first step in establishing a trail between the Oregon Museum of Science and Industry (OMSI) and the western end of the 16-mile Springwater Corridor Trail.

The next step, an agreement with the operator of a rail line through the corridor, was completed in the summer of 1998. The rail line operator will relocate his track to accommodate a trail on the river side of the right of way, and limit the speed at which trains move through the corridor.

Currently, this "rails-with-trail" project is in the design phase. Construction will begin



*This two-acre wetland includes the headwaters of Sylvan Creek, a tributary of Fanno Creek.*

later this summer and conclude in the year 2000. Both design and construction of the trail are being managed by the city of Portland Parks and Recreation. When the trail is completed, pedestrians and bicyclists will enjoy Willamette River views and wildlife as they traverse the trail under freeway overpasses and through natural areas.

---

### **Clackamas River Greenway**

Goal: eight miles  
Acres acquired: 98

The lower Clackamas River and its riparian corridor is widely recognized as a regionally significant natural resource. Characterized by large expanses of gravelly floodplain, healthy riparian zones and relatively large blocks of upland forest, this area provides habitat for wildlife and fish, possesses

significant scenic value and offers outstanding recreational opportunities.

Metro has acquired 98 contiguous acres near Barton Park and is pursuing additional large blocks of land near the park and downstream toward Carver.

---

### **Fanno Creek Greenway**

Goal: 12 miles

Acres acquired: 15

Fanno Creek, which originates on the west side of the Tualatin Mountains, meanders 14 miles through parts of the city of Portland, Multnomah and Washington counties, and the cities of Beaverton, Tigard and Durham before it meets the Tualatin River.

Because the Fanno Creek watershed crosses a number of jurisdictions, a unique opportunity exists for a partnership between Metro

and local parks providers. Metro is acquiring land along the main stem of Fanno Creek and in the headwater areas of its tributaries. At the same time, a multi-jurisdictional group is working to recommend a 12-mile trail alignment that would extend from Willamette Park in Portland to the confluence of Fanno Creek and the Tualatin River.

---

### **Beaver Creek Canyon Greenway**

Goal: eight miles

Acres acquired: 30

In December 1997, Metro received its first conservation easement. Donated by Dr. Michael McKeel, a civic leader from Gresham, the easement establishes permanent land-use restrictions on 30 acres of land. Located on Arrow Creek, a tributary to Beaver Creek, the property is sloped and densely forested. It provides a natural area buffer between rapidly growing

residential areas and riparian lands in the Beaver Creek watershed.

---

### **Burlington Northern Rails-to-Trails**

Goal: seven miles

Acres acquired: 0

The goal for the Burlington-Northern "rails-to-trail" project is to acquire a seven-mile corridor near Cornelius Pass Road in Hillsboro (from U.S. Highway 30 to Bower's Junction). Abandonment of the Burlington-Northern rail corridor has not been implemented or contemplated at this time, so acquisition and rail construction are no longer considered likely. The feasibility of a "rail with trail" is being explored.

### *Local share land acquisitions and capital improvement projects*

A "local share" portion of the open spaces bond measure provides \$25 million to 26 local parks providers for neighborhood land acquisition and capital improvement projects within existing community parks. About 100 local projects were included in the bond measure. The "local share" component is critical because it ensures that funding for new parks is available in neighborhoods throughout the region.



*The Beaver Creek pedestrian bridge incorporates a tree that had fallen across the creek.*



*In Gresham, a new bridge across Johnson Creek ensures a connection between the Butler Ridge Greenway and the Springwater Corridor Trail.*

As of March 31, 1999, \$12,812,600 (51 percent of \$25 million) had been spent on 65 different projects. Seven jurisdictions have drawn all of their local share funds. A complete list of projects for each jurisdiction, including spending for those projects, is attached.

A sample of some of the local projects funded through the bond measure follows:

---

#### **Barton Park** – Clackamas County Parks

Improvements to Barton Park, located on the lower Clackamas River, are currently being undertaken by Clackamas County Parks. When completed, this project, using \$645,000 in “local share” funds, will include a campground expansion, additional picnic shelters, tables and infrastructure such as plumbing and road improvements.

---

#### **Beaver Creek Canyon Trail and Bridge** – city of Troutdale

In Troutdale, the city used a portion of its “local share” money to acquire land and make trail improvements along Beaver Creek. The project also includes a pedestrian bridge that spans the creek; the bridge was built over a tree that had fallen along the creek.

---

#### **Boeckman Crossing Trail** – city of Wilsonville

In the city of Wilsonville, two new trails have been constructed using “local share” funds. One of these new trails, known as the Boeckman Crossing Trail, was dedicated on Earth Day 1999. It is notable for its environmentally sensitive design, the use of native species in the landscaping and the connectivity it provides between the Courthouse and Wilsonville Meadows neighborhoods.

---

#### **Johnson Creek Bicycle/Pedestrian Bridge** – city of Gresham

The city of Gresham used \$90,000 of “local share” funds to improve a trail and construct a bicycle/pedestrian bridge over Johnson Creek. With these improvements, a connection between the Butler Ridge Greenway and the Springwater Corridor Trail is now complete.

---

**Johnson Creek Land Acquisitions** – city of Portland

The city of Portland has used approximately \$1 million in “local share” funds to acquire land in the Johnson Creek watershed. To date, 70 acres of land have been acquired for a total of \$5.6 million (this includes the bond funds, as well as funds from the city’s Bureau of Environmental Services and the Federal Emergency Management Agency).

This land, once returned to a natural condition, will provide improved habitat for fish and increased water storage in an area that is prone to flooding. Steelhead and cutthroat trout are known to use the creek system, and recently, juvenile coho salmon were documented in Johnson Creek.

---

**Noble Woods Park** – city of Hillsboro

One of the seven local jurisdictions to use all of its “local share” funds, the city of Hillsboro spent approximately \$250,000 in bond funds to improve Noble Woods Park. Rock Creek runs through this 38-acre park, which lies in the geographic center of the city. Improvements to the park were made on the trail system and parking areas. In addition, an overlook area was created and the creek was enhanced with new plantings and structural improvements (logs and rocks).

---

**THPRD Land Acquisitions** – Tualatin Hills Park and Recreation District

The district spent approximately \$1,380,000 primarily in “local share” funds to acquire almost 14 acres in three locations:

- Steep, wooded slopes characterize an eight-acre acquisition in the Cedar Mill area. Cedar Mill Creek flows through this property, located next to Jordan Park in a growing residential area in northeast Washington County.
- Acquired in partnership with the city of Beaverton, a 3.4-acre acquisition more than doubles the size of Vale Park. This land is the last link in a greenway corridor that includes Brookhaven, Lowami Hart Woods, Vale, Sexton Mountain Wetlands and Beacon Hill parks. Johnson Creek flows through the new acquisition.
- Located across the street from Sexton Mountain Elementary School, a 2.5-acre wetland will provide a natural area/trail corridor link from Southwest 155th Avenue to the planned Beaverton Powerline Regional Trail Corridor and the Cooper Mountain Community Trail Corridor, both identified in the district’s Trails Master Plan.

## *Leveraged funds, land donations and in-kind donations*

The open spaces program has demonstrated its potential to augment existing funds by attracting and securing money from other sources. To date, Metro has leveraged \$3,129,407 from state and local partners to buy regionally significant open space. This figure does not include any “local share” bond money contributed by Metro’s local partners for the acquisition of regional properties. In addition, six properties totaling two acres have been acquired through foreclosure from Multnomah County.

Another way Metro hopes to stretch the bond measure proceeds is by negotiating the donation of land or easements. As of March 31, 1999, Metro had received two land donations, a 30-acre conservation easement donation (see page 11 for more information) and one property for which the landowner accepted less than “fair market value” of the property with the intention of making a partial donation. These donations and the “bargain sale” represent approximately \$140,000.

Since passage of the open spaces bond measure, Metro has received numerous contributions of goods and

services that have benefited the land acquired. These "in-kind" donations include trees, planting materials and labor for site enhancement and restoration work. Donations also have been received for public outreach and communications efforts, including food and prizes for the opening of the Peninsula Crossing Trail and a three-year anniversary display advertisement. In all, as of March 31, 1999, Metro's "in-kind" donations total approximately \$82,000.

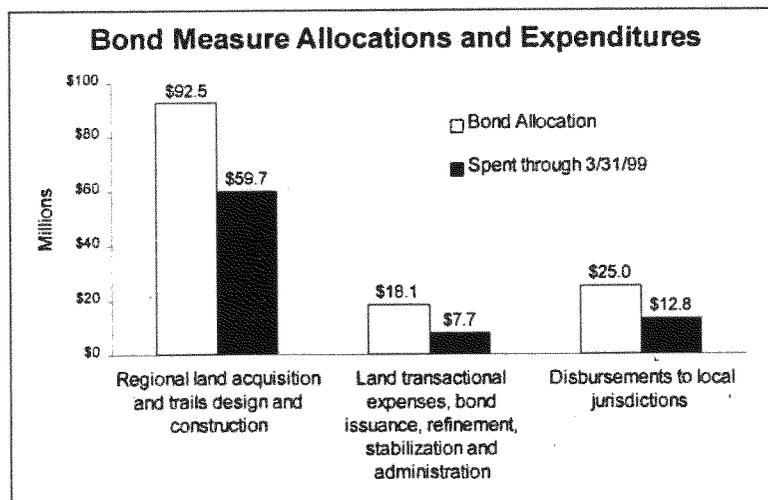
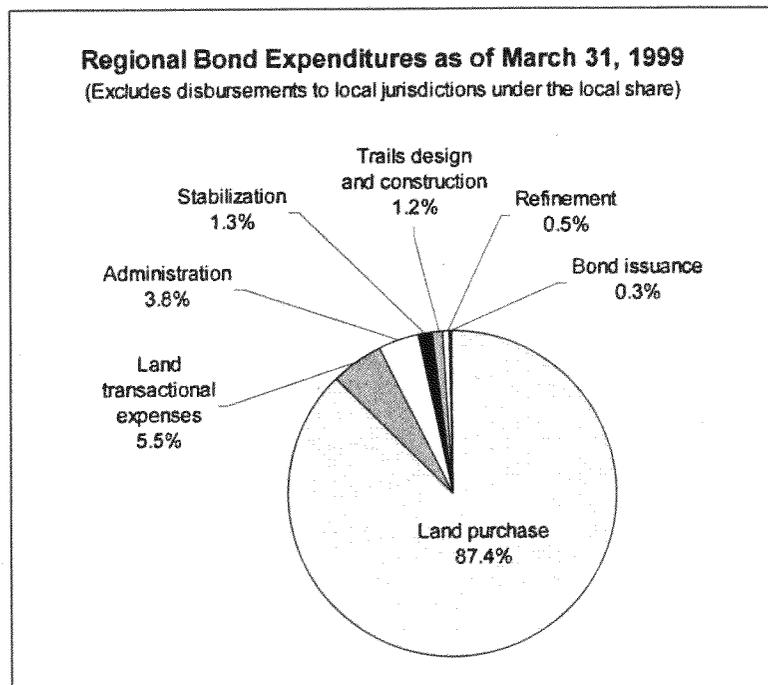
### Account status

The bond measure estimated that 13.35 percent of the bond proceeds would be spent on land transactional expenses, bond issuance, refinement, stabilization and administrative costs. As of March 31, 1999, however, these costs actually have been 9.6 percent (this figure was calculated including "local share" disbursements and related expenses).

### Expenditures

As of March 31, 1999, \$67,353,922 of the regional share allocation (acquisition of regional open space, land transactional expenses, administration, stabilization, trails design/construction, refinement and bond issuance) had been expended. Another \$12,812,600 in "local share" funds were disbursed to local jurisdictions (see page 11 for more information).

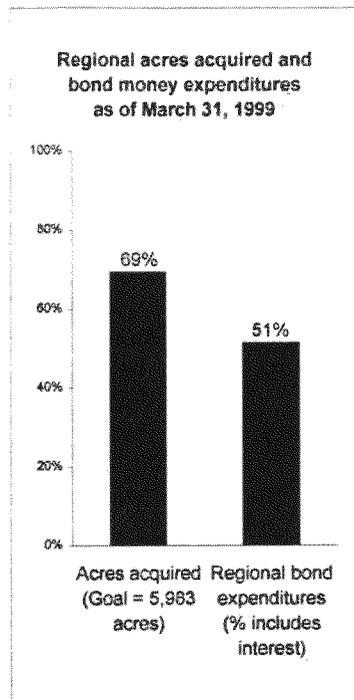
- Acquisition of regional open spaces land, including trails and greenways land (money paid out for the purchase of land) as of March 31, 1999 = \$58,852,354 (87.4 percent)
- Overall average cost per acre = \$15,021/acre
- Average cost per acre inside the urban growth boundary = \$49,543/acre



- Average cost per acre outside the urban growth boundary = \$8,621/acre

*The preceding "per acre" figures are based on the purchase price of completed transactions.*

- Regional trails and greenways (design and construction costs) as of March 31, 1999 = \$822,983 (1.2 percent)
- Bond issuance costs = \$196,056 (0.3 percent)
- Refinement costs = \$341,059 (0.5 percent)
- Stabilization costs (including stabilization salaries) as of March 31, 1999 = \$886,491 (1.3 percent)
- Land transactional expenses (due diligence and real estate negotiators' salaries; due diligence and other "out-of-pocket" expenses, including appraisals, environmental audits and closing costs) as of March 31, 1999 = \$3,699,993 (5.5 percent)
- Administration (administrative salaries, office expenses and other indirect costs) as of March 31, 1999 = \$2,554,986 (3.8 percent)



## *Current and future use of the land*

### **Landbanking and master plans**

With the exception of construction of the Peninsula Crossing and OMSI to Springwater Corridor trails, the regional share of the open spaces bond funds (\$110.6 million) is to be used exclusively for land acquisition. Land that is acquired now will be landbanked (maintained in a stable condition) until additional funds are available for "master planning," which will determine appropriate uses for the lands, including how they will be developed and managed for public use and enjoyment. Until a master plan is initiated for any given

target area, land within that area is not open for regular, formal public use.

Providing the public with access for recreational activities such as picnicking, fishing, hiking, boating and nature study requires careful advanced planning. Site-specific master plans balance the opportunity to develop land for public access and enjoyment with the need to protect and manage the land for its natural resources values.

Issues such as access, parking, hours of operation and the type of improvements or amenities, if any, will be examined and decided in a master planning process. The development of a master plan follows a thorough public process that involves neighborhood representatives, citizen organizations, local governments, businesses and individuals. In July 1999, Metro's acquisitions along the Tualatin River will become the subject of the first master planning process for a bond measure target area.

### **Volunteer program**

While Metro's open spaces land acquisitions are not currently open for formal public use, there will be occasions that Metro will offer public opportunities to tour newly acquired open spaces, or work on-site on a variety of different volunteer-oriented habitat restoration projects.

Volunteer opportunities include plant and wildlife monitoring, planting native

species, researching cultural history, removal of exotic species, erosion control and other exciting activities.

## *Get connected*

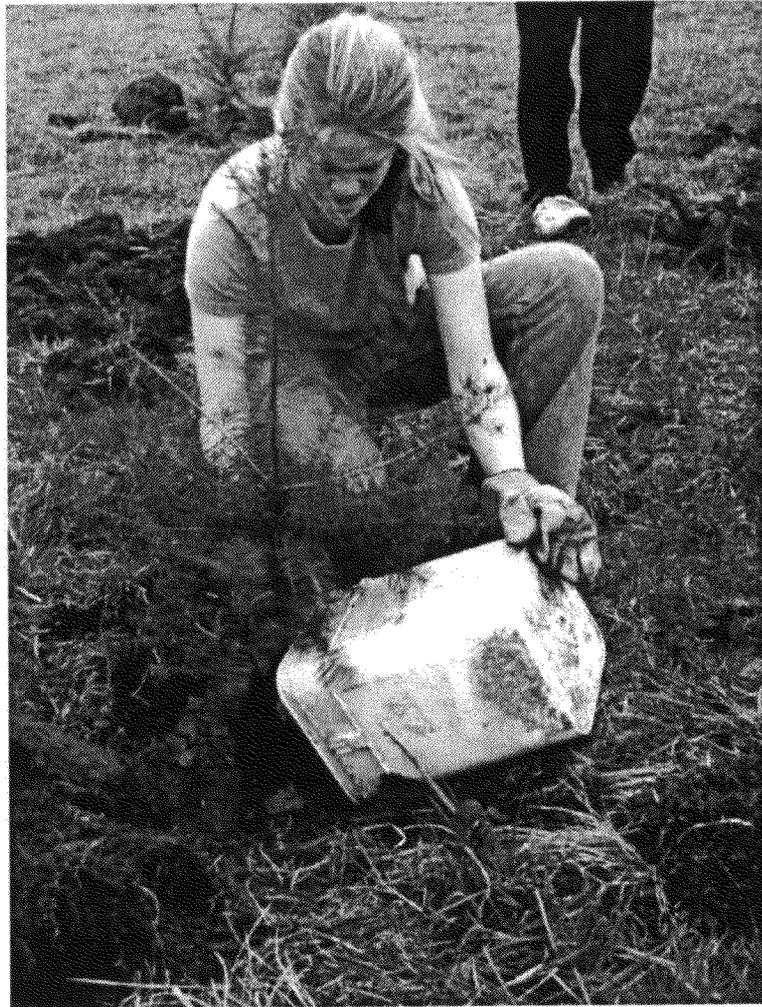
For more information about Metro's volunteer program, contact Metro's volunteer services manager, Lupine Jones, at (503) 797-1733 or e-mail to: [jonesl@metro.dst.or.us](mailto:jonesl@metro.dst.or.us).

To learn about upcoming tours, pick up a copy of Metro GreenScene. Published quarterly, it contains a calendar of nature tours, classes, volunteer activities, events and more. Call Metro Regional Parks and Greenspaces at (503) 797-1850 to get on the Metro GreenScene mailing list.

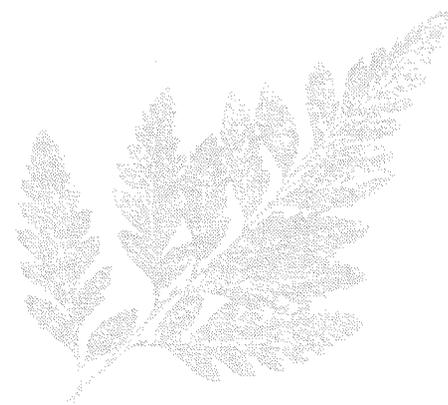
To get involved in developing a master plan, call the open spaces hotline at (503) 797-1919, select option 0, and ask to be added to the mailing list for the target area(s) in which you are interested.

Finally, to learn more about Metro's efforts to create livable communities, including specific information about Metro Regional Parks and Greenspaces, visit Metro's web site at [www.metro-region.org](http://www.metro-region.org).

Metro's Regional Parks and Greenspaces Department offers opportunities for everyone to get involved.



*Students plant trees on Cooper Mountain. The trees were harvested from a small tree farm on a Tualatin River site.*





**Metro Open Spaces, Parks and Streams Bond Measure  
Local Share Expenditures as of March 31, 1999**

Local Park Provider and Projects (Grouped by County)	Allocated		Balance
	Funds	Expenditures	Remaining
<b>Clackamas County</b>			
Barton Park Improvements	1,411,853	64,013	1,347,840
Springwater Corridor Acquisition	80,000		80,000
Damascas Area Acquisition	256,235		256,235
Clackamas River, Carver, Acquisitions	128,147	128,147	0
Total	<b>\$1,876,235</b>	<b>\$192,160</b>	<b>\$1,684,075</b>
<b>Gladstone</b>			
Meldrum Bar Park Improvements	23,511	23,511	0
PTC / Abernathy Lane Trail Construction	60,000		60,000
Cross Park Improvements	11,034	2,640	8,394
Glen Echo Park Acquisition and Improvements	25,000		25,000
Land Acquisition at Valley View Road	37,313	37,313	0
Total	<b>\$156,857</b>	<b>\$63,463</b>	<b>\$93,394</b>
<b>Happy Valley</b>			
Mt. Scott Creek Trail Improvements	17,500		17,500
Scott View Nature Park Improvements	17,805		17,805
Total	<b>\$35,305</b>	<b>\$0</b>	<b>\$35,305</b>
<b>Lake Oswego</b>			
South Shore Natural Area Acquisition	697,166	697,166	0
Total	<b>\$697,166</b>	<b>\$697,166</b>	<b>\$0</b>
<b>Milwaukie</b>			
Minthorn North Addition	85,000		85,000
Johnson Creek/Springwater Corridor	130,000		130,000
Ardenwald to Springwater Access Easement	5,000		5,000
Furnberg Park Wetland Enhancement	80,000		80,000
Roswell Wetland Enhancement	5,000	1,190	3,810
Willow Place Wetland Enhancement	5,000	500	4,500
Kellogg Lake Acquisition	39,020	21,451	17,569
Total	<b>\$349,020</b>	<b>\$23,141</b>	<b>\$325,879</b>
<b>North Clackamas Parks and Recreation District</b>			
Kellogg Creek Acquisition	127,000		127,000
Boardman Slough Acquisition	65,000	4,140	60,860
Mt. Talbert Acquisition	280,000	280,000	0
Portland Traction Company Acquisition	571,025		571,025
Total	<b>\$1,043,025</b>	<b>\$284,140</b>	<b>\$758,885</b>
<b>Oregon City</b>			
High Rocks River Bank Acquisition	40,000		40,000
Barclay Hills Park Improvements	50,000		50,000
Clackamette Park Improvements	41,322	41,322	0
Singer Creek and Holmes Lane Acquisition	60,000		60,000
River Access Trail Clackamette Park, Capital Improvements	52,000	52,000	0
Atkinson Park Natural Area Acquisition	25,000		25,000
Total	<b>\$268,322</b>	<b>\$93,322</b>	<b>\$175,000</b>
<b>Rivergrove</b>			
Tualatin River Boat Ramp Improvements	5,673	5,673	0
Total	<b>\$5,673</b>	<b>\$5,673</b>	<b>\$0</b>
<b>West Linn</b>			
Burnside Park Addition Acquisition	333,385		333,385
Total	<b>\$333,385</b>	<b>\$0</b>	<b>\$333,385</b>

**Metro Open Spaces, Parks and Streams Bond Measure  
Local Share Expenditures as of March 31, 1999**

Local Park Provider and Projects (Grouped by County)	Allocated		Balance
	Funds	Expenditures	Remaining
<b>Wilsonville</b>			
Memorial Park Access Trail Improvements	96,135	96,135	0
Restoration Projects at City Schools	19,225	3,732	15,493
Wilsonville City Trail System Improvements	75,966	75,966	0
Memorial Park Trail Improvements	4,805	4,805	0
Memorial Park Picnic Shelter Design and Construction	2,869	2,869	0
Wilsonville Park Wetland Restoration	19,222	11,049	8,173
Total	<b>\$218,222</b>	<b>\$194,556</b>	<b>\$23,666</b>
<b>Multnomah County</b>			
Whitaker Ponds Acquisition	300,000	75,496	224,504
Hogan Cedars Acquisition	300,000	200,886	99,114
Tryon Creek Acquisition	300,000	208,393	91,607
Friends of Forest Park Ancient Forest Improvements	150,000	549	149,451
Howell Territorial Park Improvements	275,000	22,295	252,705
Oxbow Park Improvements	1,250,000	43,420	1,206,580
Burlington Bottom Improvements	200,000	24,945	175,055
M. James Gleasan Boat Ramp Improvements	90,000	0	90,000
Sauvie Island Boat Ramp Improvements	50,000	2,143	47,857
Blue Lake Park Improvements	205,000	16,689	188,311
Springwater Corridor Trail Improvements	250,000	20,489	229,511
Contingency	31,547	0	31,547
Total	<b>\$3,401,547</b>	<b>\$615,305</b>	<b>\$2,786,242</b>
<b>Fairview</b>			
Fairview Creek Restoration and Improvements	169,109	32,259	136,850
Total	<b>\$169,109</b>	<b>\$32,259</b>	<b>\$136,850</b>
<b>Gresham</b>			
Springwater Corridor Trail Improvements	588,178	3,097	585,082
Fairview Creek Restoration and Improvements	288,148	335	287,813
Butler Creek Trail Improvements	172,889	89,508	83,381
Kelly Creek Greenway Acquisition	90,000	3,174	86,826
Kelly Creek Greenway Improvements	25,259		25,259
Total	<b>\$1,164,474</b>	<b>\$96,113</b>	<b>\$1,068,361</b>
<b>Portland</b>			
Terwilliger/Marquam Acquisition	1,500,000	1,410,902	89,098
Columbia Slough/Johnson Creek Acquisitions	2,000,000	1,487,012	512,988
Southwest Portland Acquisitions	1,230,868	501,214	729,654
Hoyt Arboretum/Leach Gardens/Crystal Springs Acquisition	1,000,000	633,689	366,311
Trail Acquisitions and Improvements	1,250,000	528,078	721,922
Forest Park/Powell Butte/Oaks Bottom Improvements	500,000	204,911	295,089
Total	<b>\$7,480,868</b>	<b>\$4,765,806</b>	<b>\$2,715,062</b>
<b>Troutdale</b>			
Beaver Creek Greenway Acquisition	102,327		102,327
Beaver Creek Trail Improvements	115,000	43,966	71,034
Beaver Creek Restoration Projects	40,000	22,162	17,838
Total	<b>\$257,327</b>	<b>\$66,129</b>	<b>\$191,198</b>
<b>Wood Village</b>			
Wood Village Park Acquisition and Improvements	169,109	169,109	0
Total	<b>\$169,109</b>	<b>\$169,109</b>	<b>\$0</b>

**Metro Open Spaces, Parks and Streams Bond Measure  
Local Share Expenditures as of March 31, 1999**

Local Park Provider and Projects (Grouped by County)	Allocated		Balance Remaining
	Funds	Expenditures	
<b>Washington County</b>			
Henry Hagg Lake Improvements	180,319	180,319	0
Bethany/Reedville/Cedar Mill/ Bull Mountain Acquisitions	768,730	768,730	0
Total	<b>\$949,049</b>	<b>\$949,049</b>	<b>\$0</b>
<b>Beaverton</b>			
Johnson Creek Acquisition #1	551,398	551,398	0
Johnson Creek Acquisition #2	450,000	450,000	0
Stonegate Woods Acquisition	164,993	164,993	0
Forest Glen Park Improvements	9,421	9,421	0
Fanno Creek North-South Multi-use Path	76,300		76,313
Land Acquisition in Area One of Cooper Mountain	120,529	733	119,796
Total	<b>\$1,372,654</b>	<b>\$1,176,545</b>	<b>\$196,109</b>
<b>Cornelius</b>			
12th and Baseline Nature Park Acquisition	147,186	120,057	27,129
Total	<b>\$147,186</b>	<b>\$120,057</b>	<b>\$27,129</b>
<b>Durham</b>			
Durham City Park Trail Improvements	28,538	28,538	0
Total	<b>\$28,538</b>	<b>\$28,538</b>	<b>\$0</b>
<b>Forest Grove</b>			
David Hill Forest Park Acquisition	243,954		243,954
Gales Creek Linear Park Acquisition	33,318		33,318
Fernhill Wetlands Improvements	43,954		43,954
Total	<b>\$321,226</b>	<b>\$0</b>	<b>\$321,226</b>
<b>Hillsboro</b>			
Noble Woods Park Improvements	250,000	250,000	0
Rood Bridge Road Park Improvements	650,000	650,000	0
Rock Creek Greenway Acquisition	89,745	89,745	0
Total	<b>\$989,745</b>	<b>\$989,745</b>	<b>\$0</b>
<b>Sherwood</b>			
Cedar Creek Greenway Trail Improvements	103,705	103,705	0
Total	<b>\$103,705</b>	<b>\$103,705</b>	<b>\$0</b>
<b>Tigard</b>			
Fern Street Project Acquisition	125,000	125,000	0
Bull Mountain Area Addition	279,000	17,950	261,050
Fanno Creek Trail Land Acquisitions	279,000	29,014	249,986
Tualatin River Land Acquisitions	25,000		25,000
Pedestrian / Bike Bridge over the Tualatin River	49,954		49,954
Total	<b>\$757,954</b>	<b>\$171,964</b>	<b>\$585,990</b>
<b>Tualatin</b>			
Tualatin River Greenway Acquisition	388,528	377,445	11,083
Total	<b>\$388,528</b>	<b>\$377,445</b>	<b>\$11,083</b>
<b>Tualatin Hills Park and Recreation District</b>			
Johnson Creek (Beaverton) Acquisition	718,649	718,649	0
Cedar Mill Creek Acquisition	878,562	878,562	0
Fanno Creek Greenway Improvements	169,660		169,660
Open Spaces Acquisitions	548,900		548,900
Total	<b>\$2,315,771</b>	<b>\$1,597,211</b>	<b>\$718,560</b>
<b>TOTAL</b>	<b>\$25,000,000</b>	<b>\$12,812,600</b>	<b>\$12,187,400</b>



METRO

Regional Parks and Greenspaces  
600 NE Grand Avenue  
Portland, OR 97232-2736  
(503) 797-1850

## Metro's Open Spaces Land Acquisition

In May 1995 voters of the Portland metropolitan region enthusiastically said "yes" to the **Open Spaces, Parks and Streams Bond Measure** (Measure 26-26). This measure provides funds to acquire natural areas and trail corridors and greenways for the protection of their natural qualities and associated recreational opportunities. With the passage of the measure, future generations will benefit from cleaner water and air and have access to nature for picnicking, hiking, fishing and boating, even as our population continues to grow.

The bond measure package includes 14 regional natural areas, six regional greenway and trail projects and nearly 100 local government parks projects. The basis of the bond package is the 1992 *Metropolitan Greenspaces Master Plan*. As identified in the bond measure, Metro's goal is to acquire nearly 6,000 acres of regionally significant open space from willing sellers.

To date, Metro has acquired **4,404 acres of open space and 145 properties**. This represents 73% of the acreage goal and only 55% of the allocated funds. In addition, Metro completed construction of approximately one mile of the **Peninsula Crossing**

**Trail** in North Portland, and is scheduled to begin construction on another one-mile segment in 1999.

Of the \$135.6 million dollar bond measure, **\$25 million** was designated as **local share funds** for 26 local government park providers to fund 100 community open space and park improvement projects. Allocations to each provider are based on a formula in the *Metropolitan Greenspaces Master Plan*. Metro is funding these projects through intergovernmental agreements with each local jurisdiction. Currently, 65 projects have been funded in 23 jurisdictions.

The *Open Spaces Acquisition Work Plan* describes the process by which the bond funds will be used for open space and trail acquisition and local parks projects. Land which is acquired now will be landbanked (maintained in its current condition) until additional funds are available to determine appropriate uses for the land, including how it will be developed and managed for public use and enjoyment. Some regional sites are being managed by local jurisdictions under intergovernmental agreements.

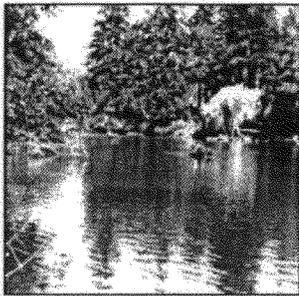
14 Regional Natural Areas	Acres	Acres
	Acquired	Goal
Clear Creek Canyon	393	343
Columbia River Shoreline	219	95
Cooper Mountain	219	428
East Buttes/Boring Lava Domes	472	545
Forest Park Expansion	490	320
Gales Creek	405	775
Jackson Bottom/Dairy/McKay cks.	0	335
Newell Creek Canyon	136	370
Rock Creek	77	300
Sandy River Gorge	736	808
Tonquin Geologic Area	135	277
Tryon Creek Linkages	43	20
Tualatin River Access Points	289	266
Willamette River Greenway		1,103
Canemah Bluff	62	
Multnomah Channel	326	
Willamette Cove	27	
Willamette Narrows	140	

6 Regional Greenways/Trails	Acres	Mileage
	Acquired	Goal
Beaver Creek Canyon Greenway	30	8
Clackamas River Greenway	97	8
Fanno Creek Greenway	15	12
OMSI to Springwater Corridor	44	3
Peninsula Crossing Trail	1	3
Burlington Northern Rails-to-Trails	0	7
<b>Other Sites (bond measure options, etc.)</b>		
Terwilliger Parkway/Marquam Woods	19	
Whitaker Ponds (in NE Portland)	14	
Hogan Cedars (Mult. Co./Gresham)	15	
<b>Total</b>	<b>4,404</b>	<b>5,985</b>
	<b>Acres</b>	<b>Acres</b>

For more information, visit our website at [www.metro-region.org/parks/openspaces/opensp.html](http://www.metro-region.org/parks/openspaces/opensp.html) or call the **Open Spaces Hotline** at (503) 797-1919. You can also leave a comment on the hotline.

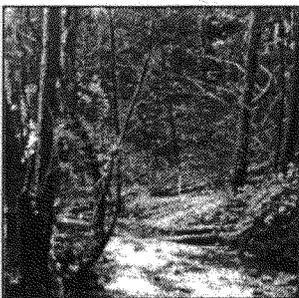


**Clear Creek Canyon** Clear Creek, a tributary of the Clackamas River (one source of drinking water in the region), has excellent water quality, and supports native and anadromous fish such as cutthroat and rainbow trout, steelhead and coho salmon. A 393-acre parcel acquired by Metro includes more than two miles of Clear Creek frontage.



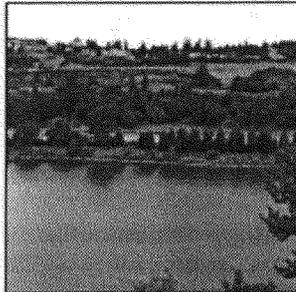
**Tualatin River Access**

Metro has acquired four future public access points to the Tualatin River totaling about two miles of river frontage, including the one pictured here (located in the Stafford Triangle area).



**Tryon Creek Linkages**

One of Metro's objectives in the Tryon Creek area is to protect the streambed and riparian zone along the creek for habitat value, flood control and water quality. This 10-acre parcel in Southwest Portland includes the confluences of Falling and Playhouse creeks with Tryon Creek.



**Canemah Bluff** (part of the Willamette River Greenway)

To date, Metro has acquired 62 acres along Canemah Bluff. One 39-acre acquisition includes rocky outcroppings typical of the area, native woodlands, wetlands and spectacular views of the Willamette River.



**Gales Creek** About 405 acres of open space in Forest Grove provide protection to Gales Creek, a tributary of the Tualatin River.



**Multnomah Channel** (part of the Willamette River Greenway) Four properties, totaling 326 acres, include about two miles of channel frontage. In addition, a creek system flows year-round through the properties, refreshing wetlands and creating large winter lakes and spring freshets.



**Newell Creek Canyon** Almost 136 acres in Newell Creek Canyon in Oregon City provide protection to the many springs, seeps, beaver ponds and wetland areas associated with Newell Creek.



**Fanno Creek Greenway**

The headwaters of Sylvan Creek, a tributary of Fanno Creek, are located in the vicinity of this 2-acre wetland between Southwest Portland and Beaverton. To enhance and protect water quality and water quantity within the Fanno Creek system, Metro has also acquired additional headwaters sites.

For an information update or to make comments regarding Metro's open spaces land acquisition efforts, call the open spaces hotline

(503) 797-1919

or visit the new open spaces web page at [www.metro-region.org/parks/openspaces/opensp.html](http://www.metro-region.org/parks/openspaces/opensp.html)



**METRO**  
Regional Services  
Creating livable communities

## Frequently Asked Questions



**METRO**  
**Regional Parks and Greenspaces**  
600 NE GRAND AVE. PORTLAND, OR 97232-2736 (503) 797-1850

### **Who is Metro Regional Parks and Greenspaces?**

Metro Regional Parks and Greenspaces is part of Metro, the regional government that serves 1.3 million people who live in Clackamas, Multnomah and Washington counties. Metro Regional Parks and Greenspaces (RPG) manages about 8,500 acres of land in the three-county metropolitan area, including Blue Lake Regional Park, Oxbow Regional Park, Glendoveer Golf Course, Howell Territorial Park, Sauvie Island Boat Ramp, M. James Gleason Boat Ramp and Chinook Landing Marine Park. Metro's natural areas include Smith and Bybee Lakes Wildlife Area and Beggars-tick Wildlife Refuge.

In addition to managing a variety of regional park facilities and open spaces, Metro Regional Parks and Greenspaces provides parks planning services, environmental grants and a volunteer services program. Metro also offers recreational and educational opportunities including nature tours, hikes, classes and community events.

Finally, Metro Regional Parks and Greenspaces administers an extensive regionwide open spaces land acquisition program approved by voters in 1995. Metro is working with local governments, schools, businesses and citizens to assure access to nature, adequate park and recreation services and protection of the region's natural resources for future generations.

### **What is the open spaces, parks and streams bond measure?**

In May 1995, citizens of the region approved Measure 26-26, Metro's open spaces, parks and streams bond measure. This \$135.6 million measure provides funds to acquire natural areas, trail corridors and greenways so that future generations will continue to benefit from clean water and air, and have access to nature for picnicking, hiking, fishing and boating, even as our population continues to grow.

### **What types of projects are funded by the bond measure?**

The measure specifies that Metro's share of the bond proceeds (\$110 million) be spent to acquire about 6,000 acres of land in 14 specified regional natural areas and six regional trail and greenway areas. Two capital improvement projects, the Peninsula Crossing Trail and the OMSI to Springwater Corridor Trail, are also included in Metro's share.

In addition, about 100 local and neighborhood park acquisitions and park improvement projects are funded through the "local share" of the bond proceeds (\$25 million). Each of the 26 local park agencies and three counties in the Metro region received a share of the funds for their own priorities.

### **Are Metro's open spaces acquisitions open now for public use?**

No, the bond measure states that with exception of the Peninsula Crossing and OMSI to Springwater Corridor trails, Metro's bond funds are to be used for land acquisition only. This means that Metro is "landbanking" its regional acquisitions for future use as parks, trails, and fish and wildlife habitat. Local parks providers have more flexibility; in fact, many of the local land acquisitions and capital improvement projects are in areas already open to the public.

While Metro's open spaces acquisitions are not currently open for formal public use, there will be occasions that Metro will offer public opportunities to tour the newly-acquired sites or work on the sites on a variety of different volunteer-oriented habitat restoration projects. Look in the latest issue of Metro GreenScene or visit Metro's web page for opportunities to visit and support these sites.

### **When will the open spaces acquisitions be open for formal public use?**

The open spaces acquisitions will be open for formal public use following a master planning process for individual areas. Currently, Metro Regional Parks and Greenspaces does not have the funds available to develop master plans for newly acquired open space. However, in July 1999, a master plan process – the first one -- will begin for open spaces acquired in the Tualatin River Access area.

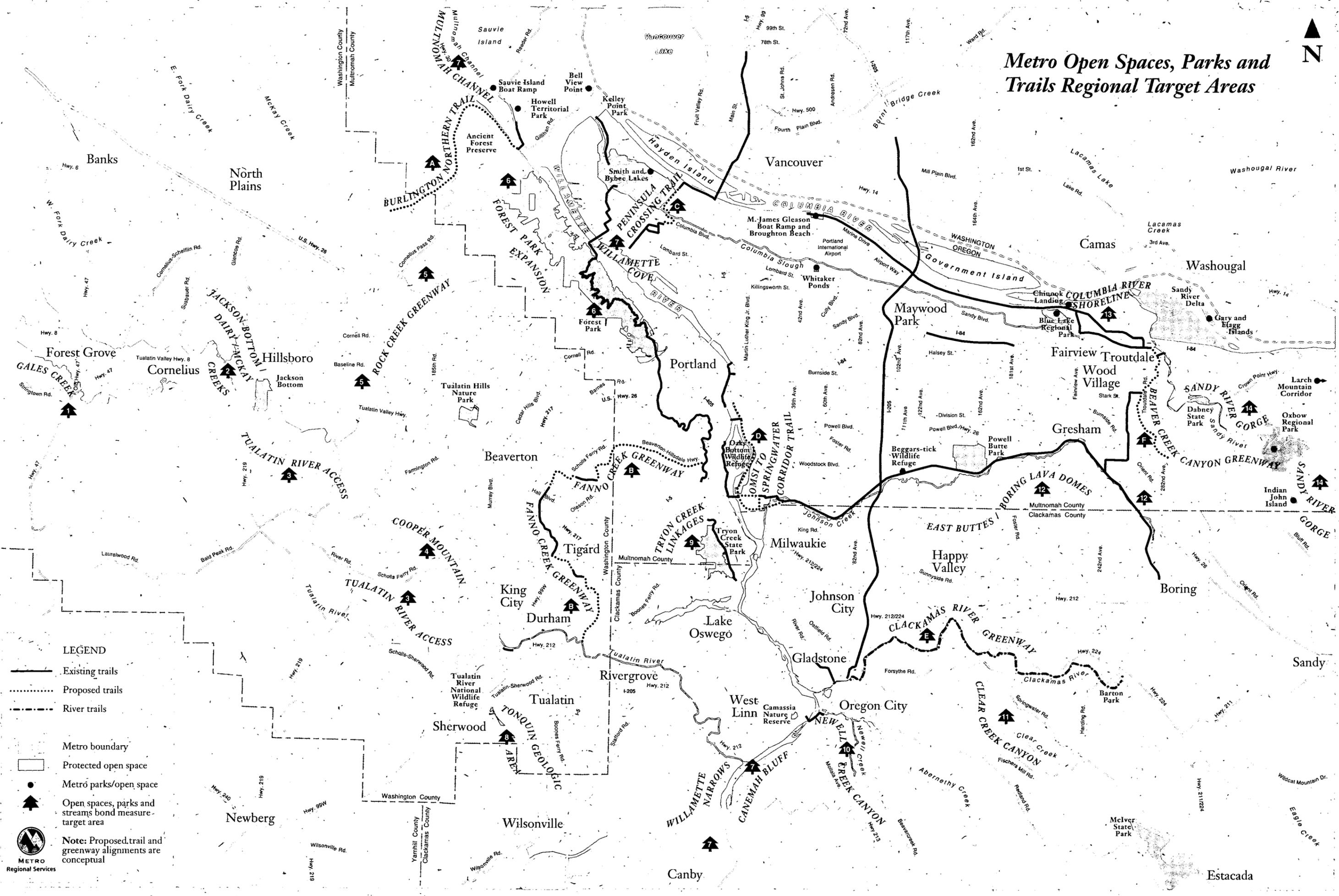
### **What is a master plan?**

Providing public access for activities such as picnicking, fishing, hiking, boating and nature study requires careful advanced planning. Site specific master plans balance the opportunity to develop land for public access and enjoyment with the need to protect and manage the land for its natural resource values. Issues like access, parking, hours of operation and the type of improvements or amenities, if any (e.g., picnicking, camping, canoe launches, trails, interpretive signs) would be examined and decided in the master planning process. The development of a master plan follows a formal public process that involves neighborhood representatives, citizen organizations, local governments, businesses and interested individuals.

### **How can I get more information and get involved with Metro Regional Parks and Greenspaces activities?**

- ◆ **Visit the Metro web site** at [www.metro-region.org](http://www.metro-region.org). It's your source of up-to-date, detailed information about Metro, meetings and opportunities to get involved in Metro's work to create livable communities.
- ◆ **Get a copy of Metro GreenScene.** Published quarterly, it contains a calendar of nature tours, classes, volunteer activities, events, news and more. Call Metro Regional Parks and Greenspaces at (503) 797-1850 to get on the Metro GreenScene mail list.
- ◆ **Call the Open Spaces Hotline** at (503) 797-1919 for the latest news about the Metro Open Spaces Acquisition Program. You can also leave a message or request information at this number.
- ◆ **Volunteer!** Protecting and managing our parks and natural areas require your involvement. Metro Regional Parks and Greenspaces offers volunteer opportunities throughout the year in the areas of habitat restoration, wildlife monitoring, environmental education, community outreach and more. Help establish a vital green heritage for future generations. Call Lupine Jones at (503) 797-1733 for more information.

# Metro Open Spaces, Parks and Trails Regional Target Areas



## LEGEND

-  Existing trails
-  Proposed trails
-  River trails
-  Metro boundary
-  Protected open space
-  Metro parks/open space
-  Open spaces, parks and streams bond measure-target area
-  **Note:** Proposed trail and greenway alignments are conceptual



## Regional-target area map – the open spaces, parks and streams bond measure

Metro's open spaces, parks and streams bond measure (Measure 26-26) was approved by voters regionwide in May 1995. The goal of the \$135.6 million measure is to acquire 6,000 acres of natural areas, trail corridors and greenways so that future generations will benefit from clean water and air and have access to nature for picnicking, hiking, fishing and boating, even as our population continues to grow.

The measure specifies that Metro's acquisitions occur in 14 regional natural areas and six regional trails and greenway projects; in addition, more than 100 local government open spaces and parks projects are funded through a "local share" portion of the bond monies.

For more information and photos of some of the acquisitions, visit the open spaces page located within the Metro web site [www.metro-region.org](http://www.metro-region.org) (click on "departments," "parks and greenspaces" and "open spaces").

### Regional natural areas

1. **Gales Creek** (775 acres) – south of Forest Grove, acquired wetlands and riparian forests will offer wildlife habitat near the Tualatin River and increase habitat adjacent to Fernhill Wetlands.

2. **Jackson Bottom (McKay/Dairy Creeks)** (335 acres) – acquisitions along these tributaries of the Tualatin River will support water-quality enhancement efforts in the Tualatin Basin as well as added wildlife habitat to the Jackson Bottom Management Area.



3. **Tualatin River Access Points** (265 acres) – public access in at least four locations along the Tualatin River will provide opportunities for canoeing, kayaking, fishing, picnicking and wildlife viewing.

4. **Cooper Mountain** (425 acres) – forested and open space areas provide significant wildlife habitat. The stands of oak and madrone trees that exist here are uncommon in the metropolitan area.

5. **Rock Creek** (300 acres) – a tributary of the Tualatin River, this creek flows through an area of rapid urban growth. Acquisitions will protect some of the natural features of the area, provide wildlife habitat, help maintain water quality and offer recreational opportunities.



6. **Forest Park Buffer/Expansion** (320 acres) – inholdings and adjacent buffer areas will be purchased to protect the future of Forest Park, a 5,000-acre park in urban Northwest Portland.

7. **Willamette River Greenway** (1,100 acres) – acquisitions along the greenway from Wilsonville to the Multnomah Channel adjacent to Sauvie Island will be considered. Fish and wildlife habitat protection, river access, scenic values and water-quality protection will be among factors used to purchase land along the greenway. Specific Willamette River Greenway projects include Multnomah Channel, Willamette Cove, Willamette Narrows and Canemah Bluff.



8. **Tonquin Geologic Area** (275 acres) – this area near Tualatin links to the Tualatin River National Wildlife Refuge and contributes scenic value to the cities of Wilsonville, Tualatin and Sherwood. It also features unique geologic evidence of prehistoric glacial flooding.

9. **Tryon Creek Linkages** (20 acres) – stream greenways leading to Tryon Creek will help protect water quality in the watershed as well as support the integrity of Tryon Creek State Park.

10. **Newell Creek Canyon** (370 acres) – located near Oregon City, the creek flows through a forested canyon. The creek, which originates on the campus of Clackamas Community College and flows into Abernathy Creek, is relatively short, but does support trout and salmon.



11. **Clear Creek Canyon** (345 acres) – this creek flows into the Clackamas River at Carver and supports a salmon fishery. The forest of conifers and hardwoods contributes to high water quality.

12. **East Buttes/Boring Lava Domes** (550 acres) – a group of extinct volcanoes and lava domes in north Clackamas and east Multnomah counties provide unique geographic character to the region, wildlife habitat and panoramic vistas.

13. **Columbia River Shoreline** (95 acres) – riparian forest and island habitat will be acquired west of the Sandy River.

14. **Sandy River Gorge** (810 acres) – this wild and scenic waterway provides important fish and wildlife habitat. Acquisitions along Sandy River tributaries also offer water-quality benefits.

### Regional trails and greenways

A. **Burlington Northern Rails-To-Trails** (7 miles) – this corridor would provide public access from Sauvie Island just north of the island bridge, over the Tualatin Mountains to the Tualatin Valley. The trail can potentially connect with trails to Beaverton and Hillsboro.

B. **Fanno Creek Greenway** (up to 12 miles) – additions to the greenway from the Tualatin River to the Terwilliger Parkway in Portland will add a touch of green in a highly urbanized area as well as provide water-quality protection.

C. **Peninsula Crossing Trail** (3 miles) – located in North Portland, this trail will connect the Smith and Bybee lakes area with the Willamette River Greenway.

Currently, the first segment of the trail between North Willamette and Columbia boulevards is complete.



D. **OMSI to Springwater Corridor** (3 miles) – a portion of the Willamette River Greenway, this east bank corridor will provide a critical link to the regional trail system and serve as a buffer to Oaks Bottom Wildlife Refuge.

E. **Clackamas River North Bank Greenway** (up to 8 miles) – a north bank greenway from Barton Park to Clackamette Park will offer recreational opportunities and water-quality benefits through a developing area.

F. **Beaver Creek Canyon Greenway** (4 miles) – near Troutdale, this creek tributary of the Sandy River offers an important fish and wildlife corridor. A section of the trail project forms a portion of the 40-Mile Loop trail system.



For more information about Metro's regional parks and greenspaces and programs, call 797-1850.

If you live, work and play in the metropolitan area, Metro regional services matter to you and your family. That's because Metro is working to ensure that you have

- access to nature
- clean air and water
- balanced transportation choices
- access to arts and culture
- safe and stable neighborhoods
- a strong regional economy
- resources for future generations

Metro serves 1.3 million people who live in Clackamas, Multnomah and Washington counties and the 24 cities in the Portland metropolitan area. Metro provides transportation and land-use planning services and oversees regional garbage disposal and recycling and waste reduction programs.

Metro manages regional parks and greenspaces and the Oregon Zoo (formerly the Metro Washington Park Zoo). It also oversees operation of the Oregon Convention Center, Civic Stadium, the Portland Center for the Performing Arts and the Portland Metropolitan Exposition (Expo) Center, all managed by the Metropolitan Exposition-Recreation Commission.

For more information about Metro or to schedule a speaker for a community group, call 797-1510 (public affairs) or 797-1540 (council).

Metro's web site: [www.metro-region.org](http://www.metro-region.org)

Metro is governed by an executive officer, elected regionwide, and a seven-member council elected by districts. Metro also has an auditor who is elected regionwide.

<b>Executive Officer</b> Mike Burton	District 3 Jon Kvistad
<b>Auditor</b> Alexis Dow, CPA	District 4 Susan McLain
<b>Council</b> District 1 Rod Park	District 5 Ed Washington
District 2 Bill Atherton	District 6 Rod Monroe
	District 7 David Bragdon



**METRO**  
Regional Services  
Creating livable communities

MEETING DATE: JUN 10 1999  
AGENDA NO: R-5  
ESTIMATED START TIME: 10:00

(Above Space for Board Clerk's Use ONLY)

-----  
**AGENDA PLACEMENT FORM**

**SUBJECT:** Review of FY1999-2000 Draft Budget Proposal

**BOARD BRIEFING:**

**DATE REQUESTED:** June 10, 1999

**REQUESTED BY:** Chair Stein

**AMOUNT OF TIME NEEDED:** 30 mins

**REGULAR MEETING:**

**DATE REQUESTED:** \_\_\_\_\_

**AMOUNT OF TIME NEEDED:** \_\_\_\_\_

**DEPARTMENT:** Non-Departmental

**DIVISION:** Office of the Chair

**CONTACT:** Bill Farver

**TELEPHONE #:** 248-3958

**BLDG/ROOM #:** 106/1515

**PERSON(S) MAKING PRESENTATION:** Bill Farver

**ACTION REQUESTED:**

INFORMATIONAL ONLY     POLICY DIRECTION     APPROVAL     OTHER

**SUGGESTED AGENDA TITLE:**

**Review of Draft FY1999-2000 Budget Proposal**

**SIGNATURES REQUIRED:**

**ELECTED OFFICIAL:** \_\_\_\_\_  
**(OR)**  
**DEPARTMENT**  
**MANAGER:** \_\_\_\_\_

*Beverly Stein / cmg*

BOARD OF  
COUNTY COMMISSIONERS  
JUN - 2 PM 12:12  
MULTNOMAH COUNTY  
OREGON

**ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES**

**Any Questions: Call the Board Clerk @ 248-3277**



## Beverly Stein, Multnomah County Chair

Room 1515, Portland Building  
1120 S.W. Fifth Avenue  
Portland, Oregon 97204

Phone: (503) 248-3308  
FAX: (503) 248-3093  
E-Mail: [mult.chair@co.multnomah.or.us](mailto:mult.chair@co.multnomah.or.us)

June 10, 1999

To: Board of County Commissioners

From: Bill Farver *Bill*

Re: Proposed Budget Amendments

I have met with each of you and/or your staff, participated with your public discussions on the budget, and am ready to offer recommendations for your consideration. I will organize them in terms of the long term benchmarks that guide our strategic direction.

Your worksession on Monday was very helpful in providing direction on the major issues and your priorities. I have tried to incorporate all of the major stated Board priorities in these recommendations. In a few cases, I have included wording in budget notes or raised issues that you did not have time for on Monday, but which need your consideration.

Because of the uncertainties of the state budget and planning that is, or will be, underway, there are a number of major policy issues that the Board has targeted for further review. I have tried to capture them in an accompanying document, "Board Workplan for 1999-2000", which I hope is helpful in setting your policy schedule for next year.

Thank you for your ideas and your cooperation in the improvements you have made to this year's County budget.

- c. Elected Officials
- c. Department Managers
- c. Operating Council
- c. Budget Office



## PUBLIC SAFETY

1. Approve the **consensus package** from the Public Safety Officials presented to you on May 20. **\$2,400,000**

Am. Number	Amendment	FTE	Total Cost	Increases / (Reduces) GF contingency
00BA_PA_DA 01	District Attorney's Priorities (per 5/18 Public Safety Memo) including \$100K in Forfeiture revenue	2.00	111,211	(33,661)
00BA_PA_DCJ_23	Local Control PO	1.00	63,000	(63,000)
00BA_PA_DCJ_24	Safety Officer	1.00	63,000	(63,000)
00BA_PA_DCJ_25	Administrative Support		50,000	(50,000)
00BA_PA_SO 02	Restore funding for transition beds at MCRC	11.10	766,000	(766,000)
00BA_PA_MCSO 05	Video conferencing	1.30	138,546	(138,546)
Budget Note	Inverness Alcohol & Drug Program (IDAP) - will replace Yamhill and Marion County beds into the Inverness Jail facility. Assumes 3/4's year funding, some phase in costs and an unknown amount for treatment (subject to DCJ review).	7.00	500,000	(500,000)
00BA_PA_DSS 01	Decision Support System - 2/3 funding		125,000	(275,000)
00BA_PA_CFS_01	Heroin / Opiate sobering center and subacute program at Hooper Detox		300,000	(300,000)
00BA_PA_CFS_06	A&D Free Housing		120,000	(120,000)
00BA_RA_Rev_01	Additional State DOC administrative Revenue			2,243,063

2. Approve the following **budget note on IDAP** :  
 The proposed reductions in State Community Corrections Act and SB1145 funds to Community Justice and the Sheriff's Office, prompted a wide ranging evaluation of the current public safety programs and facilities. As a result of that discussion, the Board has agreed to place **\$500,000 in contingency to fund an Inverness Drug and Alcohol Program at MCIJ**. Prior to beginning that program, the Board would like a report from the Court Work Group on the following issues:

- a. How would the in-custody and outpatient treatment components of IDAP be provided? The Sheriff requested input from Community Justice on how to contract for those services.
- b. What is the most appropriate use of the Restitution Center? The Board and Sheriff would like to house offenders transitioning from alcohol and drug treatment. Also, they believe other offenders could benefit from these transitional services who may not currently be served.
- c. Is it legally possible or advisable from a treatment perspective to use IDAP for presentenced offenders?
- d. Examine the roles, responsibilities, and target populations for IJIP and IDAP to insure appropriate use of both approaches. Determine the appropriate role for IJIP in providing treatment to different populations.
- e. How should sentences be structured to make the best treatment use of the time in IDAP and the transition time at MCRC?
- f. How and why would the program for women begin in October, 1999?
- g. How can offenders who receive jail sanctions and are appropriate for the Washington County facility be quickly processed and transferred?

As part of the Board's emphasis on effective alcohol and drug treatment, the **Evaluation Unit** in the Budget and Quality office will evaluate both the IDAP/IJIP program and Community Justice's Washington County treatment center to determine their long term effectiveness.

3. Approve a program amendment funding the **Mental Health Unit in the jails. Amendment 00BA\_PA\_SO01** The Board is very concerned about the level of mental health services in and out of jail. The Board would like the Behavioral Health Work Group to examine the effectiveness of the proposed model and how the County can provide better and more cost effective mental health services for clients both in and out of jail. Discussion of the proposed Mental Health Court diversion project proposed by the Alliance for the Mentally Ill should be part of their work.

4. Approve a \$797,028 program **amendment (OOBA\_PA-DCJ26) for the Juvenile** Division of CJ which will carryover funds to enable them to **maintain current services** and **transition** the current parole violators' detention unit to an alcohol and drug treatment unit. The Department cut their budget to meet a lower constraint because of the anticipated State reductions in the Adult programs and the anticipated increases because of the Governor's juvenile package.
  
5. Approve the following **budget note on INS beds:**  
Commissioner Cruz raised the issue whether the County should participate in the incarceration of individuals solely for the reason that they are in the country illegally. The Evaluation Unit will assist the Board in analyzing the policy and financial ramifications of establishing County policy to refuse to hold detainees who are potential INS holds beyond the period in which they would have been ordinarily released. Staff will need to consult with local public safety officials, the INS, and the US Attorney's Office in developing the report.
  
6. Approve the following **budget note on STOP:**  
Funding the STOP drug diversion and intervention program was a major concern for the Board this budget session. The STOP programs' success is not recognized by the funding formula the state uses. If participants in the STOP program were convicted of a crime prior to their introduction into STOP and had their conviction expunged following successful treatment, the successful participants would count under the state formula and the County would receive a fairer allocation of state funds. The Board urges the Chief Judge, Defense Bar, and the District Attorney to work towards implementing this change as soon as possible.
  
7. Approve the following **budget note on US Marshal beds:**  
The Executive Budget assumes revenue from the rental of 225 US Marshal beds. The Sheriff is currently limiting the number of rentals to 200. The Board directs the Sheriff to rent beds to the US Marshal above his 200 bed limit during periods when capacity allows in order to approximate that revenue target. The Board will discuss reduced reliance on bed rentals during next fiscal year as part of the public safety and levy planning processes.
  
8. Approve the following **budget note on Domestic Violence::**

The Board is interested in improving County services to prevent and intervene effectively in domestic violence issues. Inclusion of expanded services on the public safety levy is a possibility. The Board requests that Domestic Violence Coordinator convene a planning body of cross departmental staff to report to the Board on the most effective next steps for county governments to take in addressing this issue. Preliminary recommendations should come to the Board by October 1, 1999.

9. Approve the following **budget note on the Decision Support System:**  
The Board has provided approximately 75% of the ongoing funding for the public safety Decision Support System, which benefits county and non-county systems. The District Attorney and Chair will provide Executive Sponsorship on the DSS project. They will work with the Local Public Safety Coordinating Council, the Director of Support Services and the Chief Information Officer to develop a plan to the Board to provide ongoing funding for the DSS system..
10. Approve the following **budget note on Work Crews:**  
Work Crews are operated by both the Sheriff and Community Justice. The Board is interested in a closer integration between the work of these crews, victims of crime, and community reparations. The Board would like to see proposals from the Sheriff and Community Justice about how they could more closely link the work of the crews that they supervise with a community justice orientation, similar to what is being done in Deschutes County.

## **SCHOOL SUPPORT**

1. Approve the following **Blanchard Building Budget Note;**  
The County is negotiating to purchase space in the Blanchard Building for use by Facilities Management, and Central Stores. The County will vacate or reuse the Ford Building and will open discussions about possible service consolidations with the School District.
2. Approve a carryover amendment (OOBA-RA-REVO6) of **\$100,000** from unspent school support supplement appropriation matching potential contributions from the City of Portland, local businesses, and Worksystems Inc. to support the **development of school to work academies** throughout the county essential to achieving standards set by

CIM and CAM. The money will be reserved in contingency pending the joint development of a partnership approach.

3. Approve a carryover amendment (OOBA-PA-CFS17) from the Homeless Youth fund appropriating **\$30,000** to help match the Portland Public Schools funding for the continued operation of **LearnLinks**, (OOBA-PA-CFS-16) an educational program operated by the YWCA to assist homeless youth.
4. Approve the following budget note on **Hispanic Retention programs**: CFS is shifting the Hispanic Retention effort from high schools to middle schools. Resources will be eliminated from grades 10th through 12th in order to target the more vulnerable middle school population. The County is concerned, however, about the effect in the high schools and would be willing to consider a contingency request to support the high schools if the need for county funds is demonstrated.
5. Approve the following budget note on **SAI/FAST/Transitional Classrooms**:  
The Board requests a follow up briefing from evaluators in late summer/September on SAI data and the FAST pilot. In conjunction with this briefing or at a later time, the Board would like information about the effectiveness and financial benefit of the transitional classrooms the County is helping fund in county school districts.

## **REDUCTION OF CHILDREN IN POVERTY**

1. Approve the following **budget note on Early Childhood programs:**  
Commissioner Naito will organize policy discussions this fall to discuss the draft plan of the Task Force on Early Childhood concerning improvements in the early childhood service system. Included in this discussion will be a plan of how to spend potential additional state money and whether and how to place early childhood services on the Public Safety levy in 2000. The Board will consider contingency funding for **\$100,000 of early childhood system improvements** as part of that discussion.
2. Approve the following **budget note on the Child Assessment Center:**  
Commissioner Kelley will organize a briefing this summer on the status of the Child Assessment Center, including construction and operating fund options.
3. Approve the following **budget note on the Living Wage Policy:**  
Chair Stein will organize a briefing this summer to strategize next steps in the development of the County's living wage program. Further research may be appropriate through the PSU intern/residency program.
4. Approve the following **budget note on Latino services:**  
The Board is interested in exploring the best methods to provide services to Latino residents in Multnomah County. Resources for a consultant are included in the Community and Family Services budget to explore the best service approaches, including whether a Latino Service Center or more decentralized service approach is recommended.

## **PUBLIC HEALTH**

1. Approve the request of **\$125,000** (OOBA\_PA\_HD02) in one time only funding from the **Coalition of Community Health Clinics** to enable the Community Health Clinics to jointly plan and purchase a uniform data support system tied into the County health clinics. This can be approved by ratifying an carryover amendment from the Health Department, resulting from the delayed start up of last year's School Based Health Clinic.
2. Approve the **\$100,000 Hepatitis C** program amendment. (OOBA\_PA\_HD01) This will enable the Health Department to expand their work in dealing with Hepatitis C as a pressing public health and public safety issue. In addition to this outreach and referral effort focused on the health threats from Hepatitis, the Board is funding by separate amendment an expanded effort at the Hooper Detox Center to successfully detox and treat chronic users of heroin. As a part of that expanded effort, the Public Health Officer will join with the Recovery Association Project to convene a task force to examine other steps that should be taken to minimize future health and public safety impacts.
3. Approve the following **budget note on the Oregon Health Plan/Safety Net Clinics:**  
If necessary, the Health Department will return with a plan by September 16, detailing recommendations to deal with changes in the Oregon Health Plan and the possible loss of safety net clinic funds. This timeline will allow the Department to receive more detailed information from the State on the exact impact in changes in the Health Plan and the new Director an opportunity to review the Department budget priorities.
4. Approve a program amendment (OOBA\_PA\_Cont01) reserving **\$500,000 in contingency** to consider for **high priority health services**. As part of the decision about whether to access these funds, the Board will consider the impact of state changes in funding in both health and behavioral health and the potential for expansion of school based health services.

## BEHAVIORAL HEALTH

1. Approve the following **budget note on Behavioral Health:**

Chair Stein will appoint a Behavioral Health Work Group in collaboration with the Department of Community and Family Services and the Evaluation Unit of the Budget Office. The Work Group will explore a series of behavioral health issues and then work with CFS to organize a series of briefings on the financial and programmatic stability of the current behavioral health network.

The Work Group should focus on:

- the County's appropriate role in the administration and delivery of mental health services. Should the system be more or less privatized?
- examination and mapping of funding sources and their limitations, client numbers and treatment needs. How does client jurisdiction (type of plan; corrections involvement) inhibit building a system? How do we deal with non-County clients in our system?
- how state budget decisions will impact service delivery? What should a fully functional system cost the state?
- the impact of recently announced cutbacks by County contractors. Are there functions that can be eliminated from the system to make it financially viable? What are the lowest priority services still being delivered?
- the impact of the suggested changes in treatment of inmates in county jails and the potential of a Mental Health Court diversion program. Changes in the state system have forced the County into an expensive and difficult role as part of our corrections system. How should the County respond?
- suggested national models to deal with the mental health needs of offenders. Do other models show superior outcomes?
- the information needed from an inventory of county wide mental health services be developed. How can the system be rationalized and made more understandable to clients and citizens?
- what are alternative ways to restructure the administration of the system so that more funds are available for client services?

2. Approve an amendment (OOBA\_DSS\_02) changing the focus of the contract funding for the mental health study. The amendment would transfer the **\$50,000** currently in the Auditor's budget **to the Evaluation**

**Unit** in the Budget Office and ask the Director to develop a **intern/residency partnership with Portland State University**. A priority for intern assignments should be the development of an inventory of mental health resources throughout the County with assistance from County staff, if appropriate. The Board is interested in an inventory of all currently provided mental health services - listed by target population, provider, Department or Bureau and funding source. This inventory should include both county, non profit, and state services within Multnomah County. The Center for Study of Mental Health Policy and Services at PSU should be helpful with this study. As part of the broader internship/residency program, the County will also need additional research on the living wage issues.

3. Approve a program amendment (OOBA\_PA\_Cont02) reserving **\$250,000 in contingency** to consider for **high priority behavioral health services**. As part of the decision about whether to access these funds, the Board will consider the impact of state changes in funding in both health and behavioral health.

### **AGING SERVICES**

1. Approve the amendment (OOBA\_PA\_ADS06) to fill the **\$60,000** ongoing deficit in the **Aging Housing Supplement Fund**. The Emergency Housing Assistance Fund is developing a deficit because of heavy demand. This will enable the fund to meet projected demand in the next fiscal year.
2. Approve the amendment (OOBA\_PA\_ADS05) request to fund the **Disability Helpline for \$22,000**. This can be leveraged with Medicaid funding to significantly expand their information and referral capacity.

### **FACILITIES**

1. Approve **carryover amendments** from the Sheriff's Office (OOBA\_CA\_MC08) and Community Justice (OOBA\_PA\_DCJ26) funding tenant improvements, operational infrastructure, and moving costs for the **Multnomah Building**.
2. Approve the following **budget note on Rockwood clinic facility**:  
The Board is funding a new Rockwood Neighborhood Access Clinic in Gresham. No location for the clinic has been established at this time.

Commissioner Kelley is working with a variety of community based programs, including Mt. Hood Community College Head Start, Migrant Head Start, Wallace Medical Concern, Morrison Center, Adult and Family Services, and Steps to Success as possible agencies to colocate in a single facility. Commissioner Kelley, the Department of Environmental Services, and the Budget office will return to the Board by this fall to present funding proposals.

3. Approve a program amendment (OOBA\_PA\_DCJ26) of one time only funding from Community Justice placing **\$400,000 in contingency** for potential \$200,000 additional **operating expenses** for the increased space and not more than \$200,000 for potential **mitigation plans for the Mead and/or McCoy Buildings**.
4. Approve an amendment (OOBA\_PA\_CFS17) to allocate \$35,000 of one time only funds to the **Brentwood Darlington Community Center for operating expenses** to assist the Center in its efforts to achieve financial sustainability.
5. Approve a program amendment (OOBA\_PA\_MCSO07) transferring **\$105,000** budgeted as a lease expense for Close Street Supervision to **contingency**. Close Street will be moving to MCRC and the lease payment will not be necessary. The Sheriff and DES will schedule a Board discussion this summer concerning whether to apply that payment to the purchase of the **Santana's space** in the Justice Center Building for the Sheriff's records unit **OR** fund an earlier start up of the Mental Health Unit.
6. Approve a **budget note on the issuance of Certificates of Participation**. The Directors of Support Services and Environmental Services will schedule a Board briefing to discuss the projects to be included on the County's next certificate of participation. In addition to Santana's, the Board needs to decide the status of the **new River Patrol office**, which the Sheriff is planning in conjunction with the Oregon State Marine Board and the Port of Portland.

## **GOOD GOVERNMENT**

- 1 Approve a package of **\$87,000 of amendments from County Counsel paid for from the Risk Management Fund**. OOBA\_PA\_ND2-4,11  
Three of these amendments were proposed by Commissioner Cruz. In addition I recommend amendments dealing with software and education and training. They should pay for themselves through more efficient operations and expanded training in the County, which will in turn limit the growth of expenditures in our risk management fund.
- 2 Approve an amendment (OOBA\_PA\_DES09) of **\$59,000 adding an additional Code Enforcement Officer** to the Land Use Planning Department to increase applicant compliance with county land use and environmental regulations.
- 3 Approve an amendment of \$73,000 for **an additional auditor**, to help deal with the workplan that Suzanne Flynn has developed.
- 4 Approve the following **budget note on Information and Referral**:  
Commissioner Linn will arrange a briefing of the Board on the status and financial obligations incurred in the adoption of a joint City of Portland/Multnomah County information and referral service, estimated to begin operation this fall. The Board will consider additional on-going or one-time funding requests that may emerge from that planning process from the 1999-2000 contingency fund.
4. Approve the following **budget note on tax bill information**:  
The Board requests a report from Environmental Services, (Division of Assessment and Taxation), concerning how to include information on the property tax bill about what tax dollars purchase.

<b>ITEM</b>	<b>SPONSOR</b>	<b>AMOUNT</b>	<b>FUNDING SOURCE</b>
<b>PUBLIC SAFETY</b>			
Public Safety Package	ALL	\$2,400,000	Restored State Funding + Forfeiture
Juvenile Programs	STEIN	\$797,208	CJ Carryover
Mental Health in Jail (November or January start up)	NAITO/ CRUZ	\$355,000 / \$250,000	Reduction in Mari'n/ Yamh'l beds (\$250) Close Street? (\$105);
IDAP (increased funding for November start for women)		\$90,000	Reduction in Marion Yamhill beds (\$90)
<b>SCHOOL SUPPORT</b>			
LearnLinks	LINN	\$30,000	Part of Homeless Youth carryover
School to Work	STEIN	\$100,000 (contingency)	BIT carryover
<b>CHILDREN IN POVERTY</b>			
Early Childhood Planning	NAITO	\$100,000 (contingency)	GF
<b>PUBLIC HEALTH</b>			
Coalition of Clinics	LINN	\$125,000	Health Carryover
Hepatitis C	KELLEY	\$100,000	GF
Health contingency	CRUZ	\$500,000 (contingency)	Reserves
Behavioral Health contingency	NAITO	\$250,000 (contingency)	GF
<b>AGING SERVICES</b>			
Housing Fund	STEIN	\$60,000	GF
Disability Hotline	KELLEY/ NAITO	\$22,500	GF
<b>FACILITIES</b>			
Multnomah Bldg.	STEIN		Carryover

Mead Operating and Mitigation	STEIN	\$400,000 (in contingency)	Carryover
Brentwood Darlington Center	NAITO	\$35,000 (\$15,000 + \$20,000 GF)	OTO carryover CFS - \$20,000 GF
Santana's/ or MH UNIT		\$105,000 (in contingency)	Savings on Close St. Lease
<b>GOOD GOVERNMENT</b>			
County Counsel	CRUZ/ STEIN	\$87,000	Risk Fund
PSU Intern Partnership	NAITO	\$50,000	Mental health Study
Code Enforcement	KELLEY	\$59,000	GF
Johnson Creek	NAITO	\$15,000	GF

#### REVENUES

ESD DOUBLE BUDGET	\$200,000
WAGE SETTLEMENTS	\$412,000
OTHER AMENDMENTS	\$100,000
SCHOOL APPROPRIATION	\$100,000
TOTAL	<b>\$812,000</b>
RESERVES	\$500,000

#### GENERAL FUND ADDITIONS

HEALTH /MENTAL HEALTH PRIORITIES IN CONTINGENCY	CRUZ	\$750,000 (\$250,000)	\$500 from Reserves
EARLY CHILDHOOD	NAITO	\$100,000	contingency
HEPATITIS C	KELLEY	\$100,000	GF
CODE ENFORCEMENT	KELLEY	\$59,000	GF
SCHOOL TO WORK	STEIN	\$100,000	contingency
DISABILITY HOTLINE	KELLEY/ NAITO	\$22,000	GF
HOUSING FUND IN AGING	STEIN	\$60,000	GF
AUDITOR	NAITO	\$73,000	GF
BRENTWOOD DARLINGTON	NAITO	\$35,000	GF
JOHNSON CREEK	NAITO	\$15,000	GF
TOTAL		<b>\$814,000</b>	

## **POTENTIAL CONTINGENCY REQUESTS**

IDAP	\$500,000
EARLY CHILDHOOD	\$100,000
SCHOOL TO WORK	\$100,000
HISPANIC RETENTION	
HEALTH PRIORITIES	\$500,000
BEHAVIORAL HEALTH PRIORITIES	\$250,000
MEAD COSTS AND MITIGATION	\$400,000
SANTANA'S/MH UNIT	\$105,000
INFORMATION AND REFERRAL	

## **BOARD BUDGET ISSUES 1999-2000**

### **PUBLIC SAFETY CARRYOVER BUDGET ISSUES - Shift in emphasis to dealing with causes of recidivism. Still in development.**

- A. Drug and alcohol treatment models - IDAP
- B. Mental health in patient treatment
- C. Hep C Task Force. Hooper improvements.

### **PUBLIC SAFETY LEVY PLANNING - Seeking stability and expansion of systems capacity**

#### **Facilities**

- D. Final design and costs of new jail and new A and D treatment center
- E. Final operating costs of two new facilities
- F. Public safety bond status report

#### **Levy components**

- G. Domestic violence planning and levy implications
- H. Early childhood planning and levy implications
- I. Child assessment center and levy implications
- J. INS / marshal bed use policy and levy implications
- K. STOP policy and levy implications

### **SCHOOL SUPPORT - Expanding partnership to increase school success**

- L. Status report on SAI, FAST, Hispanic Retention, and Transitional Classrooms
- M. School to work
- N. Blanchard building purchase agreement

### **CHILDREN IN POVERTY - Systems changes; Primary prevention planning.**

- O. Homeless Youth Implementation
- P. Early Childhood Planning
- Q. Living Wage research

**POLICY IMPACT OF LEGISLATIVE ACTIONS - Concern of impact on county core services**

- R. Review of health priorities
- S. Review of behavioral health system - charge to task force and review of recommendations
- T. Review of juvenile system
- U. Overall impact of changes. (Aging, Corrections, Assessment and Taxation)

**FACILITIES -**

- V. Move of West Probation
- W. Rockwood access clinic and partners
- X. Child Assessment Center
- Y. Review of Certificate of Participation components - including Santana's; River Patrol

**INTERJURISDICTIONAL AGREEMENTS**

- Z. Information and referral system with city of Portland - review proposal

**BUDGET PROCESS - Best use of Board time and energy**

Debrief this year's process: special focus next year on some Departments?  
Levy preparation needs?

**SCHEDULE**

- June 14 Staff Review of Program, Carryover, Technical, Staffing Amendments - Dave Warren contact on questions and changes
- June 22 Worksession ; Review of this Memo; Review of selected amendments
- June 24 Budget adoption



## SERENA CRUZ, Multnomah County Commissioner

### District 2

**To:** Chair Stein  
**CC:** Board of County Commissioners  
**From:** Commissioner Serena Cruz  
**Date:** 06/10/99  
**Re:** SPIRIT Campaign

A 1998 survey conducted by SPIRIT of 2,000 students in Portland found:

- 37% said the cost to ride transit was a problem in getting to school
- 10% of high school dropouts cited transportation problems as their reason for dropping out of school
- Families spend up to \$700 per year on getting two children to and from school
- Of 678 students surveyed who drive, 53% said they would take public transportation if it were free

SPIRIT's proposal, similar to the Passport Program Tri-Met currently has in place, will give free bus passes to all Portland Public School students for transit to and from school. The free passes would run through the entire year. The estimated cost of this proposal is \$4.5 million annually.

It is obvious that neither Portland Public Schools, Tri-Met, the City of Portland or the County have the money to fulfill this entire proposal. All groups, however, are at the table and willing to look at what we can affect.

What I would like to propose is a pilot program which gives free passes to about 2,000 students.

**The pilot program would have the following guidelines:**

- Students receiving passes would be identified by need
- Students receiving passes would have to live more than one mile from their school (the required distance to provide buses by State law)
- 250 of these students would be identified through the County Student Attendance Initiative
- Students would be given the pass on a monthly basis, with the privilege contingent on not having more than two unexcused absences per month
- The pass would only be good during the 9 month school session (September through June)



**The program would be funded by:**

- \$100,000 from the County School Attendance Initiative (the \$500,000 resource fund)
- \$100,000 from the City of Portland
- \$100,000 from Portland Public Schools
- \$300,000 from Tri-Met

The program should be administered by Portland Public Schools and the County Student Attendance Initiative.

**The pilot should be evaluated for the following criteria:**

- Did offering free transportation increase attendance?
- How many of the 1,000 students stayed in the program?
- What was the difference in Tri-Met's annual youth-fare revenue?
- Did Tri-Met's youth ridership increase during this pilot program?

**The County's Participation:**

- Moves the County even further towards it's three Benchmarks to reduce the number of children in poverty, reduce crime, and increase school success
- Enhances the Student Attendance Initiative by giving students another tool to succeed
- Works only if kids stay in school
- Encourages young people to learn the benefits and get in the habit of using alternative transportation





MULTNOMAH COUNTY

**BOARD HEARING OF June 10, 1999 TIME 9:30 a.m.**

**CASE NAME:** Western States Development Corp.

**NUMBER:** PRE 16-98, 17-98, and 18-98

**1. Applicant-Appellant Name/Address**

Western States Development Corp.  
Kevin Bender  
20285 NW Amberwood Dr.  
Hillsboro, OR 97124

**2. Action Requested by Applicant**

Dwelling Approval Validations for three contiguous EFU zoned parcels that have farm management plans approved in 1989. These three applications are similar to PRE 4 and 5-98 which were previously approved and are pending a decision at LUBA. The applications are being processed under Ordinance 903 (Dwelling Approval Validation) which is intended to resolve the old farm management plan approvals that have no expiration date.

Ordinance 903 has been remanded back to the County by the Court of Appeals. Staff has been advised by County Counsel that the ordinance is therefore no longer in effect, and that the permit requests cannot be approved.

**3. Planning Staff Recommendation**

Administrative Planning Director Decision was approval with conditions.

**4. Hearings Officer Decision**

Approval with conditions.

**5. If the Planning Director Decision and the Hearings Officer Decision are different, why?**

The decisions are essentially the same. However, staff wishes to clarify one point made in the Hearings Officer decision regarding the dwelling location. The decision states that the dwelling location is approximate in the last paragraph on page 10 of the decision. The ordinance does require, under MCC 11.15.2031(B)(3), that the dwelling will be located in the location shown in the management plan unless certain conditions are met for placement in a different location. Unless an application is approved for a different location, the dwelling will only be approved in the location shown on the plan.

<b>Action Requested of Board</b>	
<input type="checkbox"/>	Affirm Hearings Officer Dec.
<input type="checkbox"/>	Hearing/Rehearing
<b>Scope of Review</b>	
	On the record
<input checked="" type="checkbox"/>	De Novo
<input type="checkbox"/>	New information allowed

**ISSUES**  
*(who raised them?)*

**6. The following issues were raised:**

Appellant Rochlin/Foster argued that the applicant did not demonstrate that all of the farm management activities called for in the plan were implemented as required because the evidence submitted was inadequate. They also maintain that the farm dwelling must meet the new Oregon Administrative Rule and Multnomah County Code implementing provisions for new dwellings on High-value farmland. This argument essentially says that the Dwelling Approval Validation ordinance is invalid, that the County needs to apply a different part of the EFU zoning code to these applications. Note that in the appeal hearing of the prior two Dwelling Validation applications (PRE 4 and 5-98), the Board found that the Dwelling Validation ordinance (Ordinance 903) remained valid. The appeal status of the ordinance at the time of the PRE 4 and 5-98 hearing was that LUBA had remanded the ordinance back to the County on procedural grounds, and that remand had been appealed to the Court of Appeals.

Applicant-Appellant Bender (Jeff Bachrach), in his appeal of the Hearings Officer decisions in PRE 16 and 17-98, claims that the Hearings Officer erred by not ruling on the validity of Ordinance 903 in relation to the approved farm management plan (see item #5 on pages 15 and 16 of the Hearings Officer decision). He stated in his final argument that Ordinance 903 "is an impermissible retroactive modification of the approvals and cannot be applied." The farm management plans were only a suitability test and did not require any implementation of the plan in order to obtain a building permit.

**7. Do any of these issues have policy implications? Explain:**

The Board policy as documented in the Dwelling Validation ordinance is that holders of property that has an old PRE farm management plan must meet the statutory requirement that the property is "currently employed" for farm use before a building permit is issued, and that they should have two years to implement the plans in order to obtain building permits. The administrative decision and Hearings Officer decision do not require strict compliance with the approved plans finding that the "substantial compliance" language of the ordinance essentially means that the applicant must have established enough trees to reasonably meet a "currently employed for farm use" conclusion.

(8)  
19.32  
Ac.

(10)  
18.89 Ac.

(38)  
0.44 AC.

(12)  
28.62 AC.

SUBJECT PARCELS

(3)  
20 AC.

(33)  
21.40 Ac.

PRE 16-98

Partition Plat

(14)  
19.80 Ac.

PRE 17-98

1990-43

CORNEL

(36)  
3.07 AC.

T.L.'1' of  
PARCEL 2  
14.08 ac.

(21)  
9.28 Ac.

(24)  
19.39 AC.

T.L.'2'  
PARCEL 2  
9.75 ac.

(16)  
9.40  
Ac.

PRE 18-98

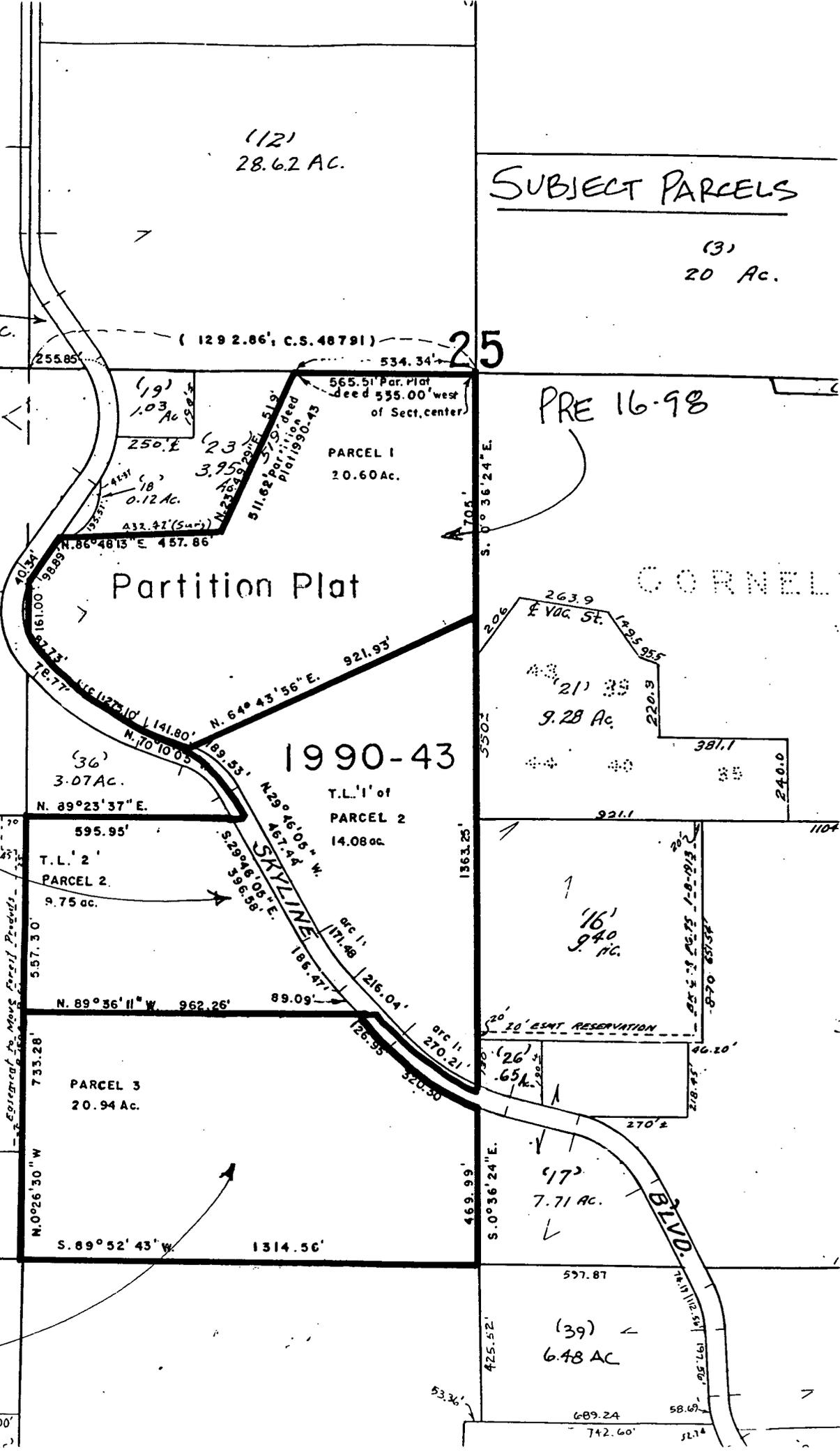
PARCEL 3  
20.94 Ac.

(26)  
.65 Ac.

(17)  
7.71 AC.

(39)  
6.48 AC.

100'



## Issues Charts for PRE 16-98, 17-98 and 18-98

<b>Issue 1:</b>	The applicant did not meet the substantial compliance with the farm management plan test on all three parcels because not all of the activities listed in the plan as occurring in the first two years were completed (subsoil preparation before planting and access road and landing construction).
<b>Code Requirement:</b>	MCC 11.15.2031(B)(2) (Ordinance 903)
<b>Who Raised Issue?:</b>	Appellants, Rochlin and Foster
<b>Hearings Officer Decision:</b>	Finds that the applicant and testimony demonstrated that the property was adequately prepared by the annual disking which was done, that the trees were planted and survive as called for in the plan, and that the plan could be substantially implemented without the road and landing construction. Agrees with staff interpretation that the "substantial compliance" standard is not a strict standard, and is intended to ensure that the property is "currently employed" for farm use prior to dwelling approval.
<b>Staff Concerns/ Comments:</b>	Agrees with Hearings Officer that substantial compliance is demonstrated because all of the trees called for in the plan were planted and survive after a year, and all of the acreage which was to be farmed in the farm management plan is being farmed. <u>Concern:</u> The Hearings Officer decision states on page 10 that the dwelling location is approximate, and staff is concerned that this statement could add uncertainty about when an SEC permit is needed for a dwelling proposed for a location other than shown on the plan. Staff intends to require the dwelling to be located as shown on the plan as determined by the center point, or an SEC permit will be required.
<b>Recommendation:</b>	Deny the applications due to the remand of Ordinance 903.

<b>Issue 2.</b>	The farm dwelling must meet the new OAR and County Code provisions for new dwellings on high-value farmland. (OAR 660-033-0120 through 0135 and MCC 11.15.2010(D)).
Code Requirement:	MCC 11.15.2031 Dwelling Approval Validation (Ordinance 903)
Who Raised Issue?:	Appellants, Rochlin and Foster
Hearings Officer Decision:	LUBA in their remand of Ordinance 903, found that OAR 660-33-135 does not retroactively apply to farm dwelling approvals prior to the new rules becoming effective, March 1, 1994. For the same reasons, OAR 660-033-0130 and 660-033-0120 will not be applied retroactively.
Staff Concerns/ Comments	Agrees with H.O.
Recommendation:	Deny the application due to the remand of Ordinance 903.

<b>Issue 3:</b>	The Hearings Officer erred by not ruling on the validity of Ordinance 903 (MCC 11.15.2031) in relation to the farm management plan applications for PRE 16 and 17-98.
Code Requirement:	Ordinance 903 (MCC 11.15.2031).
Who Raised Issue?:	Applicant-Appellant, Bender
Hearings Officer Decision:	Finds that the question about the applicability is not properly before the Hearings Officer because the applicant has submitted applications under MCC 11.15.2031.
Staff Concerns/ Comments	Agrees with Hearings Officer.
Recommendation:	Deny the applications due to the remand of Ordinance 903.

---

**BEFORE THE HEARINGS OFFICER  
FOR MULTNOMAH COUNTY, OREGON  
FINAL ORDER**

---

This Decision consists of Conditions, Findings of Fact and Conclusions.

**May 7, 1999**

**PRE 16-98, PRE 17-98 & PRE 18-98**

Appeals of three administrative decisions of three applications for Dwelling Approval Validation (and determination of substantial compliance with an approved Farm Management Plan). The appeals were combined for purposes of the hearing and this decision.

**Legal Description  
& Location  
of Properties:**

**PRE 16-98:** 14180 NW Skyline Blvd.  
Lot 1 of Partition Plat 1990-43, 2N-2W, Section 25  
**PRE 17-98:** 13950 NW Skyline Blvd.  
Lot 2 of Partition Plat 1990-43, 2N-2W, Section 25  
**PRE 18-98:** 13695 NW Skyline Blvd.  
Lot 3 of Partition Plat 1990-43, 2N-2W, Section 25

**Zoning Designation:**

EFU (Exclusive Farm Use)  
SECh (Significant Environmental Concern, Wildlife Habitat)

**Owner/Applicant:**

Western States Development  
20285 NW Amberwood Dr.  
Hillsboro, OR 97124

**Applicant's  
Attorney:**

Jeff Bachrach  
O'Donnell Ramis Crew Corigan & Bachrach  
1727 NW Hoyt St.  
Portland, OR 97209

**Appellants:**

Arnold Rochlin  
P.O. Box 83645  
Portland, OR 97283

Christopher Foster  
15400 NW McNamee Rd.  
Portland, OR 97231

MULTNOMAH COUNTY  
PLANNING SECTION

99 MAY 10 PM 1:10

RECEIVED

## PROCEDURAL ISSUES

### Impartiality of the Hearings Officer

- A. No ex parte contacts. I did not have any ex parte contacts prior to the hearing of this matter. I did not make a site visit.
- B. No conflicting personal or financial or family interest. I have no financial interest in the outcome of this proceeding. I have no family or financial relationship with any of the parties.

### BURDEN OF PROOF

In this proceeding, the burden of proof is upon the applicant.

### SCOPE OF APPEAL

A hearing before the Hearings Officer on a matter appealed under MCC .8290 shall be limited to the specific grounds relied on for reversal or modification of the decision in the Notice of Appeal.

### APPLICATION TIMELINE

The applications herein were deemed complete by staff as of November 20, 1998. On January 15, 1999, attorney for the applicant requested a continuance and waived the running of the 150-day clock.

At the hearing in this matter I found that the clock did in fact stop on January 15, 1999, the 56th day. At the hearing in this matter on March 17, 1999, the applicant's attorney, Jeff Bachrach, asked that the record be kept open in order to submit additional argument. Mr. Bachrach submitted that additional argument on April 2, 1999, the date on which the clock again started running.

Since the subject property is not within an Urban Growth Boundary, I find that pursuant to Section 2, Chapter 414, Oregon Laws 1997, the governing body must take final action on the application within 150 days after the application is deemed complete. Accordingly, I find that May 7, 1999 is the 92nd day on the 150-day clock.

I also reviewed Mr. Bachrach's submittal to determine if any new evidence was presented. I found that the submittal was simple legal argument. The appellants did not request the opportunity to make additional submittals.

## FACTS

### 1 - Applicant's Proposal

#### A. PRE 16-98

The applicant's September 28, 1998 Introduction describes the application and gives a brief history of farm dwelling approval on the subject parcel. This application is intended to validate the dwelling proposed in conjunction with the farm use described in the farm management plan approved in PRE 23-89. In addition to the farm dwelling, the management plan approval allowed partition of the parent 66.6 acre parcel into two additional lots under approval LD 25-89. The three parcels have been mapped as Partition Plat 1990-43 Lots 1 through 3. Each of the other two parcels received farm management plan approvals and received Dwelling Validation Approvals under case numbers PRE 17-98 and PRE 18-98, which decisions are also on appeal herein.

#### B. PRE 17-98

The applicant's September 28, 1998 Introduction describes the application and gives a brief history of farm dwelling approval on the subject parcel. This application is intended to validate the dwelling proposed in conjunction with the farm use described in the farm management plan approved in PRE 24-89. In addition to the farm dwelling, the management plan approval allowed partition of the parent 66.6 acre parcel into two additional lots under approval LD 25-89. The three parcels have been mapped as Partition Plat 1990-43 Lots 1 through 3. Each of the other two parcels received farm management plan approvals and received Dwelling Validation Approvals under case numbers PRE 16-98 and PRE 18-98, which decisions are also on appeal herein.

#### C. PRE 18-98

The applicant's September 28, 1998 Introduction describes the application and gives a brief history of farm dwelling approval on the subject parcel. This application is intended to validate the dwelling proposed in conjunction with the farm use described in the farm management plan approved in PRE 25-89. In addition to the farm dwelling, the management plan approval allowed partition of the parent 66.6 acre parcel into two additional lots under approval LD 25-89. The three parcels have been mapped as Partition Plat 1990-43 Lots 1 through 3. Each of the other two parcels received farm management plan approvals and received Dwelling Validation Approvals under case numbers PRE 16-98 and PRE 17-98, which decisions are also on appeal herein.

## 2 - Procedural History

In 1989, Western States Development Corporation, as applicant, received farm dwelling approvals in the matter of PRE 23-89, PRE 24-89 and PRE 25-89. The approvals related to Parcels 1, 2 and 3 of Partition Plat 1990-43, which received partition approval under LD 25-89. Farm Dwelling approvals were issued in accordance with the County ordinance provisions in effect in 1989. Subsection 11.15.2010(C) of the Multnomah County Code, as it existed in 1989, allowed the approval of a residence in conjunction with farm use when certain conditions were met, including that the proposal be conducted according to a farm management plan, containing approved elements as specified in the ordinance in effect in 1989. The 1989 approvals did not contain any expiration dates. As an administrative matter, it had been a practice of the Multnomah County staff to treat those old approvals as valid approvals, prior to the adoption of MCC 11.15.2031 relating to dwelling approval validation.

Previously, the Board of County Commissioners had affirmed decisions of Hearings Officers which held that approvals for farm dwellings issued pursuant to the Code provisions in effect in 1989 and 1990 were valid approvals. See Final Order 97-215. Since the time of the original PRE approvals referenced above, State law and County code have been amended. In 1994, the State adopted OAR 660-033-0135. That administrative rule has a fairly stringent farm income test. The County implemented the standards set forth in OAR 660-033-0135 in MCC 11.15.2010(D) in 1997. The new requirements now codified in .2010(D) did not apply when the old PRE permits were approved, and the income test is not applied to old PRE approvals. Effective May 4, 1998, the County adopted MCC 11.15.2031, the dwelling approval validation ordinance, in order to set an expiration date for all unbuilt farm management plan approvals (PRE's), and to insure that the property meets the statutory requirement of ORS 215.203, that the property is "currently employed" for farm use.

The ordinance adopting MCC 11.15.2030 and MCC 11.15.2031 was challenged by the appellants herein. In LUBA Case No. 98-067, Petitioners Arnold Rochlin and Christopher Foster challenged the adopted amendments on both substantive and procedural grounds.

In case number 98-067, LUBA found that OAR 660-033-0135 and 660-033-0140 have no legal effect on the continued validity of the old farm dwelling permits or the County's authority to impose time limits on the old farm dwelling permits (where none existed before) or adopt standards for extending those new time limits. Rochlin and Foster vs. Multnomah County and Western States Development Corp., No. 98-067, slip op. at 7 (Or LUBA 1998). LUBA also found that certain procedures regarding notice of the appeal hearing which were mandated under the new ordinance, were inconsistent with certain procedures in ORS 215.416(11).

In Final Order 98-210, the Board of County Commissioners for Multnomah County affirmed a Hearings Officer decision in Cases PRE 4-98 and PRE 5-98, both of which cases related to Dwelling Approval Validation requests. In that Board Final Order, which was entered after the LUBA decision in Case No. 98-067 was entered, the Multnomah County Board of Commissioners found that the LUBA decision in Case No. 98-067 had been appealed to the Court of Appeals, and that notwithstanding LUBA's remand, Ordinance 903 was applicable to PRE 4-98 and PRE 5-98. Accordingly, Multnomah County Ordinance 903, which adopted 11.15.2030 and 11.15.2031, although unacknowledged will be viewed as the relevant approval criteria.

### **3 - Testimony and Evidence Presented**

- A. Chuck Beasley testified for the County, summarized the history of the application, and the administrative decision and subsequent appeals therefrom, and showed a video of the three sites. In relation to PRE 16-98, the video showed the Christmas trees which had been planted, in the portion of the parcel allocated to Christmas trees. The video also displayed septic test holes. The balance of the property was managed for other types of farm use.

In relation to PRE 17-98, the video again showed the trees which had been planted. The soil adjacent to the trees looked like it had been tilled and prepared. The area around the trees was not overgrown with vegetation or weeds.

In reference to parcel 3, which is the site referenced in PRE 18-98, the video again showed the tree cropping area which corresponded with the original plans and the trees appeared to be green and growing.

- B. Arnold Rochlin, appellant, submitted oral and written testimony on behalf of himself and co-appellant Christopher Foster.
- C. Christopher Foster also testified as an appellant in opposition to the approvals.
- D. Kevin Bender spoke on behalf of Western States Development and described the farming history in relation to the three parcels.
- E. Jeff Bachrach testified at the hearing and subsequently submitted written argument.
- F. In addition to the Planning Department file and the exhibits referenced in the decisions of the Planning Director, the Hearings Officer received the following exhibits:

- H1 - Affidavit of Posting for File #PRE 16-98
- H2 - Affidavit of Posting for File #PRE 17-98
- H3 - Affidavit of Posting for File #PRE 18-98
- H4 - Letter dated March 10, 1999 from Jay Kravitz to Planning Division
- H5 - Final Opinion and Order LUBA No. 98-067
- H6 - Notice of Appeal Administrative Decision PRE 16-98
- H7 - Notice of Appeal Administrative Decision PRE 17-98
- H8 - Notice of Appeal Administrative Decision PRE 18-98
- H9 - Multnomah County Board of County Comm. Final Order 98-210
- H10 - Memorandum on Substantive Issues dated March 17, 1999 from Christopher Foster and Arnold Rochlin
- H11 - Decision 3-97
- H12 - Letter dated April 2, 1999 from Jeff H. Bachrach to Hearings Officer

## **APPEAL ISSUES, CRITERIA, ANALYSIS AND FINDINGS OF FACT**

### **APPEAL ISSUES:**

The appellants in this proceeding stated the following grounds for appeal in regards to all three PRE approvals.

"Compliance with MCC 11.15.2031(B), former OAR 660-05-030(4) and/or OAR 660-033-120, -130 and -135 is not established by the substantial evidence in the whole record."

The appellants submitted both oral and written testimony. The written materials essentially focused on two issues: 1) Was there substantial evidence in the records relating to the three approvals to support a finding that there has been compliance with the requirement of MCC 11.15.2031(B)(2), that the activities provided for in the first two years of the farm management plan have been implemented? 2) The appellants contend that certain statutes and Oregon Administrative Rules controlling uses on the farm land were applicable and were not appropriately applied to the decisions in question.

There are also a number of procedural and notice issues raised by the LUBA decision 98-067, which were addressed in the staff decision, and which I will also comment on. In addition, the applicant raised certain issues on appeal which will also be discussed in this opinion.

In evaluating these issues, I will discuss the various sub-issues under each primary question raised in this appeal proceeding.

1. IS THERE SUBSTANTIAL EVIDENCE IN THE RECORDS RELATING TO PRE 16-98, PRE 17-98 AND PRE 18-98 TO SUPPORT A FINDING OF SUBSTANTIAL COMPLIANCE WITH THE REQUIREMENT OF MCC 11.15.2031(B)(2) THAT THE ACTIVITIES PROVIDED FOR IN THE FIRST TWO YEARS OF THE FARM MANAGEMENT PLAN HAVE BEEN IMPLEMENTED?

By definition, Section 11.15.2031 does not require a new application for a farm dwelling under 11.15.2010, relating to uses permitted under prescribed conditions. Rather, .2031 provides a process for recognizing the continued validity of existing permits. The statute is a procedural statute that related solely to existing permits, it does not establish approval criteria for new permits. The Multnomah County Board of Commissioners adopted the ordinance. I will defer to the Board and enforce the ordinance as written. Accordingly, I find that the provisions of OAR 660-033-0135 and the implementing provisions of MCC .2010 are not applicable to a dwelling approval validation process under MCC 11.15.2031. Under the provisions of .2030, PRE approvals 23-89, 24-89 and 25-89 are valid approvals, which have not expired.

Although County Ordinance No. 903 has been appealed to LUBA, ORS 197.625 provides that the ordinance is effective at this time. Accordingly, for purposes of this proceeding, I find that MCC 11.15.2031 is the effective land use regulation relating to dwelling approval validation. The dwelling validation application does not propose to approve a new use or otherwise alter the land use approval issued in 1989 pursuant to an acknowledged land use regulation. Accordingly, I find that neither Ordinance No. 903 or the dwelling validation approvals issued thereunder implicate the statewide planning goals.

Substantial evidence is evidence a reasonable person would rely on in reaching a decision. Brandt vs. Marion Co., 23 Or LUBA 316 (1992). In a case where the relevant facts are not in dispute, the choice between different reasonable conclusions based on evidence in the record belongs to the County. Dority III vs. Clackamas Co., 23 Or LUBA 384 (1992).

The staff decision described the measures applicant took to substantially comply with the management activities for the first two years, as set out in each of the plans. A copy of the approved plan was included with each application in Exhibit A1.#2. Each plan is actually a ten year plan, with a pre-planting soil conditioning phase in the year prior to planting. The "Year 1" activities listed in the plan are therefore actually second year management activities. On pages 3 and 4 of Exhibit A1, the applicant described the management activities which were accomplished in regards to each parcel. Such activities include pre-planting, soil conditioning and planting of approximately 7500 noble fir Christmas tree seedlings each on Parcels 2 and 3, PRE 17-98 and PRE 18-98, and approximately 6375 noble fir Christmas tree seedlings on Parcel 1, PRE 16-98.

Staff verified in a site inspection on January 4, 1999 that the tree seedlings had been planted according to the plan, and appear to have survived the first summer at the rate estimated in the plan.

The video played during the course of the hearing showed that the trees in fact were green and appeared to be growing. The ground the trees were planted in appeared to have been cultivated and did not appear to be overgrown with vegetation.

The last element listed in the 1989 Farm Management Plans under Year 1 is roadway and landing construction. In regards to each application, the applicant submitted a letter/addendum that explained why construction of an access road was not necessary in order to establish the Christmas tree crop (Exhibit A4). County staff verified in the January 4, 1999 site inspection that a gravel road from Skyline to the mobile home on Parcel 1, PRE 17-98, exists at this time. Staff was unclear as to whether that gravel road would meet width and grade requirements. Staff also noted that the approval standards were not applied as a strict list of things which must be done prior to approval. Rather, staff indicated that the standard is intended to insure that the farm use, in this case the proposed Christmas tree farm, is established prior to dwelling approval in order to meet the "currently employed" for farm use standards. Based on the currently adequate access to the crop area, the road appears to not be needed until construction of the farm dwelling begins. Approval to construct/widen the access road will require a Grading and Erosion Control permit and access permit.

The appellants contend that the Planning Director's findings and the evidence itself, do not establish that the activities provided for in the first two years of the farm management plan have been implemented.

In particular, the appellants, both in their written and oral testimony, challenged the adequacy of the pre-planting and Year 1 activities.

The appellants dispute the applicant's contention that the pre-planting activities occurred. The appellants contend that the following specific activities were required for preparation for planting: leveling, fence laying and access road adjustment. In addition, appellants contend that subsoiling to a depth of 18" did not occur and that the appropriate plowing and cultivating activities did not occur.

In regards to Year 1 activities, the appellants contend that there was not adequate plowing and disking, that the machine planting was not adequate, and that roadway and landing station construction was required, but not implemented.

At the hearing, Kevin Bender testified for Western States Development. Mr. Bender testified that the property had been utilized for farming over the last 15 years. Mr. Bender testified that the property had been planted with various crops, including crimson

clover, oats, vetch, and dry land wheat. Even those crops which were capable of being treated as perennials had been planted annually in order to achieve a crop rotation.

Although the appellants contended that the soil on the subject site had been compacted, the direct testimony of someone who had observed the farming methods contradicted that and provided substantial prohibitive evidence that in fact the subsoiling to the required depth had been provided over a number of years through an ongoing farming practice.

Mr. Bender testified that the property had annually been cultivated utilizing a disk, and that five years ago the property had been tilled for drainage purposes at a depth of 3 feet, with six inch perf pipe.

Mr. Rochlin, in oral argument, compared the property to a yard with grass where compaction would occur. However, the evidence which I found believable, was directly contrary. A residential yard is planted with perennial grasses which are not cultivated or disturbed for years, and do in fact experience compaction. The process utilized in regards to the subject parcels described by Mr. Bender was directly contrary. The parcels in question were disked annually. No compaction would occur because of the regular farm practices on the property and subsoiling to a depth of 18" was achieved. I found that evidence credible and substantial.

I also viewed the video which presented objective visual substantiation of the testimony of Mr. Bender and the written materials submitted by applicant. The land appears as if it had been tilled.

The applicant's written submittals indicated that the applicant purchased noble fir seedlings and hired Christmas tree contractor B.T.N. of Salem to prepare the ground, apply pre-planting herbicide, plant the seedlings and apply post-planting herbicide. B.T.N. planted a total of 21,375 seedlings on the three parcels in accordance with the projections on the approved management plan. The distribution of the seedlings on the three parcels in accordance with the plan was confirmed by staff and I find both the applicant's written submittals and testimony, and the confirmation by staff credible substantial evidence.

B.T.N. performed a number of farm activities using the farm management plan as a guide. The ground area outlined in the approved management plan was prepared for planting. The existing young wheat crop on the site was sprayed to keep it from competing with the seedlings. At that point, the activities projected for the first year of the plan (pre-planting) had been substantially implemented.

The evidence also indicated that the noble fir seedlings were planted by machine as called for in the second year of the plan. Additional plowing and cultivation was accomplished by the machine that planted the seedlings.

The objective of the farm management plan is to create a commercially viable noble fir Christmas tree farm on each of the three parcels. The plan makes certain assumptions and projects expenses and anticipated revenues from the operation of the Christmas tree farm. The activities set forth in the cost projection portion of the plans are not stated as mandatory elements that must be followed without deviation. Rather, these activities are listed as items that are anticipated and are likely to require some cost allocation. Obviously there is a certain level of pre-planting activity and ground preparation necessary before the trees can be planted. Similarly, in Year 1 of the plan (the second year), the requisite number of trees must be purchased and planted in the areas specified in the plan. However, other activities which were projected to generate costs would not necessarily be undertaken unless those activities were actually needed.

The appellants contend that the applicants have not complied with the literal requirements of the plan because roadway and landing station construction did not occur on each of the parcels in Year 2 of the plan.

The applicant addressed this issue and explained why the roadway and landing station construction did not occur in its submittal dated November 24, 1998.

The goal of the farm plan is to create a workable tree farm. One of the objectives in managing land for farm purposes is to create a commercially viable farm.

The applicant indicated that the road and landing were not built because they were not needed to implement the plan in year two for several reasons. All of the parcels included in the management plans had been farmed in recent years and access for farming equipment to reach the fields was created during the farming process. Parcel 2 has an existing road to the old mobile home on the lot. The equipment used to prepare the ground and plant the Christmas tree seedlings used the existing farm access. A new access and landing were not necessary to complete the main activities of the first two years of the management plan, which was to prepare for and plant the seedlings in the specified locations.

The tree farms are relatively small (five acres or less) and on level ground. Because of the flat terrain, a landing was not required as a staging area for preparing the ground and planting the seedlings. The farm plan proposes dwelling construction "by the third year after planting". A primary reason for the dwelling is to allow the owner to work the tree farm. A road into the tree farm would not be needed until the dwelling is built. The location of the road to the tree area, if it is needed, will depend on the exact location of the dwelling. At this point, the dwelling location is approximate, and the placement of a road is premature. Economic viability is a primary objective in regards to the plan. The applicant's written materials reference this aspect of the plan. The applicant indicated:

"the approved plan's management objective 'must recognize the risk of entering the Christmas tree market,' because there is a glut of Christmas trees (in 1989) on the market. With Christmas trees, there is no return for several years, and the future market at harvest time is always uncertain at planting time. The owner needs to make wise decisions to keep costs down while getting the product ready for market. The only important function of the first two years to get all of the trees safely planted. The approved plan's management objective is to make a profitable venture from 'a small farm with a fine product and prudent marketing, and intensive on-site management.' Plan, page 3. If the road and landing is not necessary at this point, it makes no economic sense in a risky venture to spend the money unnecessarily. The existing access was adequate for planting the tree farms, and will be adequate for interim maintenance of the farm until the dwelling can be built." (Page 2, Paragraph 4, November 24, 1998 Addendum)

I concur with applicant's assertions. It does not appear that the projected construction of the road need to occur in Year 2 of the plan. Accordingly, the plan could be substantially implemented without the construction of roadway and landing station in Year 2.

The plan does not fail because the projected activities cost more or less than projected. Similarly, it may not be necessary to undertake all activities in the projected year in order to substantially implement the plan. Some activities may in fact occur sooner than projected or later.

If, for example, only 2% of the initial tree planting died by the end of the first year, the applicant would not be expected to replace 10% of the trees. The property owner would replace the 2% that died.

I concur with staff's interpretation that the substantial compliance standard is not a strict standard. The focus is to insure that the farm use, in this case the proposed Christmas tree farm, is established prior to dwelling approval, in order to meet the "currently employed" for farm use standard.

I find that the applicant has demonstrated substantial compliance with the approved farm management plan, based on the evidence in the record that the activities provided for in the first two years of the farm management plan have been implemented.

2. ARE THE CURRENT STANDARDS SET FORTH IN MCC 11.15.2010(D) AND OAR 660-033-0120 THROUGH 0135, APPLICABLE TO AN APPLICATION FOR DWELLING APPROVAL VALIDATION FILED PURSUANT TO MCC 11.15.2031?

The appellants contend that the provisions of OAR 660-033-0120 through 0135 and MCC 11.15.2010(D) as presently constituted are applicable to this decision. I disagree. In a Decision of Hearings Officer dated October 16, 1998, in regards to PRE 4-98 and PRE 5-98, the Hearings Officer found, and the Board of Commissioners for Multnomah County affirmed, that the provisions of MCC 11.15.2010(D) and OAR 660-033-0135 are inapplicable to an application for Dwelling Approval Validation. In Rochlin and Foster vs. Multnomah County and Western States Development Corp., LUBA No. 98-067, LUBA specifically found that OAR 660-033-0135 and 660-033-0140 have no legal effect on the continued validity of the old farm dwelling permits or the County's authority to impose time limits on the old farm dwelling permits in order to adopt standards for extending those new time limits.

In the above-referenced case, LUBA found, and I concur, that OAR 660-033-0135 does not apply retroactively to farm dwelling permits that were approved under the standards in effect prior to March 1, 1994. Similarly, the current version of OAR 660-033-0130 (minimum standards applicable to the schedule permitted in conditional uses) and OAR 660-035-0120 (uses authorized on agricultural lands), will not be applied retroactively.

Accordingly, I find that the provisions of OAR 660-033-0120 through 0135 and MCC 11.15.2010(D) as presently constituted are not applicable to these proceedings. Accordingly, the applicant does not need to demonstrate compliance with these provisions and the substantial evidence standard will not be applied to these provisions.

#### **PROCEDURAL ISSUES:**

The appellant raised several procedural issues in regards to the standard of proof and the procedural requirements of the County Code Dwelling Approval Validation process. In addition, County staff discussed several procedural issues in its decision and a number of issues were raised in regards to the County process by the above-referenced LUBA decision in 98-067. Accordingly, it would be appropriate to rule on several of the issues applicable herein.

1. What notice process is applicable to the notice of appeal hearing for local appeals of decisions extending old farm dwelling permits?

A proposed farm dwelling constitutes a "proposed development of land" within the meaning of ORS 215.402(4). A decision regarding whether there has been "substantial compliance" with the approved farm management plan, requires the exercise of discretion, and for that reason it is a discretionary approval within the meaning of ORS 215.402(4). Since a County decision to extend an old farm dwelling permit under subsequently adopted Code provisions is itself a "permit" decision under ORS 215.402(4), the County procedures relating to such a challenged decision must and do comply with ORS 215.416 and ORS 197.763(2) and (3).

This decision is a "permit" as defined in ORS 215.402(4), and the local procedures must comply with ORS 215.416 and 197.763(2) and (3). The issues raised are the content of the Notice of Appeal Hearing, and persons entitled to notice. The ordinance provision in MCC 11.15.8290(F) states that notice of an appeal hearing "shall be as required by MCC .8220(A)(1), (2), (3), (5), (6) and (C)(1)." Some of the information required in ORS 197.763(3) is not included in the citation under .8220(A). However, the reference in .8220(C)(1) to "any other notice required by law" is interpreted to mean that all of the information required in ORS 197.763(3) is to be included in the notice of hearing. The notice for related cases PRE 4-98 and PRE 5-98 did contain all of the necessary elements and are referenced herein as evidence of this.

The conclusion reached by LUBA regarding who is entitled to notice is understandable because of the construction of the procedural provisions of the ordinance. But the conclusion that the ordinance provisions do not result in notification consistent with ORS 197.763(2) does not comport with the Board's interpretation of the code and practice. MCC 11.15.8290 (F) cites .8220(C)(1) for notice. The interpretation taken of this provision by this Hearings Officer is that both .8220(C) and .8220(C)(1) are applicable to administrative decisions. The first section, .8220(C) requires notice pursuant to .8120(B), which in turn states that notice must be: "as required by law and also in the following manner:

- (2) By providing notice as required by MCC .8220; and

This provision invokes the entire section of MCC .8220, which includes all of the persons listed in ORS 197.763(a). In addition, the "any other notice required by law" language of MCC.8220(C) is read to include both ORS 197.763(b) which includes any person who demonstrates that they would be adversely affected by the decision. The record of notification for PRE 4-98 and PRE 5-98, and for the three decisions in regards to PRE 16-98, 17-98 and 18-98, demonstrates the inclusive policy of the County regarding notice. All three of the decisions reviewed herein do comply with the applicable notice provisions of ORS 215.416(11)(A) and ORS 197.763(2) and (3).

2. Does the reference in MCC 11.15.2031(B)(2) limit the decision maker to evidence submitted by the applicant?

MCC 11.15.2031(B)(2) does not limit a decision maker to consideration of only evidence provided by the applicant. Rather, the provision is intended to place the applicant on notice that it is the applicant's responsibility to demonstrate compliance with the ordinance criteria.

In earlier cases, PRE 4-98 and PRE 5-98, both the Planning Director's decision and the Hearings Officer decision specifically considered testimony submitted by a person other than the applicant. Similarly, the decision in the instant case is not limited to evidence submitted only by the applicant. The videotape submitted by the Planning Department

was viewed and considered in evidence. The testimony and evidence submitted by appellants herein were considered and weighed in this matter.

3. Does the reference in MCC 11.15.8290(A), which states that a decision is final unless the applicant files a notice of appeal with the department, limit appeal of a Planning Director decision to only the applicant?

Such an interpretation would be inconsistent with the provisions for parties under MCC 11.15.8225, and with ORS 215.416(11). The department regularly receives and processes appeals of Planning Director decisions by persons other than an applicant. The appellant herein, Arnold Rochlin, is well aware of that fact. I will take judicial notice of a Hearings Officer decision previously approved by the Board in the matter of an appeal of an Administrative Decision filed by Mr. Rochlin in the matter of PRE 2-95. In that decision entered by the Hearings Officer on March 13, 1996, the applicant Dan McKenzie had contended that the appellant (Arnold Rochlin) did not have standing or the ability to file an appeal because MCC .8290(A) only allowed appeals by the applicant. The Hearings Officer in that instance specifically found that other provisions of Multnomah County Code provided a broader basis for appeal, and that any party had the right to appeal an administrative decision of the Planning Director.

I concur with staff's interpretation that MCC 11.15.8290(A) does not limit an appeal to only an applicant. Past decisions by the Multnomah County Board of Commissioners clearly require that interpretation.

4. Who has the burden of proof?

The Multnomah County Board of Commissioners has consistently interpreted the Multnomah County Code to require the applicant to bear the burden of proof even on appeal. For example, in the Hearings Officer decision in regards to PRE 2-95 cited above which I have taken judicial notice of, the Hearings Officer found that the burden of proof is upon the applicant. This has been a consistent interpretation of the Multnomah County Board of Commissioners. As indicated by staff, the purpose of MCC .8295(B) is only to insure that the provisions of MCC .8230(D) are not applied as additional approval criteria. At the time of submittal of the original application, the applicant must demonstrate compliance with all approval criteria. However, the appeal hearing is limited to the issues raised by the appellants. This does not shift the burden of proof and is a permissible standard. As to the issues raised by the appellants on appeal, the applicant still has the burden of proof. However, the applicant is not required to go through all of the issues that were originally discussed and ruled upon in the administrative decision, unless the appellant specifically makes that a grounds for appeal.

In the case of Johns vs. City of Lincoln City, 146 Or App 594 (1997), the Oregon Court of Appeals specifically considered the issue of whether a governmental body could limit a de novo appeal hearing to specific issues. The Court of Appeals specifically found that

a de novo hearing requirement did not require that every issue be retried. Rather, a governmental body could limit the appeal to the specific grounds relied on for the appeal in the Notice of Appeal. Thus, a de novo hearing is provided as to those issues raised by the appellants. On those issues under review in the appeal, the applicant continues to carry the burden of proof. The applicant in fact must retain the burden throughout the local process to demonstrate compliance with all applicable approval criteria. Fasano vs. Washington Co. Comm., 264 Or 574 (1973); Strawn vs. City of Albany, 20 Or LUBA 344 (1990). That burden never shifts.

5. Did the old farm dwelling permits involved with these applications grant permanent irrevocable rights to the property owner?

At the appeal hearing and in final argument, the attorney for Western States Development Corp. argued that it is illegal for the County to require the applicant to demonstrate compliance with the farm management plan in order to obtain a building permit. The applicant's attorney contended, in essence, that MCC 11.15.2031 is an impermissible retroactive modification of the approvals and cannot be applied. In LUBA case 98-067, referenced above, LUBA stated:

"Simply stated, OAR 660-033-0135 and 660-033-0140 have no legal effect on the continued validity of the old farm dwelling permits or the county's authority to (1) impose time limits on the old farm dwelling permits (where none existed before) or (2) adopt standards for extending those new time limits."

Rochlin and Foster vs. Multnomah County and Western States Development Corp., No. 98-067, slip op. at 7 (Or LUBA 1998). LUBA did not specifically rule on the question posed by applicants, but certainly seemed to suggest that the County could put time limits on old farm dwelling permits, or adopt standards for extending those new time limits. In that LUBA decision, LUBA also stated:

"Petitioners also suggest the challenged decision could also be reversed if we conclude the old farm dwelling permits granted 'permanent irrevocable rights' and the challenged decision therefore unlawfully conditions or terminates their duration. No party assigns error to the challenged decision on that ground. Because the issue is not before us, we do not decide it."

Rochlin and Foster vs. Multnomah County and Western States Development Corp., No. 98-067, slip op., footnote 3 at page 3, (Or LUBA 1998).

Similarly, in the instant case, I find that the question raised by the applicant is not properly before the Hearings Officer. The applicant has in fact submitted three applications, PRE 16-98, 17-98 and 18-98, seeking approval under MCC 11.15.2031. If the applicant in fact wanted to challenge the legality of that ordinance, it chose the wrong

process for doing so. The applicant should have submitted a building permit without seeking approval under MCC .2031. The County could have refused to issue the permit based on the property owner's failure to comply with Section .2031. The property owner could then have appealed that decision, by challenging the legality of MCC .2031. The matters on appeal in this instance are three approvals by the Planning Director determining that the applicant in fact complied with MCC 11.15.2031. For that reason, the applicant's challenge to the legality of .2031 is an issue that is not properly before me in this matter and I will not rule on it.

In regards to PRE 16-98, 17-98 and 18-98, the applicant has demonstrated substantial compliance with the approved farm management plans by performing the pre-planting, planting and post-planting activities described for the first two years in each plan, which have resulted in the establishment and survival of a substantial Christmas tree crop on each of the subject parcels. I also conclude that the current provisions of OAR 660-033-0120, 0130 and 0135 and the current provisions of MCC 11.15.2010 are not applicable to these applications. Except as modified herein, I adopt and affirm the decisions and findings of the County Planning Director in regards to this matter. I specifically adopt by reference those portions of the decisions which were not challenged on appeal. I further find that the processes utilized by the County in regards to notice and content of notice fully complied with all of the procedural requirements of the relevant Oregon Revised Statutes and the provisions of the County Code.

#### **SUMMARY OF PROCEDURAL ISSUES:**

I find that the notice given in the instant case complies with ORS 215.416 and was given in the same manner as required by ORS 197.763.

The evidentiary standard is not limited to consideration of only the applicant's evidence. Rather, all evidence in the record is considered. The applicant has the burden of proof as to all criteria. Any party can appeal a Planning Director's decision.

#### **CONCLUSION**

Based on the findings and the substantial evidence cited or referenced herein, and in the decisions of the Planning Director subject to appeal herein, I conclude that the applications for Dwelling Approval Validation satisfied all applicable approval criteria. Accordingly, the Planning Director's determination of substantial compliance with an approved farm management plan in regards to PRE 16-98, PRE 17-98 and PRE 18-98 is hereby affirmed and the appeal of those decisions is denied, subject to the conditions of approval set forth as follows.

**CONDITIONS OF APPROVAL:**

Each of the following conditions of approval shall apply to each Dwelling Approval Validation decision, except as stated in condition 3.

1. The applicant or property owner shall satisfy the provisions of MCC 11.15.2031(B)(6) for obtaining a Building Permit. Failure to follow the procedures for obtaining a Building Permit, and for keeping it valid, will result in voiding of this decision.
2. The applicant shall demonstrate that stormwater runoff generated from development of the parcel will be controlled on site prior to zoning approval of the Building Permit.
3. As to PRE 18-98 and PRE 16-98, the applicant shall provide documentation that the site is served with adequate water system prior to zoning approval of the Building Permit. In addition, the applicant shall submit an approved Land Feasibility Study prior to zoning approval of the Building Permit for all three parcels and PRE approvals.
4. The property owner shall obtain a fire and life safety review prior to final Building Permit approval.
5. Prior to beginning construction of the access road, the applicant shall contact the County right-of-way section and obtain any necessary permits for access to Skyline Blvd. In addition, the applicant shall obtain a Grading and Erosion Control Permit if required, prior to construction of the road.
6. The applicant is hereby informed of the effect of ORS 197.625(3)(c) upon any development of the subject property. This statute puts in jeopardy of removal, development which is undertaken if Ordinance 903, Dwelling Approval Validation, does not gain acknowledgement.

IT IS SO ORDERED, this 7th day of May, 1999.

  
\_\_\_\_\_  
JOAN M. CHAMBERS, Hearings Officer



DEPARTMENT OF ENVIRONMENTAL SERVICES  
 DIVISION OF PLANNING AND DEVELOPMENT  
 2115 SE MORRISON STREET  
 PORTLAND, OREGON 97214 (503) 248-3043

11#  
ZONING

530.00

TOTAL 530.00  
 0000-001 5/21/99  
 0076 STUART 8:59AM

**NOTICE OF REVIEW**

1. Name: Rochlin, Arnold
2. Address: <sup>Last</sup> PO Box 93645, <sup>Middle</sup> Portland, <sup>First</sup> OR 97283
3. Telephone: <sup>Street or Box</sup> (503) 289-2657 <sup>City</sup>  <sup>State and Zip Code</sup>
4. If serving as a representative of other persons, list their names and addresses:  
myself and Christopher Foster  
15400 NW McNamee Rd  
Portland, OR 97231
5. What is the decision you wish reviewed (e.g., denial of a zone change, approval of a subdivision, etc.)?  
Dwelling Approval Validation in  
PRE 16-98, 17-98 and 18-98
6. The decision was announced by the Hearing Officer on May 11, 1999
7. On what grounds do you claim status as a party pursuant to MCC 11.15.8225?  
Appellants to the BCC were also appellants to the  
hearings officer and appeared in the hearing both in  
writing and in person and were implicitly recognized  
as parties by the fact of the hearings officer's  
conduct of a complete proceeding and issuance of a  
decision on the merits of substantive issues.  
Appellants are aggrieved by that decision which is  
contrary to our positions on the issues, and which  
denied our appeal, sustaining the administrative  
decision.

8. Grounds for Reversal of Decision (use additional sheets if necessary):

Compliance with MCC 11.15.2031(B) and subsections or paragraphs is not established by substantial evidence in the record. Issues involve both lack of evidence and misinterpretation of the regulatory standard. The decision does not include findings that current employment in farm use is established as required by ORS 215.203 and 283(1)(f) and OAR 660-05-030(4) (former).

9. Scope of Review (Check One):

(a)  On the Record

(b)  On the Record plus Additional Testimony and Evidence

(c)  De Novo (i.e., Full Rehearing)

10. If you checked 9(b) or (c), you must use this space to present the grounds on which you base your request to introduce new evidence (Use additional sheets if necessary). For further explanation, see handout entitled *Appeal Procedure*.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signed: Arnold Rodlin Date: 5/21/99

**For Staff Use Only**

Fee:  
Notice of Review = \$530.00

Received by: \_\_\_\_\_ Date: \_\_\_\_\_ Case No. \_\_\_\_\_

243.2944



DEPARTMENT OF ENVIRONMENTAL SERVICES  
 DIVISION OF PLANNING AND DEVELOPMENT  
 2115 SE MORRISON STREET  
 PORTLAND, OREGON 97214 (503) 248-3043

**NOTICE OF REVIEW**

11#  
 ZONING 530.00  
 TOTAL 530.00  
 0000-001 5/21/99  
 0091 JOANN 3:24PM

1. Name: Western States Development Corporation, c/o Jeff Bachrach, Attorney

2. Address: 1727 NW Hoyt Street, Portland, OR 97209

*Street or Box City State and Zip Code*

3. Telephone: ( 503 ) 222 - 4402

4. If serving as a representative of other persons, list their names and addresses:

Western States Development Corporation  
20285 NW Amberwood Drive  
Hillsboro, OR 97124

5. What is the decision you wish reviewed (e.g., denial of a zone change, approval of a subdivision, etc.)?

Hearings Officer decision affirming dwelling  
validation in PRE 16-98.

6. The decision was announced by the Hearing Officer on May 11, 1999

7. On what grounds do you claim status as a party pursuant to MCC 11.15.8225?

Western States Development Corporation is the applicant in PRE 16-98,  
and is therefore a party under MCC 11.15.8225(1) and 11.15.8220(C)(1).

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

8. Grounds for Reversal of Decision (use additional sheets if necessary):

The Hearings Officer erred by refusing to rule on the validity of MCC 11.15.2031  
(Ordinance 903) in relation to this approved farm management plan. The  
applicant requests a ruling on the issue, which is discussed as  
Procedural Issue Number 5, pages 15-16 of the decision.

9. Scope of Review (Check One):

- (a)  On the Record
- (b)  On the Record plus Additional Testimony and Evidence
- (c)  De Novo (i.e., Full Rehearing)

10. If you checked 9(b) or (c), you must use this space to present the grounds on which you base your request to introduce new evidence (Use additional sheets if necessary). For further explanation, see handout entitled *Appeal Procedure*.

The applicant has been informed by staff that all Board reviews are de novo.  
The applicant requests a hearing limited to only the specific issue of  
this appeal, on the record plus additional testimony and evidence.

Signed:  Date: 5/20/99

**For Staff Use Only**

Fee:  
Notice of Review = \$530.00

Received by: \_\_\_\_\_ Date: \_\_\_\_\_ Case No. \_\_\_\_\_

8. Grounds for Reversal of Decision (use additional sheets if necessary):

The Hearings Officer erred by refusing to rule on the validity of MCC 11.15.2031 (Ordinance 903) in relation to this approved farm management plan. The applicant requests a ruling on the issue, which is discussed as Procedural Issue Number 5, pages 15-16 of the decision.

9. Scope of Review (Check One):

- (a)  On the Record
- (b)  On the Record plus Additional Testimony and Evidence
- (c)  De Novo (i.e., Full Rehearing)

10. If you checked 9(b) or (c), you must use this space to present the grounds on which you base your request to introduce new evidence (Use additional sheets if necessary). For further explanation, see handout entitled *Appeal Procedure*.

The applicant has been informed by staff that all Board reviews are de novo. The applicant requests a hearing limited to only the specific issue of this appeal, on the record plus additional testimony and evidence.

Signed: J. B. [Signature]

Date: 5/20/99

**For Staff Use Only**

Fee:

Notice of Review = \$530.00

Received by: \_\_\_\_\_

Date: \_\_\_\_\_

Case No. \_\_\_\_\_



DEPARTMENT OF ENVIRONMENTAL SERVICES  
 DIVISION OF PLANNING AND DEVELOPMENT  
 2115 SE MORRISON STREET  
 PORTLAND, OREGON 97214 (503) 248-3043

## NOTICE OF REVIEW

1. Name: Western States Development Corporation, c/o Jeff Bachrach, Attorney 11H  
ZURING  
TOTAL  
0000-001  
0092 JOANN
- Last*
*Middle*
*First*
*City*
*State and Zip Code*
530.00  
530.00  
5/21/99  
3:25PM
2. Address: 1727 NW Hoyt Street, Portland, OR 97209
3. Telephone: ( 503 ) 222 - 4402

4. If serving as a representative of other persons, list their names and addresses:

Western States Development Corporation  
20285 NW Amberwood Drive  
Hillsboro, OR 97124

---



---



---

5. What is the decision you wish reviewed (e.g., denial of a zone change, approval of a subdivision, etc.)?  
Hearings Officer decision affirming dwelling  
validation in PRE 17-98.

6. The decision was announced by the Hearing Officer on May 11, 1999

7. On what grounds do you claim status as a party pursuant to MCC 11.15.8225?  
Western States Development Corporation is the applicant in PRE 17-98,  
and is therefore a party under MCC 11.15.8225(1) and 11.15.8220(C)(1).
- 
- 
- 
- 
- 
-

8. Grounds for Reversal of Decision (use additional sheets if necessary):

The Hearings Officer erred by refusing to rule on the validity of MCC 11.15.2031 (Ordinance 903) in relation to this approved farm management plan. The applicant requests a ruling on the issue, which is discussed as Procedural Issue Number 5, pages 15-16 of the decision.

9. Scope of Review (Check One):

- (a)  On the Record
- (b)  On the Record plus Additional Testimony and Evidence
- (c)  De Novo (i.e., Full Rehearing)

10. If you checked 9(b) or (c), you must use this space to present the grounds on which you base your request to introduce new evidence (Use additional sheets if necessary). For further explanation, see handout entitled Appeal Procedure.

The applicant has been informed by staff that all Board reviews are de novo. The applicant requests a hearing limited to only the specific issue of this appeal, on the record plus additional testimony and evidence.

Signed:

*[Handwritten Signature]*

Date:

5/20/99

**For Staff Use Only**

Fee:

Notice of Review = \$530.00

Received by:

Date:

Case No.

8. Grounds for Reversal of Decision (use additional sheets if necessary):

The Hearings Officer erred by refusing to rule on the validity of MCC 11.15.2031 (Ordinance 903) in relation to this approved farm management plan. The applicant requests a ruling on the issue, which is discussed as Procedural Issue Number 5, pages 15-16 of the decision.

9. Scope of Review (Check One):

- (a)  On the Record
- (b)  On the Record plus Additional Testimony and Evidence
- (c)  De Novo (i.e., Full Rehearing)

10. If you checked 9(b) or (c), you must use this space to present the grounds on which you base your request to introduce new evidence (Use additional sheets if necessary). For further explanation, see handout entitled *Appeal Procedure*.

The applicant has been informed by staff that all Board reviews are de novo. The applicant requests a hearing limited to only the specific issue of this appeal, on the record plus additional testimony and evidence.

Signed: [Signature] Date: 5/20/99

**For Staff Use Only**

Fee:  
Notice of Review = \$530.00

Received by: \_\_\_\_\_ Date: \_\_\_\_\_ Case No. \_\_\_\_\_

BOARD OF  
COUNTY COMMISSIONERS

99 JUN -2 AM 11: 26

Multnomah County BOARD OF COUNTY COMMISSIONERS  
MULTNOMAH COUNTY  
OREGON

Christopher Foster  
15400 NW McNamee Rd.  
Portland, OR 97231

Arnold Rochlin  
P.O. Box 83645  
Portland, OR 97283  
289-2657

**PRE 16-98, 17-98 & 18-98--Hearing 6/10/99**

**Background**

During the 1980's, the Western States Development Corp. acquired several large tracts of farm and forest land in the northwest county area. Taking advantage of then very lenient county practices, Western States divided the tracts into many parcels of about 20 acres each. For farm zoned land, they received perfunctory approvals of "dwellings in conjunction with farm use" based on "cookie-cutter" farm plans, differing only in location and number of Christmas trees to be planted. Copies of the 1989 PRE 23, 24 & 25-89 dwelling approvals and the farm plan are in the record of this case.

Western States and some other land holders who obtained similar approvals took advantage of a county legislative oversight that omitted specific limits on duration of the permits. For 10 years, they have held the land and permits in speculation, with their value enhanced by recent stricter state laws and county enforcement.

In 1998, a case came before the Board involving a similar permit. It was learned that county staff from time to time has told owners that the old permits remained valid, and the Board was reluctant to suddenly cut them off. It allowed the dwelling in that case, but later addressed the situation with ORD 903. As relevant here, the ordinance

would void unimplemented pre-1994 farm dwelling permits unless within 2 years of adoption, there was a determination of substantial implementation of the approved farm plan. On application by Western States, the hearings officer found that there was such implementation in this case.

Appellants Foster and Rochlin challenge the decision, claiming the following:

1. The hearings officer mis-interpreted §11.15.2031(B) and (B)(2) in a manner that allowed compliance without substantial implementation of the farm plan as defined by the code: "the activities provided for in the first two years of the farm management plan have been implemented."

2. There is no substantial evidence that all of the activities of the first two years of the farm plan have been implemented, and in fact they have not.

3. Former OAR 660-05-030(4) must be applied directly to this farm dwelling decision. It requires a determination that the day-to-day activities on the land are principally directed to farm use. It was not applied.

Appellant Western States Development Corp. claims that provisions of Ord. 903 that would "sunset", or condition continued validity of the 10 year old permits, are invalid because the permits have no expiration dates. We address this issue first, because it is most readily disposed of.

### Validity of Ordinance 903

The issue must be decided on technical grounds that preclude consideration of any claim by Western States that the Ordinance is invalid.

Counsel for Western States played a major role during the Planning Commission and Board proceedings adopting the ordinance. The substance, and even much of the text of the sections at issue here were drafted by Mr. Bachrach. Time and again during the proceedings, he said his client would not challenge the ordinance if its terms gave the holders adequate notice and opportunity to preserve the permits. The provisions attacked now are those Mr. Bachrach represented as satisfying his client's requirements.

Western States did not appeal the ordinance to LUBA. But Foster and Rochlin did, arguing unsuccessfully that current state farm dwelling laws should be applied by the ordinance.<sup>1</sup> Most significant to this matter, Western States was given timely notice by appellants and intervened in the LUBA case as a party on the side of the county. They filed a brief in support of the validity of the ordinance. They could have, but did not, file a cross-appeal in which the validity of the ordinance could have been challenged on the same grounds that they raise here. It is long settled law that a party to a case heard by a qualified tribunal that reached a final decision on the merits of a matter, cannot

---

<sup>1</sup> Foster and Rochlin prevailed on issues not relevant here.

re-litigate the matter through collateral attacks in other cases

ORS 197.830 sets time limits for challenging validity of a land use regulation. For a person having notice of adoption of a land use regulation, ORS 197.830(8) allows 21 days to appeal. That time passed over a year ago. Further, the forum for challenging the legality of the ordinance is LUBA. The county does not have to re-evaluate legality of an ordinance, upheld by LUBA and the Court of Appeals, whenever an unhappy developer puts an application before it. The time for appeal of the ordinance itself is long gone.

Second, the only matter before you, as a matter of law, is the developer's application of a "Dwelling Approval Validation". The hearings officer cites this point, among others (with which we agree) at pages 15-16.

While it's not a legally decisive point, the credibility or lack thereof of the applicant is revealed by this issue. When the similar cases, PRE 4 & 5-98 were before the Board he reminded you of how he cooperated and compromised with the county and helped define the ordinance so that Western States Development could support it. At the same time he wielded a stick, threatening legal action if the county did not approve its permits. It turns out the sweet assurances were for the occasion only.

If you should nevertheless agree with the applicant's appeal, you would have to deny the application because it would be seeking approval under invalid regulations.

Foster & Rochlin Issues

**§11.15.2031(B) and (B)(2) Were Mis-Interpreted**

MCC 11.15.2031(B) provides for continued validity of unimplemented pre-1994 farm dwelling permits if:

"(B) The property owner applies for a determination of substantial compliance with the approved farm management plan. \* \* \*

\* \* \* \* \*

"(2) The Planning director shall find substantial compliance with the approved farm management plan, based on evidence provided by the applicant, if the activities provided for in the first two years of the farm management plan have been implemented."

The hearings officer and staff argue that the code requirement of "substantial compliance" means that there is no requirement of specific performance of anything in particular. In general, the regulatory term "substantial compliance" gives a lot of leeway to a decision maker. Alone, 11.15.2031(B) certainly means something less than full implementation of the farm plan. But it's not alone. 11.15.2031(B)(2) expressly, and without any qualification, defines "substantial compliance" as implementation of "the activities provided for in the first two years of the farm management plan." It doesn't say "some of the activities". It doesn't rely on any prior mandate concerning what must be implemented or when. By its own terms, if whatever activities are provided for in the first two years have been implemented, there is "substantial compliance" with the farm

plan. By the same terms, if some activities provided for have not been implemented there is not compliance.

**The Substantial Evidence Does Not Support Substantial Compliance**

The farm plan plainly provides certain activities for the first two years.<sup>2</sup> (Exhibit 2, p.5 and 14). Activities disputed here are:

Pre-planting:

1. Preparation for planting: Leveling, fence line, access road adjustment.
3. Subsoiling to depth of 18".

Year-1:

7. Roadway and landing station construction.

We disputed others before the hearings officer, but she chose to accept the owner's word that they had been done as substantial evidence. It isn't necessary for our case to argue those points. We rely on the activities for which there is no evidence, and for which there has been no serious claim of achievement.

The hearings officer gives lip service to the burden of proof being on the applicant, but she reverses it here as she did in PRE 4 & 5-98. Where we claimed absence of substantial evidence, she wrongly represents our claims as positive assertions, and then dismisses them for lack of evidence. We explained the likely need for "subsoiling" (breaking the soil

---

<sup>2</sup> It has been accepted by all parties that the "Pre-planting" year and Year 1 constitute the first two plan years.

to a depth of 18 inches) because farming of relatively shallow rooted crops with machinery, over the years, tends to compact the soil below the plowing and root levels. The Christmas tree crop will eventually need to place its roots deeper, and if the subsoiling is not done, will eventually suffer from the compacted soils, where water will tend to perch and promote rot, and where root growth will be slowed by the compacted barrier. The plan calls for subsoiling. We only explained why it would generally be advantageous for the crop. But the hearings officer ruled for the applicant, because we didn't prove the soil is compacted below the plowing level. The code doesn't require that proof; it requires that the applicant prove by substantial evidence, that subsoiling, an activity provided for the first two years of the plan, was done. How could she find for the applicant on grounds that we didn't prove need for what the plan provides on its face?

All involved have admitted that the roadwork and landing structure activities provided by the plan were not implemented. The hearings officer rules that it's ok, because we didn't prove they were needed in the face of the applicant's claim that they are not. Again, the code defines substantial compliance as implementing the activities provided in the plan. We don't have to prove the need; they're right there in the applicant's own plan. We do not demand performance of unnecessary work. If the applicant is dissatisfied with his farm plan, he can apply for an

amendment of the plan to suit his current preferences. If it is justifiable under applicable regulations, it will be approved. But there is no plan amendment before the BCC and there was no notice it would be considered here. A new application and procedure would be needed.

Unless you find that the substantial evidence in the record proves all of "the activities provided for in the first two years of the farm management plan were implemented", you cannot approve the application. And 11.15.2031(B) says it is the "approved" plan you must consider, not the applicant's currently preferred alternatives, justified or not. It's the applicant's burden in every land use case to prove compliance with every criterion. If any are not met the application must be denied.

**Former OAR 660-05-030(4) (which Defines, Implements and Supplements ORS 215.203 and 215.283(1)(f)) was Not Applied**

One of the state requirements applicable in 1989 was former OAR 660-05-030(4), which required as a condition of allowing a farm dwelling, that day-to-day activities on the land are principally directed to farm use.<sup>3</sup> The courts have

---

<sup>3</sup>Former OAR 660-05-030(4) "ORS 215.213(1)(g) and 215.283(1)(f) authorize a farm dwelling in an EFU zone only where it is shown that the dwelling will be situated on a parcel currently employed for farm use as defined in ORS 215.203. Land is not in farm use unless the day-to-day activities on the subject land are principally directed to the farm use of the land. Where land would be principally used for residential purposes rather than for farm use, a proposed dwelling would not be 'customarily provided in

*note continues*

held the OAR to be directly applicable to county land use decisions. Forster v. Polk County, 115 Or App 475, 478, 839 P2d 241 (1992). In Rochlin v. Multnomah County \_\_\_ Or LUBA \_\_\_ (LUBA No. 98-067 12/07/98) LUBA upheld the substance of Ord. 903 against a claim that current OARs must be applied to a current application, even if the application is to sustain a permit approved under former regulations. An implication of LUBA's decision does not mean former OARs do not apply to a permit issued under former regulations. The county cannot approve the current application for a statutory land use permit (ORS 215.402(4)) without finding compliance with OAR 660-05-030(4), that is, without finding that the day-to-day activities on the land are principally directed to farming.

This proceeding cannot be used for a collateral attack on what has already been finally decided (as our opponents do in their appeal). We must accept the validity of the 1989 permits, and with it, implied compliance with all OARs and regulations then in affect. We must accept that implementation of the farm plan would justify a farm dwelling. But the 1989 permit never said that just the first two years of the farm plan involve day-to-day activities principally directed to farming. And, in fact, what the hearings officer regards as implementation of the first 2

*note continued from previous page*

conjunction with farm use' and could only be approved according to ORS 215.213(3) or 215.283(3). At a minimum, farm dwellings cannot be authorized before establishment of farm uses on the land (see Matteo v. Polk County, 11 Or LUBA 259 (1984) affirmed without opinion by the Oregon Court of Appeals September 12, 1984, and Matteo v. Polk County LUBA No. 85-037, September 3, 1985)."

years of the plan, involved only a few days of work by an outside contractor.

There is no longer doubt the county ordinance is valid in substance, and we don't challenge it. That does not mean the county must not additionally apply the applicable OAR.

Consider an extreme case. What if the first 2 years of a farm plan called for land to lie fallow while the applicant negotiated water rights. Would the first 2 years of that plan justify a presumption of day-to-day activities principally directed to farming? In that case, and here as well, only implementation of the whole plan would justify that presumption, because the first 2 years alone were never considered under the OAR. The county must find compliance with both 11.15.2031 and OAR 660-05-030(4), which is directly applicable to county decisions. As such a finding would not be supported by the record, the application must be denied.

June 1, 1999



Arnold Rochlin, for himself and  
Christopher Foster



DEPARTMENT OF ENVIRONMENTAL SERVICES  
LAND USE PLANNING DIVISION  
1600 SE 190<sup>TH</sup> AVE.,  
PORTLAND, OREGON 97233  
(503) 248-3043 FAX: (503) 248-3389

BOARD OF  
COUNTY COMMISSIONERS  
99 JUN - 7 PM 12:42  
MULTNOMAH COUNTY  
OREGON

**To:** Beverly Stein  
Chair, Multnomah County Board of Commissioners

**From:** Chuck Beasley, Planner *CB*

**Date:** June 4, 1999

**Re:** Procedures for Appeal Hearing for PRE 16, 17, 18-98

---

Staff would like to recommend a procedure for this de novo hearing . Both parties in the matter have appealed the Hearings Officer decision, but on different grounds, which makes this a unique situation.

Appellants Rochlin and Foster appealed all three applications on the following grounds:

- That the applicant did not demonstrate substantial compliance with the farm management plans, and
- That the dwelling must meet the current requirements for new dwellings on high value farmland.

The applicant-appellant represented by Jeff Bachrach, appealed only two of the applications, PRE 16-98 and 17-98. The basis of this appeal is:

- The Hearings Officer erred in not ruling on the validity of Ordinance 903 (Dwelling Validation).

After discussion with both appellants and County Counsel, staff would like to recommend the following procedure for the hearing:

Each of the two sets of appeals should be heard separately, with each side allotted a total of 20 minutes in which to testify. Appellants Rochlin and Foster should testify first on their appeal, Mr. Bachrach would respond, then the other side rebut. Then Mr. Bachrach should testify about his appeal, Messers Rochlin and Foster respond, Mr. Bachrach rebut. The participants can choose to break up their 20 minutes in whatever allotment they desire in the

previous steps. The hearing should then be closed, the Board should then deliberate on each appeal request and vote on each.

Recommended Procedure		
Announcement of Hearing	Chair	An appeal of the Hearings Officer decision in PRE 16-98, 17-98 and 18-9 by Messers Rochlin and Foster, representing themselves. <u>and</u> An appeal of the Hearings Officer decision in PRE 16-98 and 17-98 by th applicant, Western State Development, represented here by Jeff Bachrach.
Conduct of Quasi Judicial Hearings	Chair	
Introduction to appeals	Staff	5 minutes
Hearings Officer findings	Hearings Officer	5 minutes
Testimony on #1	Rochlin/Foster	(portion 1 of) 20 minutes
Response	Bachrach	(portion 1 of) 20 minutes
Rebut	Rochlin/Foster	(portion 2 of) 20 minutes
Questions for staff	Board	
Testimony on #2	Bachrach	(portion 2 of) 20 minutes
Response	Rochlin/Foster	(portion 3 of) 20 minutes
Rebut	Bachrach	(portion 3 of) 20 minutes
Questions for staff	Board	
Summary of staff recommendation	Staff	5 minutes
Total time (not including Board discussion or question		55 minutes
Close of Hearing	Board	
Deliberation	Board	
Motion/vote on appeal #1	Board	
Motion/vote on appeal #2	Board	

cc: Jeff Bachrach for Western States Development  
 Arnold Rochlin  
 Christopher Foster

1                                   BEFORE THE BOARD OF COUNTY COMMISSIONERS  
2                                   FOR MULTNOMAH COUNTY, OREGON  
3                                   ORDINANCE NO. 903  
4

5       An Ordinance amending MCC 11.15 by establishing an expiration period for certain single  
6       family dwelling approvals in the Exclusive Farm Use District.

7               (Underlined language is new or replacement; ~~struck-through~~ language is deleted.  
8       [Bracketed, underlined and bolded] is language added, and ~~strikethrough~~ is language  
9       removed in accordance with Board discussion on February 12, 1998.)  
10

11       Multnomah County Ordains as follows:  
12

13       **SECTION I.    FINDINGS**

14               (A)       The Board of County Commissioners recognizes that Oregon Administrative  
15               Rule 660-33-140(1) provides:

16                       "A discretionary decision, except for a land division,  
17                       made after the effective date of this division (August 7,  
18                       1993), approving a proposed development on  
19                       agricultural or forest lands outside an urban growth  
20                       boundary under ORS 215.010 to 215.293 and 215.317  
21                       to 215.428 or under county legislation or regulation  
22                       adopted pursuant thereto is void two years from the  
23                       date of the final approval if the development action is  
24                       not initiated in that period."

25               and became effective on August 7, 1993; and  
26

1 (B) The Board also recognizes that OAR 660-33-140(1) applies only to decisions  
2 made after its August 7, 1993 effective date; and

3 (C) The Board further recognizes there are approvals for single family dwellings  
4 in the Exclusive Farm Use District for applications received prior to August 7, 1993  
5 that do not contain an expiration date, have not been initiated, and are not governed  
6 by OAR 660-33-140(1); and

7 (D) The Board finds there would be parity between all dwelling approvals in the  
8 Exclusive Farm Use district if an expiration date for the pre-August 7, 1993 approvals  
9 were established.

10 (E) On December 1, 1997 and January 5, 1998, the Planning Commission held  
11 public hearings. Hearings before the Board of County Commissioners followed on  
12 February 12 and February 19, 1998. At each of the hearings all interested persons  
13 were given an opportunity to appear and be heard.

14  
15 **SECTION II. AMENDMENT OF EFU DISTRICT**

16 Multnomah County Code Chapter 11.15 is amended by adding subsections 11.15.2030  
17 through .2031 and amending 11.15.2032 as follows:

18 **11.15.2030 Expiration of Certain Single Family Dwelling Approvals for**  
19 **Applications Received Before August 7, 1993**

20 The following provisions apply to all administrative and *action proceedings* involving  
21 discretionary land use decisions approving certain single family dwellings, as  
22 described in this subsection, for which applications and fees were collected before  
23 August 7, 1993:

24 (A) All single family dwellings approved as a residential use not in conjunction  
25 with farm use under the conditional use action proceedings provisions of MCC

1           .2012(B)(3) then in effect, shall be subject to the permit expiration provisions and  
2           dates in effect at the time of approval as prescribed by MCC .7110(C).

3           (B) Except as provided in MCC .2031, the following approvals for single family  
4           dwelling shall expire two years from the effective date of this ordinance :

5           (1) All residences in conjunction with a farm use considered under the  
6           provisions of §3.103.2(c) Ordinance 100 or MCC .2010(C) for which  
7           applications were received between August 14, 1980 and February 19, 1990,  
8           and

9           (2) All residences customarily provided in conjunction with an existing  
10           use considered under the provisions of MCC .2010(A) for which applications  
11           were received between February 20, 1990 and August 6, 1993.

12           **11.15.2031 Dwelling Approval Validation**

13           Approvals described in MCC .2030(B) shall continue to be valid if:

14           (A) A dwelling has been constructed or placed on the property as approved prior  
15           to the effective date of this ordinance; or

16           (B) The property owner applies for a determination of substantial compliance with  
17           the approved farm management plan. That determination shall be initiated and  
18           processed as follows:

19           (1) Application shall be made on appropriate forms and filed with the  
20           Planning Director prior to two years after the effective date of this Ordinance;

21           (2) The Planning Director shall find substantial compliance with the  
22           approved farm management plan, based on evidence provided by the  
23           applicant, if the activities provided for in the first two years of the farm  
24           management plan have been implemented.

1           (3)       If the applicant applies for a dwelling location other than that approved  
2                   by the management plan or an approved and active lot line adjustment, the  
3                   new location shall:

4           (a)       Satisfy all applicable setback and siting standards including MCC  
5                   .2016, MCC.6400 through .6425, MCC .6700 through .6735, and MCC  
6                   9.40, and

7           (b)       Be on a portion of the property with a soil classification of no higher  
8                   value than the original approved location.

9           (4)       Notices of the application and decision of the Planning Director shall  
10                   be mailed to all individuals entitled to notice as defined in MCC .8220(C).

11          (5)       The decision of the Planning Director shall become final at the close of  
12                   business on the tenth day following mailed notice unless a party files a written  
13                   notice of appeal. Such notice of appeal and the decision shall be subject to the  
14                   provisions of MCC .8290 and .8295.

15          (6)       If the Planning Director issues a determination of substantial  
16                   compliance, the property owner shall, within [one year] ~~180 days~~ of  
17                   the final date of that decision [or one year from the date of final  
18                   resolution of an appeal of the Planning Director's decision of  
19                   substantial compliance], apply for and obtain a building permit for  
20                   the dwelling under the permit regulations of the applicable government  
21                   issuer[.] [The property owner shall obtain a building permit for the  
22                   proposed dwelling within one year of application for that permit]  
23                   and continue to keep the building permit valid until completion of the  
24                   dwelling. Failure to obtain a building permit within the specified [one  
25                   year period, or the additional one year period allowed by MCC  
26                   11.15.2031(B)(7)] ~~180 days~~, [failure to continuously keep the

1 building permit valid.] or failure to complete construction [or  
2 placement] of the dwelling under the above described valid permit,  
3 shall void the decision of the Planning Director.

4 (7) [The Planning Director may approve a singular, one year  
5 extension to the time allowed for obtaining a building permit if the  
6 property owner demonstrates that failure to obtain a building  
7 permit was due to circumstances beyond the control of the  
8 property owner and the property owner acted with due diligence  
9 to obtain the building permit. Application for this one year  
10 extension shall be made on appropriate forms and filed with the  
11 Planning Director at least 30 days prior to the expiration of the  
12 one year period following application for a building permit. The  
13 Planning Director shall process the application pursuant to the  
14 provisions of MCC 11.15.2031(B)(4) and (5).]

15 **11.15.2032 Permit Expiration of Applications Received on or after August 7, 1993**

16 All administrative and action proceedings involving discretionary decisions for which  
17 applications and fees have been collected on or after August 7, 1993, except land  
18 divisions and uses listed in MCC .2012, shall expire two years from the date of the  
19 Planning Director's or Hearing's Officer's decision in the matter, or two years from  
20 the date of final resolution of subsequent appeals, unless:

21 (A) The project is completed as approved; or

22 (B) A building permit has been obtained and is continuing to be kept valid under  
23 the permit regulations of the applicable government issuer until completion of the  
24 construction, or

25 (C) The Planning Director determines that substantial construction or  
26 development has taken place. That determination shall be processed as follows:

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

- (1) Application shall be made on appropriate forms and filed with the Director at least 30 days prior to the expiration date.
- (2) The Director shall issue a written decision ~~on the application within 20 days of filing. That decision shall be based on findings that:~~
  - (i) Final Design Review approval has been granted under MCC .7845 on the total project, if applicable; and
  - (ii) At least ten percent of the dollar cost of the total project value has been expended for construction or development authorized under a sanitation, building or other development permit. Project value shall be as determined by MCC .9025(A) or .9027(A).
- (3) Notice of the Planning Director's decision shall be mailed to all parties as defined in MCC .8225.
- (4) The decision of the Planning Director shall become final at the close of business on the tenth day following mailed notice unless a party files a written notice of appeal. Such notice of appeal and the decision shall be subject to the provisions of MCC .8290 and .8295.
- (D) Uses listed in MCC \_2012 shall expire two years from the date of the Board Order on the matter, or two years from the date of final resolution of subsequent appeals, unless one of the conditions of .7110(C) are met.

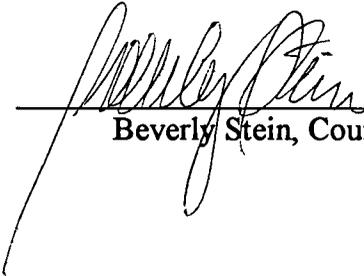
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
Page

**SECTION III. ADOPTION**

ADOPTED this 2nd day of April, 1998, being the date of its third reading before the  
Multnomah County Board of Commissioners.

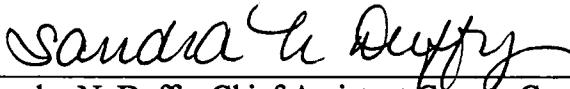


**BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON**

  
\_\_\_\_\_  
Beverly Stein, County Chair

REVIEWED:

THOMAS SPONSLER, COUNTY COUNSEL  
FOR MULTNOMAH COUNTY, OREGON

By   
\_\_\_\_\_  
Sandra N. Duffy, Chief Assistant County Counsel

4/2/98 revision



DEPARTMENT OF ENVIRONMENTAL SERVICES  
LAND USE PLANNING DIVISION  
1600 SE 190<sup>TH</sup> AVE.,  
PORTLAND, OREGON 97233  
(503) 248-3043 FAX: (503) 248-3389

**MEMORANDUM**

**To:** Multnomah County Board of Commissioners

**From:** Chuck Beasley

**Date:** June 9, 1999

**Re:** Additional Issue Chart, PRE 16, 17, 18-98

Attached is an additional Issue Chart to direct you to an appeal issue which was placed into the record of the Hearings Officer proceedings by Mr. Rochlin. The issue concerns the applicability to these matters of the 1986 Oregon Administrative Rule (OAR) that helps define when a parcel is "currently employed" for farm use. This issue is listed on page 6 of the Hearings Officer decision (OAR 660-05-030(4)). Staff is unable to find a specific reference to this (old) OAR in the decision on pages 11 and 12, wherein the new OAR rules are discussed. This issue is discussed on pages 8, 9, and 10 of Mr. Rochlin's testimony to the Board.

<b>Issue 4.</b>	The farm dwelling must meet the old OAR provisions for new dwellings on farmland, e.g. "the day to day activities on the subject land are principally directed to the farm use of the land" (OAR 660-05-030(4)).
Code Requirement:	MCC 11.15.2031 Dwelling Approval Validation (Ordinance 903)
Who Raised Issue?:	Appellants, Rochlin and Foster (pgs. 8, 9, and 10 of testimony).
Hearings Officer Decision:	The Hearings Officer decision lists the old OAR standard (pg. 6), but does not address specific findings toward it (pg. 11 and 12).
Staff Concerns/ Comments	Staff has been working on the assumption that Ordinance 903 is the applicable regulation.
Recommendation:	Deny the application due to the remand of Ordinance 903.

RAMIS  
CREW  
CORRIGAN &  
BACHRACH, LLP

ATTORNEYS AT LAW

1727 N.W. Hoyt Street  
Portland, Oregon 97209

(503) 222-4402  
Fax: (503) 243-2944

JEFF H. BACHRACH  
MARK L. BUSCH  
D. DANIEL CHANDLER++  
CHARLES E. CORRIGAN\*  
STEPHEN F. CREW  
MARTIN C. DOLAN  
GARY FIRESTONE\*  
WILLIAM E. GAAR\*  
DAVID H. GRIGGS  
G. FRANK HAMMOND\*  
ALLISON P. HENSEY+  
KELLY M. MANN  
T. CHAD PLASTER\*  
TIMOTHY V. RAMIS  
WILLIAM J. STALNAKER  
BARTON J. WACHSTETER

JAMES M. COLEMAN  
DOMINIC G. COLLETTA\*\*  
OF COUNSEL

SOUTHWEST  
WASHINGTON OFFICE  
First Independent Place  
1220 Main Street, Suite 451  
Vancouver, Washington  
98660-2964

(360) 699-7287  
Fax: (360) 699-7221

June 9, 1999

Beverly Stein, Chair  
Commissioners  
Multnomah County Commission  
1120 SW Fourth Avenue  
Room 1515  
Portland, OR 97204

Via Hand Delivery

Re: Appeal of PREs 16-98, 17-98 and 18-98

Dear Chair Stein and Commissioners:

Enclosed is a short legal memorandum which I hope you will have an opportunity to review before the appeal hearing tomorrow (Thursday June 10). Thank you very much.

Very truly yours,



Jeff H. Bachrach

JHB/jlk

cc: Sandra N. Duffy  
Chuck Beasley  
Kevin Bender

C:\orcc\ULK\JHB\Western States\commissionerltr.wpd

RAMIS  
CREW  
CORRIGAN &  
BACHRACH, LLP

ATTORNEYS AT LAW

1727 N.W. Hoyt Street  
Portland, Oregon 97209

(503) 222-4402  
Fax: (503) 243-2944

## MEMORANDUM

TO: Multnomah County Commissioners

FROM: Jeff H. Bachrach (Attorney for Western States Development, Corp.)

DATE: June 9, 1999

RE: Appeal of PREs 16-98, 17-98 and 18-98

Staff is advising the Board that, due to the remand from the Court of Appeals, Ordinance 903 is "no longer in effect," and therefore the three PRE permits approved by the Hearings Officer should be denied. With Ordinance 903 no longer in effect, the fair and legally appropriate action for the Board to take is to uphold the Hearings Officer's determination that there has been substantial compliance with the three approved farm management plans and therefore the three parcels satisfy the "currently employed for farm use" test in ORS 215.203.

It is not necessary, as staff proposes, to make Western States start all over again and submit three new applications to demonstrate that the approved farm management plans have been implemented based on the statutory standard (and related administrative rules) when that same determination has already been made by the Hearings Officer in this case. As the Hearings Officer's decision states, "the County adopted MCC 11.15.2031 [Ordinance 903] \* \* \* to insure that the property meets the statutory requirement of ORS 215.203, that the property is currently employed for farm use." It would be redundant and would serve no practical or legal purpose to make Western States go through this exercise all over again.

To explain further: the County Commission has already determined in a related case (PRE 1-98, approved June 2, 1998) that, in the absence of Ordinance 903, property owners satisfy the currently employed for farm use requirement in the statute if they demonstrate that they have substantially implemented their approved farm management plan. Ordinance 903 was simply intended to codify that

Memorandum re: Appeal of PREs 16-98, 17-98 and 18-98

June 9, 1999

Page 2

standard in the county code. So even though Ordinance 903 and MCC 11.15.2031 are no longer in effect, the same approach to applying the statutory test applies in this case.

In summary, the Board should affirm the Hearings Officer's determination that the three farm management plans have been implemented in compliance with the statute's "current employment" test,<sup>1</sup> and therefore Western States is entitled to apply for building permits without any additional land use reviews.

---

<sup>1</sup>The applicable administrative rule, OAR 660-05-030(4) (effective 1986) authorizes building permits "where it is shown that the dwelling will be situated on a parcel currently employed for farm use as defined in ORS 215.203." The rule, the statute and MCC 11.15.2031, for all practical purposes, apply the same standard for implementing farm management plans.

Christopher Foster  
15400 NW McNamee Rd.  
Portland, OR 97231

Arnold Rochlin  
P.O. Box 83645  
Portland, OR 97283  
289-2657

Multnomah County  
Board of County Commissioners

**PRE 16, 17 & 18-98—6/10/99—OAR 660-05-030(4)**

**Response to Bachrach Memorandum of June 9<sup>th</sup>.**

Mr. Bachrach admits that OAR 660-05-030(4) is "the applicable administrative rule" (footnote, page 2). But his description of it is misleading.

"OAR 660-05-030(4) (effective 1986) authorizes building permits 'where it is shown that the dwelling will be situated on a parcel currently employed for farm use as defined in ORS 215.203.' The rule, the statute and MCC 11.15.2031, for all practical purposes, apply the same standard for implementing farm management plans."

But the text of the OAR continues as follows, with the day-to-day farming requirement not found in MCC 11.15.2031, but which must be applied in to these applications.

"Land is not in farm use unless the day-to-day activities on the subject land are principally directed to the farm use of the land. \* \* \*" (Emphasis added)<sup>1</sup>

June 10, 1999



Arnold Rochlin, for himself and  
Christopher Foster

---

<sup>1</sup> The full text is quoted at pages 8-9 of our "Hearing" memorandum.

Christopher Foster  
15400 NW McNamee Rd.  
Portland, OR 97231

Arnold Rochlin  
P.O. Box 83645  
Portland, OR 97283  
289-2657

Multnomah County  
Board of County Commissioners

**PRE 16, 17 & 18-98—6/10/99—DOCUMENTARY EVIDENCE**

Attached is all the relevant documentary evidence placed before the hearings officer to prove activities provided for in the first 2 years of the farm plan were completed:

1. Copy of a check to pay for seedlings.
2. Contract with BTN for applying herbicide and planting seedlings only.
3. and 4. Bills from BTN for applying herbicide and planting seedlings only.

There is no documentary evidence of any other activities provided for in the first 2 years of the farm plan. The following are contested:

Pre-planting:

Preparation for planting: Leveling, fence line, access road adjustment.

Subsoiling to depth of 18".

Year-1:

Roadway and landing station construction.

June 10, 1999



Arnold Rochlin, for himself and  
Christopher Foster

TRUCK PURCHASE: 42,375- 2 1/2 YR OLD  
NOBLE FIR @ .23¢ EACH

EXHIBIT  
4

PAY TO THE ORDER OF  
THE COMMERCIAL BANK  
FOR DEPOSIT ONLY  
Chapparel Reforestation, Inc.  
0405 152 8

KeyBank N.A.-AK  
Seattle WA  
123200879

5  
1  
0  
3  
0  
5

98

00405152608 00405152608 00405152608

Copy of check - said by  
applicant to be for  
purchase of seedlings AR

**WESTERN STATES DEVELOPMENT CORP.**  
20285 NW CORNELL ROAD  
HILLSBORO, OREGON 97124  
PHONE (503) 645-5544

HILLSBORO, OFFICE  
KEY BANK OF OREGON  
HILLSBORO, OR

24-201  
1230

5339

CHECK NO. 005339

PAY NINE THOUSAND SIX HUNDRED AND NO/100 DOLLARS

DATE  
1/22/98

AMOUNT  
\*\*\*\*\*9,600.00

TO THE  
ORDER  
OF

CHAPPAREL REFORESTATION INC  
1325 MONMOUTH STREET  
INDEPENDANCE, OR 97351

⑈005339⑈ ⑆123002011⑆ 07 12020 7⑈ ⑈0000960000⑈

1

It is understood and agreed that Western States Development Corporation, hereinafter referred to as "Owner", and B. T. N. of Oregon, Inc., hereinafter referred to as "Contractor", wish to enter into an agreement this 23<sup>rd</sup> of January 1998.

WHEREAS, Owner owns certain Christmas Trees located in MULT County, Port Oregon ("Skyline Ridge Rd. Farm" & "Mobile Home Farm"), which Owner desires performance of work.

WHEREAS, Contractor desires to perform work on Owner's Christmas Trees.

1. Contractor will, with his own equipment and employees, at his own risk, perform Christmas Tree management practices as described below. These practices will include such things as culturing, harvesting and other work on Christmas Trees.
2. Owner will pay Contractor for detailed work described as:

Pre-planting Herbicide	\$37.66 per acre for Chemicals (will spray approximately 13 acres on the first property)
	\$22.00 per acre for Application
	\$75.00 move on charge
Machine Planting	\$ .10 per tree planted (will plant approximately 40,00 Noble Fir seedlings - supplied by owner)
	\$180.00 move on charge
Post-planting Herbicide	\$54.00 per acre for Velpar (will spray all planted acreage's in approximately March/April)
	\$22.00 per acre for Application
	\$75.00 move on charge

Payment shall be made upon completion of the project or as otherwise specified below. Net due 30 days. Balances due past 30 days will be assessed at 1.5% of balance per month until paid in full.

3. Contractor shall supply all tools and equipment necessary to complete the terms of this agreement.
4. Owner is to have no control over the selection, direction, or dismissal of Contractor's employees. However, Owner will supervise Contractor if so desired and will look solely to Contractor for results only. Contractor will be held liable for unfinished, incomplete work.
5. Contractor shall carry on his management functions in as efficient manner to the end that the stated objectives of the parties will be achieved and will carry on his operations as safe a manner as possible.
6. Contractor agrees to procure and keep at his own expense during the term of this contract, all Public Liability Insurance, Motor Vehicle Public Liability Insurance, Workers Compensation Insurance, and Employer's Liability Insurance, and abide by O.S.H.A. as required by law. All Liability Insurance must provide \$500,000 Combined Single Liability.
7. Contractor assumes full responsibility for all contributions, taxes and assessments on all payrolls or otherwise under all applicable Federal, State and Local laws (including withholding from wages of its employees - where required) and if Contractor is not required under any applicable Unemployment Compensation Act to operate under or become subject to such Act but is permitted to do so, Contractor will duly elect to be governed by and operate by any other Federal, State, or local law or regulation regarding but not limited to, Federal or State Act, the Federal Fair Labor Standards provisions relating to work performed as Contractor for Owner under government contracts.
8. This contract constitutes the entire agreement between the parties and may not be varied, altered, or changed in any respect except by a written agreement between the parties.
9. Should the parties hereto desire to enter into further contracts for management practice, same may be accomplished by Owner in writing and the Contractor accepting, a letter setting forth the work to be done and the payment to be made in referring to this contract, in which case all the provisions of this contract will apply to the work covered by such letter, except insofar as different provisions may be made in the letter.

In the event of a breach of this Agreement by either party and litigation is required to enforce the terms of the Agreement, the legal fees and court costs incurred shall be awarded to the prevailing party.

IN WITNESS WHEREOF:

The parties have caused this agreement to be executed as set forth.

*Contract with BTN.  
Provides for herbicide application  
and tree planting only. AR*

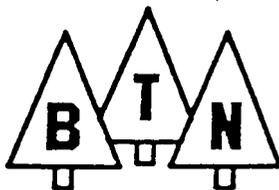
By: [Signature]  
Ben Stone (pres.) Contractor

By: [Signature]  
Kevin Bender Owner

B. T. N. of Oregon, Inc.  
7544 Jordan St. SE  
Salem, OR 97301

Western States Development Corporation - Owner  
20235 NW Amberwood Dr.  
Hillsboro, OR 97124

2



Ben • Tyler • Nathan

# Best in The Nation

Christmas Tree Mgt.  
Planting and Culturing  
Licensed and Bonded

7544 Jordan St. SE  
Salem, OR 97301  
(503) 363-5858

Page <sup>Since</sup> 1958

Number: 1188

Date: April 15, 1998

**Bill To:**

Kevin Bender  
Western States Development Corp.  
20285 NW Amberwood Dr.  
Hillsboro, Or. 97124

PO Number	Terms
Verbal	On Receipt

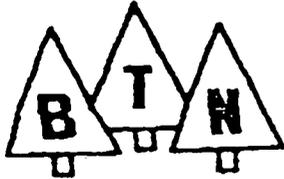
Description	Amount
Hand plant #4 - 1000	
Total Trees hand planted 2250 @ \$.22	495.00
Move on fee	185.00
Herb & Application - 28 acres @ \$76.00	2,128.00
<b>Total</b>	<b>\$6,873.00</b>

Thank You!!

April 15, 1998 BTN bill for planting trees and spraying at unspecified location. AR

3

EXHIBIT  
6



Ben • Tyler • Nathan

# Best in The Nation

Christmas Tree Mgt.  
Planting and Culturing  
Licensed and Bonded

7544 Jordan St. SE  
Salem, OR 97301  
(503) 363-5858

Since 1968

Page: 1

## Tree Kings

7544 Jordan St. S.E.  
Salem, Or. 97301

Number: 1006

Date: April 23, 1998

**Bill To:**

Kevin Bender  
Western States Development Corp.  
20285 NW Amberwood Dr.  
Hillsboro, Or. 97124

Description	Amount
<b>MACHINE PLANTING</b>	
Skyline Ridge #1 - 12,000 noble fir	
Skyline Ridge #2 - 9,000 noble fir	
<b>PARTITION PLANTING 1990-43</b>	
Lot #1 - 6,375 noble fir	
Lot #2 - 7,500 noble fir	
Lot #3 - 7,500 noble fir	
<i>} subject sites. AR</i>	4,065.00

Thank You!!

April 23, 1998 BTN bill for planting tree at subject sites (and other sites)  
AR.

4

BACHTRACH Submittal

RAMIS  
CREW  
CORRIGAN &  
BACHRACH, LLP

June 9, 1999

ATTORNEYS AT LAW

1727 N.W. Hoyt Street  
Portland, Oregon 97209

(503) 222-4402  
Fax: (503) 243-2944

JEFF H. BACHRACH  
MARK L. BUSCH  
D. DANIEL CHANDLER++  
CHARLES E. CORRIGAN\*  
STEPHEN F. CREW  
MARTIN C. DOLAN  
GARY FIRESTONE\*  
WILLIAM E. GAAR\*  
DAVID H. GRIGGS  
G. FRANK HAMMOND\*  
ALLISON P. HENSEY+  
KELLY M. MANN  
T. CHAD PLASTER\*  
TIMOTHY V. RAMIS  
WILLIAM J. STALNAKER  
BARTON J. WACHSTETER

JAMES M. COLEMAN  
DOMINIC G. COLLETTA\*\*  
OF COUNSEL

SOUTHWEST  
WASHINGTON OFFICE  
First Independent Place  
1220 Main Street, Suite 451  
Vancouver, Washington  
98660-2964

(360) 699-7287  
Fax: (360) 699-7221

Chuck Beasley  
Planner  
Multnomah County  
Department of Environmental Services  
1600 SE 190th  
Portland, Oregon 97233

Via Hand Delivery

Re: Appeal of PREs 16-98, 17-98 and 18-98

Dear Chuck:

Enclosed please find several documents that I want to be sure are included in the record of the above-referenced case. Most of these documents are either already in the record or were in the record of related cases. For your convenience, I have enclosed an extra set of the documents.

Very truly yours,



Jeff H. Bachrach

JHB/jlk

cc: Kevin Bender

C:\orcc\ULK\JHB\Western States\beasleyltr5.wpd



OCT 27 1989

# MULTNOMAH COUNTY OREGON

DEPARTMENT OF ENVIRONMENTAL SERVICES  
DIVISION OF PLANNING  
AND DEVELOPMENT  
2115 S.E. MORRISON STREET  
PORTLAND, OREGON 97214  
(503) 248-3043

BOARD OF COUNTY COMMISSIONERS  
GLADYS McCOY • CHAIR OF THE BOARD  
PAULINE ANDERSON • DISTRICT 1 COMMISSIONER  
GRETCHEN KAFOURY • DISTRICT 2 COMMISSIONER  
RICK BAUMAN • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

**FILE**

TYPE III LAND DIVISION

TENTATIVE PLAN DECISION

LD 25-89

October 25, 1989

Location: 13855 N.W. Skyline Boulevard

Legal Description: Tax Lots 13 and 30, Section 25 T 2N R 2W

Legal Owner: Manifold Business and Investments, Inc.  
7315 S.E. 82nd Avenue  
Portland, Oregon 97266

Applicant: Western States Development Corp.  
20265 N.W. Cornell Road  
Hillsboro, Oregon 97124

**DECISION:** The Tentative Plan for the Type III Land Division requested, a minor partition resulting in three parcels is hereby approved in accordance with the provisions of MCC 11.1345.400.

**Conditions of Approval:**

1. Within one year of the date of this decision, deliver the final partition map and other required attachments to the Planning and Development Division of the Department of Environmental Services in accordance with MCC 11.145.710. The enclosed Summary Instruction Sheet contains detailed information regarding the final partition map and the remaining steps for completing the land division.

2. Prior to recording the final partition map, complete a Statement of Water Rights in accordance with the provisions of Senate Bill 142 as adopted by the 1987 Oregon Legislature (instructions enclosed). Please contact the State Water Resources Department at 378-3066 for additional information.

3. Prior to recording the final partition map, comply with the following Engineering Services Division requirements:

A. Commit to participate in future improvements in N.W. Skyline Boulevard through deed restrictions. Contact Ike Azar at 248-5050 for additional information.

4. In conjunction with issuance of building permits for either parcel construct on-site water retention and/or control facilities adequate to insure that surface runoff volume after development is no greater than that before development per MCC 11.45.600. Plans for the retention and/or control facilities shall be subject to approval by the County Engineer with respect to potential surface runoff on the adjoining public right-of-way.

5. Prior to issuance of building permits for either parcel apply for and obtain a Land Feasibility Study confirming the ability to use on-site sewage disposal system on the parcel for which the building permit is sought.

6. Endorsement of the final partition map shall occur only after the approval of the following "Use Under Prescribed Conditions" cases under MCC 11.15.2010(C)(2): PRE 23-89, PRE 24-89 and PRE 25-89.

7. Prior to endorsement of the final partition map, provide evidence that water in sufficient amounts and pressure will be available to serve a residence on any parcel. Evidence that a private well in feasible may consist of:

A. Written testimonials from drillers of successful wells in the area, or

B. Data from the Department of Water Resources in Salem (378-3066), regarding private wells in the immediate area, that would substantiate the likelihood of a successful well being drilled on the property.

8. Prior to endorsement of the final partition map, the applicant shall apply for and obtain approval of annexation of the subject property to the boundaries of Multnomah County Rural Fire Protection District No. 20.

Findings of Fact:

1. Applicant's Proposal: The applicant proposes to divide two parcels containing about 66.6 acres into two smaller lots. Parcel 1 is vacant and contains about 21.1 acres. Parcel 2 has a mobile home on it and contains about 24 acres. Parcel 3 is vacant and contains about 21.5 acres. Christmas tree farms are proposed on each parcel. As required by the Zoning Ordinance, the applicant has requested approval of a "use under prescribed conditions" for each of the proposed 20-acre parcels under cases PRE 23-89, PRE 24-89 and PRE 25-89. The applicant states that a residence on each parcel "is likely in the third year of each Christmas tree farm's operation."
2. Site Conditions and Vicinity Information: Site conditions as shown on the Tentative Plan Map area as follows:
  - A. The site is on the westerly side of N.W. Skyline Boulevard about 1 1/4 miles from the intersection of N.W. Cornelius Pass Road.
  - B. Future Street Improvements (N.W. Skyline Boulevard): N.W. Skyline Boulevard is not fully improved to county standards at this time. The County Engineer has determined that in order to comply with the provisions of MCC 11.60 (The Street Standards Ordinance) it will be necessary for the owner to commit to participate in future improvements to N.W. Skyline Boulevard through deed restrictions as a condition of approval.
3. Land Division Ordinance Considerations (MCC 11.45):
  - A. The proposed land division is classified as a Type III because it is a minor partition which will result in one or more parcels with a depth to width ratio exceeding 2.5 to 1 [MCC 11.45.100(D)]. Parcel 2 has a depth to width ratio of 3.1 to 1.
  - B. MCC 11.45.390 lists the approval criteria for a Type III Land Division. The approval authority must find that:

- (1) *The Tentative Plan is in accordance with:*
- a) *the applicable elements of the Comprehensive Plan;*
  - b) *the applicable Statewide Planning Goals adopted by the Land Conservation and Development commission, until the Comprehensive Plan is acknowledged to be in compliance with said Goals under ORS Chapter 197; and*
  - c) *the applicable elements of the Regional Plan adopted under ORS Chapter 197. [MCC 11.45.230(A)].*
- (2) *Approval will permit development of the remainder of the property under the same ownership, if any, or of adjoining land or of access thereto, in accordance with this and other applicable ordinances. [MCC 11.45.230(B)].*
- (3) *The tentative plan complies with the applicable provisions, including the purposes and intent of [the Land Division] chapter. [MCC 11.45.230(C)].*
- (4) *... and that the tentative plan complies with the Zoning Ordinance. (MCC 11.45.390).*

C In response to the above approval criteria for a Type II Land Division, the following findings are given:

- (1) **Comprehensive Plan:** Finding 4 indicates that the proposal is in accord with the applicable policies of the Comprehensive Plan. The Multnomah County Comprehensive Plan has been found to be in compliance with Statewide Goals and the Regional Plan by the State Land Conservation and Development Commission. For these reasons, the proposed land division complies with MCC 11.45.230(A).

- (2) **Development of Property:**

*Applicant's Response: "This proposal does not affect access to or development of adjoining property. All three parcels have sufficient frontage on Skyline Boulevard to provide a safe route for access to the property. All three parcels have sufficient land to make commercial tree*

farms feasible on each. All three parcels have suitable dwelling sites. The applicant will address this issue in more detail when it is time to seek approval for a dwelling in conjunction with the farm use."

Staff Comment: After approval of the proposed land division. Parcels 1,2 and 3 will contain 21.1, 25 and 21.5 acres, respectively. No further division of any parcel will be possible under the EFU zoning because 19 acres is the smallest parcel size allowed under MCC 11.15.2010(C)(2). Approval of the land division will not affect the development of or access to adjoining land. For these reasons, the proposed land division complies with MCC 11.45.230(B).

(3) Purposes and Intent of Land Division Ordinance: Finding 5 indicates that the land division complies with the purposes and intent of the Land Division Ordinance.

(4) Zoning Ordinance: Finding 6 indicates that the tentative plan complies with the Zoning Ordinance, subject to approval of cases PRE 23-89, PRE 24-89 and PRE 25-89.

4. Applicable Comprehensive Plan Policies: The following Comprehensive Plan Policies are applicable to the proposed land division. The proposal satisfies those policies for the following reasons:

A. Policy No. 9 - Agricultural Lands: This policy states in part that "[t]he county's policy is to restrict the use of [EFU-zoned] lands to exclusive agriculture and other uses, consistent with state law, recognizing that the intent is to preserve the best agricultural land from inappropriate and incompatible development." In order to create the proposed 20-acre parcels in the EFU zone the applicant must obtain approval of a "use under prescribed conditions" for all three parcels pursuant to MCC 11.15.2010(C)(3). Obtaining such approval requires, among other things, the preparation of a farm management plan. The plan must be certified by a person with agricultural expertise as being "appropriate for the continuation of the existing commercial agricultural enterprise within the area." [MCC 11.15.2010(C)3(c)]. As stated in Finding 1 the applicant has requested such approval under cases PRE 23-89, PRE 24-89

and PRE 25-89. Subject to approval of those cases and for the reasons stated in Finding 6, the proposal satisfies Policy No. 9.

B. Policy No. 13, Air, Water, and Noise Quality:

*Applicant's Response:* "This proposal will not affect the air and water quality of the Skyline Boulevard area. There will be minimum motor vehicle traffic associated with the occasional site visits required for planting, tending, and harvesting the trees. The traffic generated by 2 dwellings 3 years into the plan is also minimal. The main sound associated with the tree farms will be at harvest, if motorized chain saws are used. But the sound of chain saws is common in rural Oregon, and, in this case, the impact would be mitigated by 2 factors: (1) the trees will be 3 inches to 4 inches thick at the base and will cut quickly, and (2) the slope of the land and the distance from neighboring dwellings will reduce the effective sound levels."

*Staff Comment:* Obtaining a Land Feasibility Study from the County Sanitarian for any parcel is a condition of approval. For this reason and for the reasons stated by the applicant, the proposal complies with this policy.

C Policy No. 14 - Development Limitations: This policy considers development limitation areas as those (a) with slopes exceeding 20 percent; (b) with severe soil erosion potential; (c) within the 100-year flood plain; (d) with a high seasonal water table within 0-24 inches of the surface for three or more weeks of the year; (e) with a fragipan or other impervious layer less than 20 inches from the surface, or (f) subject to slumping, earth slides or movement. The Land Division Ordinance also addresses these same factors under the section titled "Land Suitability" (MCC 11.45.460). Below is the applicant's response to MCC 11.45.460.

*Applicant's Response:*

"Slopes Exceeding 20%"

*The Soil Conservation Service survey grades soils according to slope, with the pertinent breakdown being 8%-15% for a "C" rating.*

All of the projected tree farm activity will be on Cascade silt loam soil grades 7C (8%-15% slope). Prudent Christmas tree planting avoids slopes in excess of 15%. Christmas tree consultant Bernard Douglass has walked this site and determined that it is feasible to plant Noble fir on the 7C area of the property. The 3 lots created by this partition would each have sufficient gently sloping terrain to support the proposed Christmas tree farm and dwelling on each lot.

Portions of all three lots have slopes of greater than 15% (See soils map) The Christmas tree plantings will be on the 7C soils adjacent to Skyline Boulevard on all three parcels. The lesser slopes allow intensive tree care and provide good access to and from the highway. The farms will avoid the steeper portions of the property.

#### Severe Soil Erosion

The areas cleared for hay farming have the least slope and, therefore, the least potential for erosion problems. That is, where the Christmas trees will be planted. Cleared land that is not used for tree farms will remain in grass or be reforested. Surface water follows natural drainage swales or Skyline Boulevard ditches.

There is some slope exceeding 30% in the northwest corner of Parcel 1. This area will remain in long-term timber production and will not be cultivated.

The steepest land is a hindrance to most activity and does limit the acreage on the parcel that is suitable for farming. However, this limitation does not render the overall parcel unsuitable for agricultural use and will not prevent implementation of the Farm Management Plan.

#### Within the 100-Year Flood Plain

The property is near the top of Skyline Ridge, several hundred feet above the elevation of Rock Creek to the west. No 100-year flood plain exists on the site.

High Seasonal Water Table (0"-24")

The main concern with a high water table is the potential for killing the plants with too much water. Noble fir will not tolerate wet ground. According to the SCS soil tables, the water table on Cascade silt loam soils ranges from 18 inches to 30 inches below the surface over the winter. In general, the property is well drained because of the overall slope to the west and south.

Cascade soil is rated by the SCS as acceptable for growing fir trees; with a Douglas fir site index of 150-165--about average for growing long-term commercial sized trees. The Noble fir plantings described in the Farm Management Plan will be preceded by ground preparation that will locate wet areas to avoid in planting, if there are any. There is no indication that this land is unsuitable or incapable of being made suitable for supporting this proposed farm use.

#### Fragipan (Less Than 30" from Surface)

The main concern in this standard is that root systems cannot penetrate into the fragipan. According to the SCS soil survey, there is a slowly permeable fragipan at a depth of 20 inches to 30 inches in the Cascade soils that dominate this parcel. This is a marginally acceptable rooting depth for Douglas fir trees in a commercial forest. The site is also suitable for the proposed Noble fir seedlings, when grown to the 6' or 7' Christmas tree height.

This is marginal land for any farm use, but Christmas trees are traditionally grown on marginal farm land. The fragipan depth limitation does not make this land unsuitable for the proposed farm use.

#### Stability

The vicinity is generally stable. There are many dwellings on similar soils along Skyline Boulevard in both directions from this property. The cleared fields on the gentler slopes on top of the ridge are stable. The steeper portions of the area are generally forested. There is no instability that would make this parcel unsuitable for the proposed farm uses."

Staff Comment: For the reasons stated by the applicant, the proposal complies with Policy.14 and MCC 11.45.460.

- D. Policy No. 15 - Areas of Significant Environmental Concern: The subject property is not in an area designated as an "Area of Significant Environmental Concern" by Multnomah County.
- E. Policy No. 37 - Utilities: Water will be provided to future residences on each parcel from private wells in accordance with Condition 7.. Obtaining a Land Feasibility Study from the County Sanitarian regarding the use of on-site sanitation on each parcel is a condition of approval.
- F. Policy No. 38 - Facilities: The property is located in the Portland School District, which can accommodate student enrollment from future houses on the subject property. Although the site adjoins land inside Multnomah County Fire District #20, County Assessment and Taxation records show the site itself as not being taxed by the district. Annexation of the site to the district is a condition of approval. Police protection is provided by the Multnomah County Sheriff's Office. Subject to annexation to Fire District #20, the proposal complies with Policy 38.

5. Purpose and Intent of Land Division Ordinance.

A. MCC 11.45.015 states that the Land Division Ordinance... "is adopted for the purposes of protecting property values, furthering the health, safety and general welfare of the people of Multnomah County, implementing the Statewide Planning Goals and the Comprehensive Plan adopted under Oregon Revised Statutes, Chapters 197 and 215, and providing classifications and uniform standards for the division of land and the installation of related improvements in the unincorporated area of Multnomah County." The proposed land division satisfies the purpose of the Land Division Ordinance for the following reasons:

- (1) Subject to approval of cases PRE 23-89, PRE 24-89 and PRE 25-89, the size and shape of the proposed parcels will accommodate proposed uses and development in a

manner that is consistent with the character of the area, and will thereby protect property values.

- (2) Finding 4.E indicates that a private well will provide water for future houses on each parcel. A condition of approval assures that adequate provision will be made for on-site sewage disposal on each parcel. Finding 4.F indicates that fire protection is available to the site, subject to annexation to Multnomah County Fire District #20. Finding 4.F also indicates that police protection is available to the site. For these reasons, the proposal further the health, safety, and general welfare of the people of Multnomah County.
  - (3) Finding 4 indicates that the proposed land division complies with the applicable elements of the Comprehensive Plan. Since the Comprehensive Plan has been found to be in compliance with Statewide Planning Goals by the State Land Conservation and Development Commission as stated in Finding 3.C, the proposed land division complies with the Statewide Planning Goals.
  - (4) The proposal meets the purpose of *"providing classifications and uniform standards for the division of land and the installation of related improvements"* because the proposal is classified as a Type III Land Division and meets the approval criteria for Type III Land Divisions as stated in Findings 3, 4, and 5. The conditions of approval assure the installation of appropriate improvements in conjunction with the proposed land division.
- B. MCC 11.45.020 states that the intent of the Land Decision Ordinance is to...*"minimize street congestion, secure safety from fire, flood, geologic hazards, pollution and other dangers, provide for adequate light and air, prevent the overcrowding of land and facilitate adequate provisions for transportation, water supply, sewage disposal, drainage, education, recreation and other public services and facilities."* The proposal complies with the intent of the Land Division Ordinance for the following reasons:

- (1) The proposal minimizes street congestion because commitment to future improvements to the abutting road

will be required through deed restrictions as a condition of approval in accordance with the Street Standards Ordinance, as stated in Finding 2.

(2) As stated in Finding 4.F, public fire protection will be available to the site subject to annexation to Fire District #20. As stated in Finding 4.C, there are no development limitations that would preclude development of the subject property as proposed. The additional new houses will not significantly increase air pollution levels. For these reasons, the proposal secures safety from fire, flood, geologic hazard, and pollution.

(3) Subject to approval of cases PRE 23-89, PRE 24-89 and PRE 25-89, the proposal meets the area and dimensional standards of the EFU zoning district as explained in Finding 6 and thereby provides for adequate light and air and prevents the overcrowding of land.

(4) Road issues are addressed in Findings 2. Water supply and sewage disposal are addressed in Finding 4.E. Storm drainage is addressed in Condition 4. Education, fire protection and police service are addressed in finding 4.F. Based on the above Findings, the proposed land division facilitates adequate provision for transportation, water supply, sewage disposal, drainage, education, and other public services and facilities.

5. Zoning Ordinance Considerations: The applicable Zoning Ordinance criteria (MCC 11.15) are as follows:

A. The site is zoned EFU, Exclusive Farm, Use District.

B. The following minimum area and dimensional standards apply per MCC 11.15.2016:

(1) The minimum lot size shall be 38 acres, including one-half of the road right-of-way adjacent to the parcel being created, except that, pursuant to MCC 11.15.2010(C), the lot size may be as small as 19 acres when the lot is created under the Land Division Ordinance in conjunction with an approved Farm Management Plan. Parcels 1, 2 and 3 are being proposed under the provisions of the

Land Division Ordinance and, as shown on the Tentative Plan Map, contain 21.1, 25 and 21.5 acres, respectively. The applicant has submitted Farm Management Plans under cases PRE 23-89, PRE 24-89 and PRE 25-89 for Parcels 1, 2 and 3, respectively. Pursuant to Condition 6, endorsement of the final partition map for this land division will occur only after final approval of PRE 23-89, PRE 24-89 and PRE 25-89.

- (2) The minimum front lot line length shall be 50 feet. As shown on the Tentative Plan Map, both parcels exceed this requirement.
- (3) The minimum yard setbacks are 30 feet front, 10 feet side, and 30 feet rear. As shown on the Tentative Plan Map, the residence on Parcel 2 exceeds all yard requirements and there is adequate area on Parcels 1 and 3 for a future residence on each of those parcels to meet all yard requirements.

#### Conclusions:

1. Based on Finding 4, the proposed land division satisfies the applicable elements of the Comprehensive Plan.
2. Based on Findings 3 through 5 the proposed land division satisfies the approval criteria for Type III land divisions.
3. Based on Finding 6, the proposed land division complies with the zoning ordinance, subject to approval of cases PRE 23-89, PRE 24-89 and PRE 25-89.

IN THE MATTER OF LD 25-89

MULTNOMAH COUNTY, OREGON  
DIVISION OF PLANNING AND DEVELOPMENT

By David H. Prescott

David H. Prescott, Planner

For: Director, Planning & Development

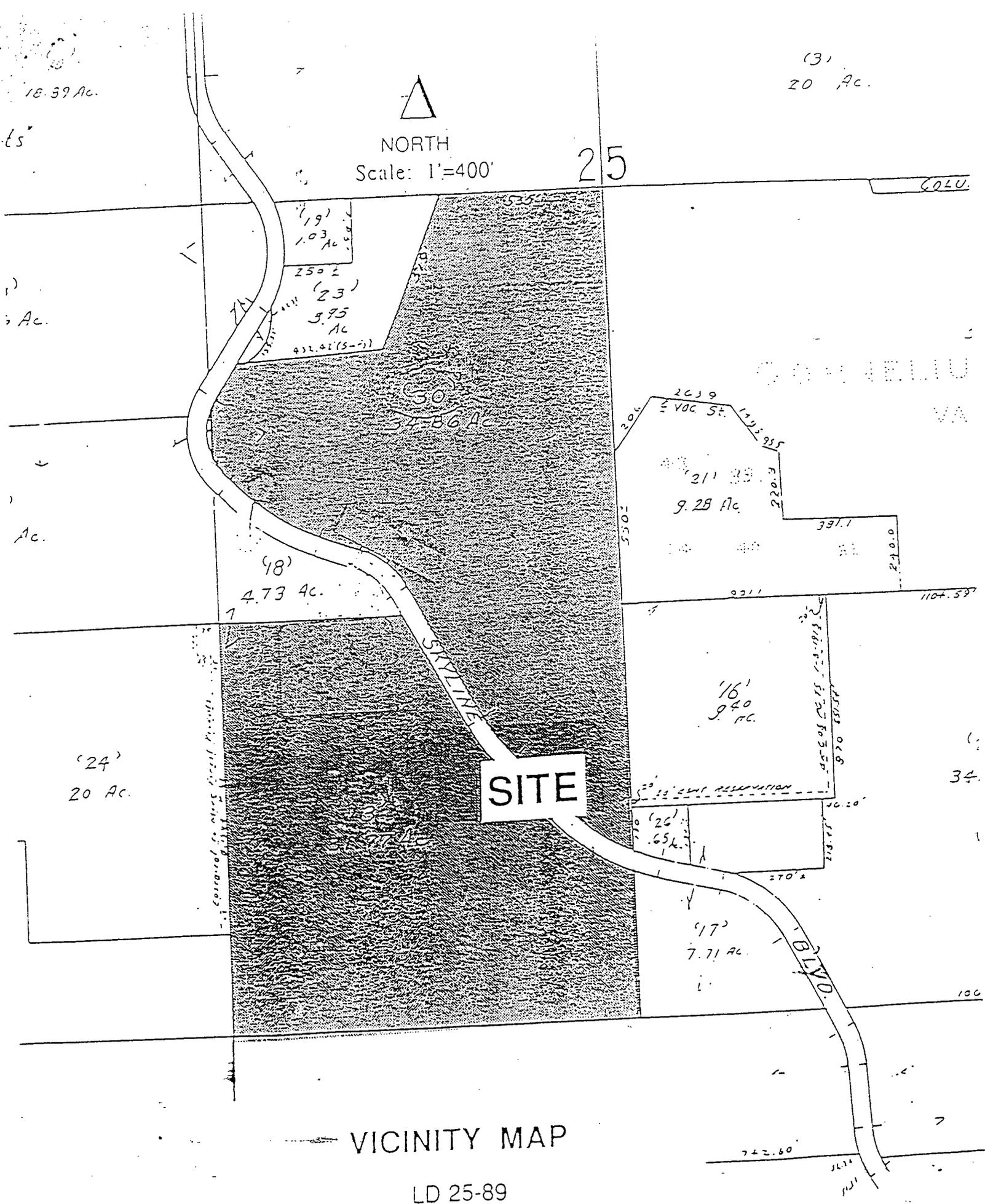
This decision filed with the Director of the  
Department of Environmental Services on  
October 25, 1989.

cc: Ike Azar, Engineering Services  
Phil Crawford/Mike Ebeling, Sanitarians  
John Dorst, Right-of-Way Use Permits  
Dick Howard, Engineering Services

DP:mb

NOTICE: This decision may be appealed within ten (10) days under the  
provisions of MCC 11.45.3880(C).

10/25/89



VICINITY MAP

LD 25-89

13855 N.W. Skyline Boulevard  
 Tax Lot 13 and 30, Section 25, T 2N, R 2W

18.39 Ac.

(3)  
 20 Ac.

NORTH  
 Scale: 1"=400'

25

6020

(19)  
 1.03  
 Ac  
 250.2  
 (23)  
 3.95  
 Ac  
 412.87 (S-4)

30  
 37.56 Ac

2639  
 E 40C SE  
 1293.95  
 211.38  
 9.28 Ac  
 550.2  
 397.1  
 270.0  
 1104.59

(18)  
 4.73 Ac.

(16)  
 9.40  
 Ac.

(24)  
 20 Ac.

SITE

(26)  
 .65

(17)  
 7.71 Ac.

(22)  
 39.36 Ac

1.14  
 20.00

November 6, 1989

## PLANNING DIRECTOR DECISION IN THE MATTER OF PRE 23-89

**PROPERTY LOCATION:** 13855 NW Skyline Blvd.

**LEGAL DESCRIPTION:** Parcel '1' of LD 25-89

**PROPERTY OWNER:** R. Lenske & Manifold Business and Investment  
7315 SE 82nd Avenue  
Portland 97266

**APPLICANT:** Western States Development Corporation  
20285 NW Cornell Road  
Hillsboro 97124

**DECISION:** APPROVE a resource-related, single family residence on a 21.1 acre lot in the Exclusive Farm Use District, subject to a condition, based on the following findings and conclusions.

### CONDITION:

This decision shall become effective ten days following the date of notification of surrounding residents, unless appealed under MCC 11.15.2010(C)(5).

### FINDINGS OF FACT:

1. **Applicant's Proposal:** Applicant requests approval of a single-family residence in conjunction with a proposed farming operation on this property.
2. **Ordinance Considerations:** Subsection 11.15.2010(C) authorizes the Planning Director to approve a residence in conjunction with a farm use when it is found that the proposal is:
  - A. Located on a lot created under MCC 11.45, Land Divisions, after August 14, 1980, with a lot size less than 76 acres, but not less than 38 acres on Sauvie Island or less than 38 acres but not less than 19 acres elsewhere in the EFU district; and
  - B. Conducted according to a farm management plan containing the following elements:

- (1) A written description of a five-year development and management plan which describes the proposed cropping or livestock pattern by type, location and area size and which may include forestry as an incidental use;
- (2) Soil test or Soil Conservation Service OR-1 soils field sheet data which demonstrate the land suitability for each proposed crop or pasturage use;
- (3) Certification by the Oregon State University Extension Service, or by person or group having similar agricultural expertise, that the production acreage and the farm management plan are appropriate for the continuation of the existing commercial agricultural enterprise within the area. For the purposes of this chapter appropriate for the continuation of the existing commercial agricultural enterprise within the area means:
  - (a) That the proposed farm use and production acreage are similar to the existing commercial farm uses and production acreages in the vicinity, or
  - (b) In the event the proposed farm use is different than the existing farm uses in the vicinity, that the production acreage and the farm management plan are reasonably designed to promote agricultural utilization of the land equal to or greater than that in the vicinity. Agricultural utilization means an intended profit-making commercial enterprise which will employ accepted farming practices to produce agricultural products for entry into the conventional agricultural markets.
- (4) A description of the primary uses on nearby properties, including lot size, topography, soil types, management practices and supporting services, and a statement of the ways the proposal will be compatible with them.
- (5) *Exception.* A written description of the farm management program on that parcel as a separate management unit for the preceding five years may be substituted for subsections (a), (b) and (c) above.

3. **Site and Vicinity Characteristics:** This property is located on the east side of Skyline Blvd. approximately  $\frac{3}{4}$  south of its intersection with NW Rock Creek Road. The property varies in slope from nearly level to over thirty degrees, and has been used for various agricultural purposes for a number of years. Soils of this and the majority of the surrounding property are Cascade silt loam, plus areas of Delina and Goble silt loam. Those soils have an Agricultural Capability Class of III.

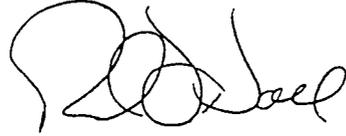
Properties in the surrounding area range in size from less than one to over 80 acres. The majority of the properties are utilized for various forms of agriculture ranging from pasture to nursery stock.

4. **Proposed Management Plan:** The applicant has submitted a proposed management plan for a Christmas tree operation. That plan has been reviewed by Bernard Douglas of Douglas Tree Farm who has 25 years of experience in the Christmas tree business. He indicates that the proposed operation is similar to existing nursery operations in the vicinity.

CONCLUSIONS:

1. The applicant has satisfied the approval criteria for a farm-related, single-family residence in the Exclusive Farm Use District through the submission of a proposed five-year management plan which has been certified by Bernard Douglas of Douglas Tree Farm.

For the Planning Director

A handwritten signature in black ink, appearing to read 'R. N. Hall', written in a cursive style.

Robert N. Hall Senior Planner

*NOTICE: A Decision of the Planning Director on an application for a Use Under Prescribed Conditions may be appealed by the applicant to the Hearings authority in the manner provided in MCC 11.15.8290 through .8295.*

September 14, 1989

**PLANNING DIRECTOR DECISION IN THE MATTER OF PRE 24-89**

**PROPERTY LOCATION:** 13855 NW Skyline Blvd.

**LEGAL DESCRIPTION:** Parcel '2' of LD 25-89

**PROPERTY OWNER:** R. Lenske & Manifold Business and Investment  
7315 SE 82nd Avenue  
Portland 97266

**APPLICANT:** Western States Development Corporation  
20285 NW Cornell Road  
Hillsboro 97124

**DECISION:** APPROVE a resource-related, single family residence on a 21.5 acre lot in the Exclusive Farm Use District, subject to a condition, based on the following findings and conclusions.

**CONDITION:**

This decision shall become effective ten days following the date of notification of surrounding residents, unless appealed under MCC 11.15.2010(C)(5).

**FINDINGS OF FACT:**

1. **Applicant's Proposal:** Applicant requests approval of a single-family residence in conjunction with a proposed farming operation on this property.
2. **Ordinance Considerations:** Subsection 11.15.2010(C) authorizes the Planning Director to approve a residence in conjunction with a farm use when it is found that the proposal is:
  - A. Located on a lot created under MCC 11.45, Land Divisions, after August 14, 1988, with a lot size less than 76 acres, but not less than 38 acres on Sauvie Island or less than 38 acres but not less than 19 acres elsewhere in the EFU district; and
  - B. Conducted according to a farm management plan containing the following elements:

- (1) A written description of a five-year development and management plan which describes the proposed cropping or livestock pattern by type, location and area size and which may include forestry as an incidental use;
- (2) Soil test or Soil Conservation Service OR-1 soils field sheet data which demonstrate the land suitability for each proposed crop or pasturage use;
- (3) Certification by the Oregon State University Extension Service, or by person or group having similar agricultural expertise, that the production acreage and the farm management plan are appropriate for the continuation of the existing commercial agricultural enterprise within the area. For the purposes of this chapter appropriate for the continuation of the existing commercial agricultural enterprise within the area means:
  - (a) That the proposed farm use and production acreage are similar to the existing commercial farm uses and production acreages in the vicinity, or
  - (b) In the event the proposed farm use is different than the existing farm uses in the vicinity, that the production acreage and the farm management plan are reasonably designed to promote agricultural utilization of the land equal to or greater than that in the vicinity. Agricultural utilization means an intended profit-making commercial enterprise which will employ accepted farming practices to produce agricultural products for entry into the conventional agricultural markets.
- (4) A description of the primary uses on nearby properties, including lot size, topography, soil types, management practices and supporting services, and a statement of the ways the proposal will be compatible with them.
- (5) *Exception.* A written description of the farm management program on that parcel as a separate management unit for the preceding five years may be substituted for subsections (a), (b) and (c) above.

3. **Site and Vicinity Characteristics:** This property is located on the east side of Skyline Blvd. approximately  $\frac{3}{4}$  south of its intersection with NW Rock Creek Road. The property varies in slope from nearly level to over thirty degrees, and has been used for various agricultural purposes for a number of years. Soils of this and the majority of the surrounding property are Cascade silt loam, plus areas of Delina and Goble silt loam. Those soils have an Agricultural Capability Class of III.

Properties in the surrounding area range in size from less than one to over 80 acres. The majority of the properties are utilized for various forms of agriculture ranging from pasture to nursery stock.

4. **Proposed Management Plan:** The applicant has submitted a proposed management plan for a Christmas tree operation. That plan has been reviewed by Bernard Douglas of Douglas Tree Farm who has 25 years of experience in the Christmas tree business. He indicates that the proposed operation is similar to existing nursery operations in the vicinity.

CONCLUSIONS:

1. The applicant has satisfied the approval criteria for a farm-related, single-family residence in the Exclusive Farm Use District through the submission of a proposed five-year management plan which has been certified by Bernard Douglas of Douglas Tree Farm.

For the Planning Director

A handwritten signature in black ink, appearing to read "R. N. Hall", written in a cursive style.

Robert N. Hall Senior Planner

*NOTICE: A Decision of the Planning Director on an application for a Use Under Prescribed Conditions may be appealed by the applicant to the Hearings authority in the manner provided in MCC 11.15.8290 through .8295.*

November 6, 1989

**PLANNING DIRECTOR DECISION IN THE MATTER OF PRE 25-89**

**PROPERTY LOCATION:** 13855 NW Skyline Blvd.

**LEGAL DESCRIPTION:** Parcel '3' of LD 25-89

**PROPERTY OWNER:** R. Lenske & Manifold Business and Investment  
7315 SE 82nd Avenue  
Portland 97266

**APPLICANT:** Western States Development Corporation  
20285 NW Cornell Road  
Hillsboro 97124

**DECISION:** APPROVE a resource-related, single family residence on a 24 acre lot in the Exclusive Farm Use District, subject to a condition, based on the following findings and conclusions.

**CONDITION:**

This decision shall become effective ten days following the date of notification of surrounding residents, unless appealed under MCC 11.15.2010(C)(5).

**FINDINGS OF FACT:**

1. **Applicant's Proposal:** Applicant requests approval of a single-family residence in conjunction with a proposed farming operation on this property.
2. **Ordinance Considerations:** Subsection 11.15.2010(C) authorizes the Planning Director to approve a residence in conjunction with a farm use when it is found that the proposal is:
  - A. Located on a lot created under MCC 11.45, Land Divisions, after August 14, 1980, with a lot size less than 76 acres, but not less than 38 acres on Sauvie Island or less than 38 acres but not less than 19 acres elsewhere in the EFU district; and
  - B. Conducted according to a farm management plan containing the following elements:

- (1) A written description of a five-year development and management plan which describes the proposed cropping or livestock pattern by type, location and area size and which may include forestry as an incidental use;
- (2) Soil test or Soil Conservation Service OR-1 soils field sheet data which demonstrate the land suitability for each proposed crop or pasturage use;
- (3) Certification by the Oregon State University Extension Service, or by person or group having similar agricultural expertise, that the production acreage and the farm management plan are appropriate for the continuation of the existing commercial agricultural enterprise within the area. For the purposes of this chapter appropriate for the continuation of the existing commercial agricultural enterprise within the area means:
  - (a) That the proposed farm use and production acreage are similar to the existing commercial farm uses and production acreages in the vicinity, or
  - (b) In the event the proposed farm use is different than the existing farm uses in the vicinity, that the production acreage and the farm management plan are reasonably designed to promote agricultural utilization of the land equal to or greater than that in the vicinity. Agricultural utilization means an intended profit-making commercial enterprise which will employ accepted farming practices to produce agricultural products for entry into the conventional agricultural markets.
- (4) A description of the primary uses on nearby properties, including lot size, topography, soil types, management practices and supporting services, and a statement of the ways the proposal will be compatible with them.
- (5) *Exception.* A written description of the farm management program on that parcel as a separate management unit for the preceding five years may be substituted for subsections (a), (b) and (c) above.

3. **Site and Vicinity Characteristics:** This property is located on the east side of Skyline Blvd. approximately  $\frac{3}{4}$  south of its intersection with NW Rock Creek Road. The property varies in slope from nearly level to over thirty degrees, and has been used for various agricultural purposes for a number of years. Soils of this and the majority of the surrounding property are Cascade silt loam, plus areas of Delina and Goble silt loam. Those soils have an Agricultural Capability Class of III.

Properties in the surrounding area range in size from less than one to over 80 acres. The majority of the properties are utilized for various forms of agriculture ranging from pasture to nursery stock.

4. **Proposed Management Plan:** The applicant has submitted a proposed management plan for a Christmas tree operation. That plan has been reviewed by Bernard Douglas of Douglas Tree Farm who has 25 years of experience in the Christmas tree business. He indicates that the proposed operation is similar to existing nursery operations in the vicinity.

CONCLUSIONS:

1. The applicant has satisfied the approval criteria for a farm-related, single-family residence in the Exclusive Farm Use District through the submission of a proposed five-year management plan which has been certified by Bernard Douglas of Douglas Tree Farm.

For the Planning Director



Robert N. Hall    Senior Planner

*NOTICE: A Decision of the Planning Director on an application for a Use Under Prescribed Conditions may be appealed by the applicant to the Hearings authority in the manner provided in MCC 11.15.8290 through .8295.*



96517-10  
**FILE**

**DEPARTMENT OF ENVIRONMENTAL SERVICES  
TRANSPORTATION AND LAND USE PLANNING DIVISION  
2115 SE MORRISON STREET  
PORTLAND, OREGON 97214-2865  
(503) 248-3043 FAX: (503) 248-3389**

---

---

**DECISION OF THE PLANNING DIRECTOR**

---

---

**DETERMINATION OF CURRENT EMPLOYMENT FOR FARM USE  
(Implementation of Approved Farm Management Plan)  
Use Permitted Under Prescribed Conditions  
Case File No.: PRE 1-98;  
June 2, 1998**

**What:** The applicants requested a Building Permit approval for a dwelling in conjunction with a farm use approved in a Farm Management Plan, PRE 26-90. This request follows affirmation by the Board of County Commissioners of the Hearings Officer decision in SEC 3-97. That decision states that prior to approval of the Building Permit, the County needs to make a determination that the property is currently employed for farm use as required by ORS 215.283(1)(f) by evaluating how much of the farm management plan has been implemented on the property.

**Where:** The subject property is located at:  
9430 NW Kaiser Road  
1N1W, Section 5, Tax Lot 1 of Lot 7&8 Schoppe Acres.

**Property Owner:** David and Sandra Herman  
PO Box 25482  
Portland, OR 97225

**Applicant:** Randy & Dianna Robinson  
c/o Christie White  
Ball Janik LLP  
101 SW Main St. Suite 1100  
Portland, OR 97213

**Zoning:** EFU, Exclusive Farm Use  
SECh, Significant Environmental Concern, Wildlife Habitat

**Decision:** Approve, subject to the conditions below, the building permit for a single family dwelling, based on the following findings and conclusions.



## I. CONDITIONS OF APPROVAL

1. Prior to zoning approval of the building permit, the applicant shall provide a copy of the "Assignment and Assumption Agreement" transferring ownership of the grape root stock from the current property owner David Herman, to the applicant and buyer Randy Robinson.
2. Prior to zoning approval of the building permit, the applicant shall provide documentation that at least five acres of the vineyard have been prepared and planted on the property.

*For questions about Conditions of Approval and to make an appointment for Building Permit Sign-off, contact Chuck Beasley, at 248-3043.*

## STAFF REPORT FORMAT

This staff report addresses the requested action, approval of a Building Permit for a dwelling in conjunction with farm use by determination of current employment for farm use through implementation of the farm management plan. The Applicant's evidence in support of the application is contained in Exhibit A1. Findings by staff are included as necessary to address approval requirements.

## FINDINGS:

## II. BACKGROUND AND DESCRIPTION OF PROPOSAL

The applicant's Statement in Support of Building Permit Approval on page 1. contains a background statement that lists the previous dwelling related approvals on the subject parcel. Staff agrees that this decision consists of a determination of whether enough of the approved farm management plan has been implemented to warrant issuance of the Building Permit. The applicant's Statement in Support of Building Permit Approval date stamped March 13, 1998, and attached documents 1 through 6, constitute Exhibit A1 of this decision. The applicant has also submitted an Expense Report for the period January through December of 1997, a letter dated March 16, 1998 and a Vineyard Temperature Evaluation dated May 5, 1998 in support of the request. These documents are included as Exhibits A2, A3, and A4 respectively.

## III. APPLICABLE CRITERIA

1. PRE 26-90, the farm management plan approved December 20, 1990, established that the activities proposed in the five year farm management plan were appropriate to the continuation of the existing commercial agricultural enterprise in the area. This finding

established that implementation of the farm management plan meets the "customarily provided in conjunction with farm use" provision of ORS 215.283(1)(f), 1989.

2. OAR 660-05-030(4), 1986. This Administrative Rule, effective at the time of the application in PRE 26-90, provides that a farm dwelling can only be approved on a parcel currently employed for farm use as defined in ORS 215.203. The test for establishment of farm use is when the "day to day activities on the subject land are principally directed to the farm use of the land."

#### IV. ANALYSIS

##### PRE 26-90 Farm Management Plan Implementation

**Staff:** The farm management activities which were found to be necessary for the day to day operation of the farm parcel are referenced by the applicant beginning on page one of Exhibit A1. These three activities include, preparing ten acres for grape production, administering to the needs of cattle, and construction of needed capital improvements, and are listed on page 8 of the approved farm management plan (see exhibit A1. #1. for a copy of the approved farm management plan). The five year plan is included in an appendix as part of the applicant's statement in PRE 26-90, see Exhibit A1. #1.

The management activities listed in the plan for the first two years of the grape production are listed in the appendix of the plan, and include ordering root stock, thermograph monitoring, installation of tile drainage system, gopher eradication, monitoring of bird and wildlife depredation, installation of perimeter fencing, and addition of selenium and lime to the soil. The applicant lists the activities accomplished to date on the parcel on pages 3 and 4 of Exhibit A1. In addition to the exhibits referenced by the applicant in Exhibit A1., a copy of the thermograph (Vineyard Site Temperature Evaluation) has been submitted and is included as Exhibit A4 of this report. The only management activity listed for the first two years which has not been accomplished is the addition of selenium to the soil because it is not needed according to the applicant. The rootstock will be available for planting by October of 1998, and will be owned by the applicant prior to Building Permit approval (see Exhibit A3).

More intensive day to day management as described in the third year of the plan consists of actual establishment of the vineyard by construction of trellises and planting of wine grape rootstock. Since the interim cattle operation did not succeed, establishment of farm use on the land by planting the vineyard is necessary to meet OAR 660-05-030(4) (1986).

The elements of the interim cattle operation which entail capital expenditures include addition of nitrogen, cattle watering device, fence construction, and weed control. The applicant points out on page 5 of Exhibit A1 that these have been completed. The interim cattle production planned in 1990 has not occurred because the property was found to be too wet for winter use by cattle. The applicant describes the pasture/cattle related farm use which has occurred as pasture management/improvement, and production of oats by a

neighboring farmer. Hay harvested from the property is asserted to have contributed to cattle production.

The capital expenditures needed to implement the farm management plan relate to both the interim cattle production and establishment of the vineyard. These are detailed in the applicant's submittal, and site inspection by staff confirms that drainage ditching and fencing have been installed on the property. The expense report for the period January through December 1997 supports a finding that substantial monetary effort has gone into implementation of the farm management plan (see Exhibit A2).

**Conclusion:** The applicant has demonstrated compliance with the farm management plan by completing the first two years of management activities necessary to establish the vineyard. In addition, the applicant for the farm dwelling will own the grape rootstock which will be available for planting by October of 1998. Based on information submitted by the applicant, the interim cattle operation did not work out as planned in 1990. However, the applicant maintains that farm uses did continue on the property during the interim between approval of the farm management plan and the ordering and ultimate establishment of the primary use, the vineyard. Establishment of a substantial portion of the vineyard will allow a conclusion that the property is in farm use as described in the approved farm plan. This can be accomplished by a condition of approval which provides that the building permit for the dwelling can only be approved on verification by the applicant that at least 5 acres of the vineyard have been planted with the grape rootstock.

#### Quasi-Judicial Framework Plan Policies

**Staff:** The County Comprehensive Framework Plan contains several policies which require a finding of compliance prior to approval of a quasi-judicial decision. These are Policy 13: Air, Water and Noise Quality, Policy 22: Energy Conservation, Policy 37: Utilities, Policy 38: Facilities, and Policy 40: Development Requirements. Compliance with these policies was demonstrated by the applicant in the information submitted with the previously approved Significant Environmental Concern Permit, SEC 3-97. This SEC permit is for the proposed dwelling in the same location, therefore staff finds that the evidence and finding of compliance with these policies applies equally to this decision.

#### **V. EXHIBITS**

- A1. Applicant's submittal stamped as received 3/13/98.
  - A2. Expense Report, January through December 1997.
  - A3. Letter from Christen White to staff, dated 3/16/98.
  - A4. Letter from Price Research Services to Randy Robinson, dated 5/5/98.
- C2. Oregon Administrative Rule OAR 660-05-030(4) (1986).

**In the matter of : PRE 1-98**  
Multnomah County Department of Environmental Services  
Transportation and Land Use Planning Division

By : Chuck Beasley  
Chuck Beasley, *Planner*  
For: Kathy Busse, *Planning Director*

This decision was filed with the Director of the Department of Environmental Services on June 3, 1998.

## NOTICE

State law requires a public notice (by mail) to nearby property owners and to any recognized Neighborhood Association of a Planning Director decision which applies discretionary or subjective standards or criteria to land use or development permit applications. The notice must describe the method to challenge the staff decision; and, if appealed, the County must hold a public hearing to consider the merits of the application. ORS 197.763, ORS 215.416(11)

The Administrative Decision(s) detailed above will become final unless an appeal is filed within the 10-day appeal period which starts the day after the notice is mailed. If the 10th day falls on Saturday, Sunday, or a legal holiday, the appeal period extends through the next full business-day. If an appeal is filed, a public hearing will be scheduled before a County Hearings Officer pursuant to Multnomah County Code section 11.15.8290 and in compliance with ORS 197.763. To file, complete an Appeal of Administrative Decision form, and submit to the County Planning Division Office, together with a \$100.00 fee and supplemental written materials (as needed) stating the specific grounds, approval criteria, or standards on which the appeal is based. To review the application file(s), obtain appeal forms, or other instruction, call the Multnomah County Planning Division at (503) 248-3043, or visit our offices at 2115 SE Morrison Street, Portland, Oregon, 97214 [hours: 8:30 a.m. – 4:30 p.m.; M—F].

**The appeal period ends June 12, 1998 at 4:30 p.m.**

Western States PRE and Ord. 903 Chronology

Oct 89	Preliminary approval for 3-parcel partition.	
Nov 89	3 farm dwellings (PREs) approved.	
Jul 90	Final plat creating 3 PRE parcels approved and recorded.	
Aug 93	New state administrative rules re: farm dwelling permits.	
Aug 93	County letter re: the 1989 dwelling approvals remain valid.	
Aug 95	Memo from County Counsel re: PREs approved prior to Aug 1993 are not subject to new limitations.	
Mar 97	Planning Director approves Robinson permit under 1990 PRE approval; <b>Rochlin appeals.</b>	
Jun 97	Hearings Officer denies appeal and upholds Robinson PRE permit; <b>Rochlin appeals.</b>	
Jul 97	County Commission reverses Hearings Officer and nullifies Robinson PRE.	
Jul/Aug 97	Robinson files lawsuit; County Commission withdraws Robinson decision.	
Sept/Nov 97	County Commission holds hearings re: validity of old PREs, and sends Ord. 903 proposal to Planning Commission.	
Dec 97/ Jan 98	Planning Commission hearings on Ord. 903 proposal.	
Feb/Mar 98	County Commission holds hearings re: Ord. 903.	(LUBA 1)
Apr 98	County Commission approves Ord. 903; <b>Rochlin appeals.</b>	
Jul 98	Planning Director approves permits for PRE 4-98 and 5-98 under Ord. 903; <b>Rochlin appeals.</b>	
Oct 98	Hearings Officer denies appeal and upholds approval of PRE 4-98 and 5-98; <b>Rochlin appeals.</b>	(LUBA 1)
Dec 98	LUBA rejects Rochlin challenge to substance of Ord. 903, but remands to county to fix procedural defects (the county did not participate at LUBA); <b>Rochlin appeals.</b>	(LUBA 2)
Dec 98	County Commission denies appeal and affirms approval of PRE 4-98 and 5-98; <b>Rochlin appeals.</b>	
Jan 99	Planning Director approves permits for PRE 16-98, 17-98 and 18-98 under Ord. 903; <b>Rochlin appeals.</b>	
Feb 99	Planning Commission hearing on re-adopting Ord. 903; no action taken.	
Apr 99	Court of Appeals affirms LUBA, and denies Rochlin challenge to substance of Ord. 903. ( <b>Rochlin does not appeal.</b> )	(LUBA 1)

May 99	Hearings Officer denies appeals and upholds approval of PRE 16-98, 17-98 and 18-98; <b>Rochlin appeals.</b>
June 10, 1999	County Commission hearing on PRE 16-98, 17-98 and 18-98.

<b>SITE EXPENSES</b>							
<b>Date</b>	<b>VENDOR</b>	<b>LEGAL EXPENSES</b>	<b>TREE FARM</b>	<b>WELLS, PUMPS &amp; WATER PERMITS</b>	<b>COUNTY PERMITS &amp; FEES</b>	<b>ROCK/EXCAVATION</b>	
Nov-94	Angell Bros.					1,223.01	
Nov-94	Cat Work-WSDC Payroll					357.95	
May-95	Cat Work-WSDC/KGB Payroll					1,271.17	
Sep-95	Cat Work-WSDC Payroll					73.30	
Aug-96	Cat Work-Vernonia Research					250.00	
Dec-97	O'Donnell, Ramis	10,560.67					
Jan-98	Chapparel Reforestation		9,600.00				
Jan-98	O'Donnell, Ramis	3,163.90					
Jan-98	Turner Drilling			13,555.00			
Jan-98	Water Resource			75.00			
Feb-98	O'Donnell, Ramis	2,652.20					
Mar-98	Best in Nation		754.20				
Apr-98	Best in Nation		6,873.00				
May-98	Multnomah County				235.00		
May-98	Multnomah County				235.00		
May-98	O'Donnell, Ramis	6,530.21					
May-98	O'Donnell, Ramis	1,063.14					
May-98	Turner Drilling			10,420.00			
Jun-98	Best in Nation		36.00				
Jun-98	O'Donnell, Ramis	2,585.50					
Jul-98	Multnomah County				190.00		
Jul-98	O'Donnell, Ramis	1,092.47					
Aug-98	O'Donnell, Ramis	2,113.50					
Sep-98	Multnomah County				235.00		
Sep-98	Multnomah County				235.00		
Sep-98	Multnomah County				235.00		
Sep-98	O'Donnell, Ramis	2,696.38					
Sep-98	Hershal Haley			5,414.60			
Sep-98	Multnomah County				138.42		
Oct-98	City of Portland				510.00		
Nov-98	Nussbaumer					250.00	
Nov-98	O'Donnell, Ramis	5,962.45					
Dec-98	O'Donnell, Ramis	661.04					
Dec-98	Water Resource			225.00			
Feb-99	Turner Drilling			11,884.00			
Feb-99	O'Donnell, Ramis	9,800.00					
Sep-99	Turner Drilling			13,412.00			
						<b>GRAND TOTAL</b>	
	<b>TOTALS</b>	<b>48,881.46</b>	<b>17,263.20</b>	<b>54,985.60</b>	<b>2,013.42</b>	<b>3,425.43</b>	<b>126,569.11</b>

## PRE Applications for Farm Management Plans in EFU, 1980-1993

Case No.	Approved	B.P./yr.blft	Account	Location	Related Decision	ACRES	Related Case/ Notes
PRE 52-80	10/7/80	1980	R97114-0180	2N1W14 18		171.13	
PRE 61-80	10/6/80		R97127-0280	2N1W27 28		9.4	
PRE 66-80	10/8/80	1983	R97236-0400	2N2W36 40	EMP 12/4/80, PLA 4-95	9.24	
PRE 7-81	1/20/81	1982	R05350-4370	1N4E32 5	NSA 23-94		
PRE 12-81	1/28/81	1983	R97116-0440	2N1W16 44	LD 4-81	70.84	
PRE 17-81	1/30/81	1983	R99404-1280	1S4E 4 128	EMP 8/14/79		
PRE 27-81	4/22/81	1996	R09260-6320	1S3E23	PRE Addendum 7/26/95		
PRE 28-81	3/30/81	1981	R94436-0610	1N4E36 61		11	
PRE 43-81	6/9/81	1985	R94435-0260	1N4E35 26		10.75	
PRE 51-81	7/28/81	1982	R99404-1210	1S4E 4 121		9	
PRE 20-82	7/14/81	1982	R99406-0070	1S4E 6 7		7.11	
PRE 5-83	3/16/83	1989	R96106-0580	1N1W 6 58		4.24	
PRE 13-83	6/29/83	1985	R96106-0600	1N1W 6 60			
PRE 26-83	10/17/83		R98132-0170	3N1W32 17		26.17	
PRE 1-84	4/12/84	1985	R94433-1070	1N4E33 107		7.99	
PRE 7-85	8/20/85	1985	R94435-0050	1N4E35 5		29.18	
PRE 23-85			R97236-0330	2N2W36			No Action, existing dwelling
PRE 24-85	1/2/86	1989	R99312-0150	1S3E12 600	PRE25-85, EMP	25.39	
PRE 25-85	1/2/86	1924	R99312-0170	1S3E12 300	PRE 24-85, EMP	23.31	App. to legalize partition
PRE 7-86		1988	R99407-0390	1S4E 7 39			No Decision
PRE 14-86	10/15/86	1988	R74970-2050	1N1W 6 2	PRE 15-86, 16-86	19	
PRE 15-86	10/15/86	1988	R74970-2030	1N1W 6 1	PRE 14-86, 16-86	18.89	
PRE 16-86	10/15/86	1993	R96106-0050	1N1W 6 5	PRE 14-86, 15-86	34.1	
PRE 6-87	7/14/87	1961	R96108-0020	1N1W 8 2	LD 19-87, PRE 7-87	19.11	LD 33-89, PRE 1&2-90
PRE 7-87	7/14/87		R96108-0440	1N1W 8 44	LD 19-87, PRE 6-87	20.39	LD 33-89, PRE 1&2-90
PRE 12-87	9/16/86	1987	R05350-3480				
PRE 8-88	8/19/88	1988	R94435-0880	1N4E35 88,		9.11	
PRE 13-88	1/9/89	1991	R97109-0100	2N1W 9 10		5.5	
PRE 7-89			R97106-0280	2N1W 6 28			No Action
PRE 14-89	9/14/89	1990	R99323-0350	1S3E23 900	LD 14-89, PRE 15-89	18.72	
PRE 15-89	9/14/89	1907	R99323-0070	1S3E23 35	LD 14-89, PRE 14-89	19.73	
PRE 23-89	11/6/89		R64970-2540	2N2W25 LOT1	LD 25-89, PLA 2-97	21.1	PRE 24&26-89
PRE 24-89	11/6/89		R64970-2560	2N2W25 LOT2	LD 25-89, PLA 2-97	28.44	PRE 23&25-89, dw not verified
PRE 25-89	11/6/89		R64970-2580	2N2W25 LOT3	LD 25-89, PLA 2-97	24	PRE 23&24-89
PRE 26-89	11/20/89		R64973-0140	2N2W36 LOT2	LD 26-89 PLA 16-95	20	PRE 27-89 (pre 8-93)
PRE 27-89	11/20/89		R64973-0130	2N2W36 LOT1	LD 26-89 PLA 16-95	20	PRE 26-89 (pre 7-93)
PRE 1-90	4/3/90		R64970-6380	1N1W 8 LOTA	LD 33-89, PRE 2-90	19.57	LD 19-87, PRE 6&7-87
PRE 2-90	4/3/90	1997	R64970-6400	1N1W 8 LOTB	LD 33-89, PRE 1-90		LD 19-87, PRE 6&7-87

## PRE Applications for Farm Management Plans in EFU, 1980-1993

PRE 26-90	12/10/90		R74970-6050	1N1W5 1	SEC 3-97	29.93	"Robinson"
PRE 4-91	5/20/91	1994	R94429-0050	1N4E29		96.69	City PDX confirmation
PRE 9-91	5/20/91		R97122-0020	2N1W22 2		13.62	
PRE 11-91	7/10/91	1993	R97122-0080	2N1W22 8		5	
PRE 8-92	3/10/92		R99407-0220	1S4E 7 22		17.45	
PRE 14-92	5/22/92	1992	R97102-0290	2N2W 2 29		27.55	3 tax lots=tract,
PRE 20-92	5/28/92	1993	R97105-0170	2N1W 5 17		4.56	
PRE 29-92	8/26/92	1994	R99417-0440	1S4E17 44		17.39	
PRE 33-92	10/7/92	1992	R94436-0040	1N4E36 4		29.2	
PRE 71-92	1/26/93	1994	R96116-0270	1N1W16 27		37.57	
PRE 7-93			R64973-0130	2N2W36 LOT1	PRE 26&27-89		not processed
PRE 8-93			R64973-0140	2N2W36 LOT2	PRE 26&27-89		not processed
PRE 11-93	9/23/93	1997	R99403-0030	1S4E 3 3		19.62	"Kirkham"
PRE 12-93				1N4E 32	LD 5-91, PLA 2-91		Denied tl2 of lot3, ptn1991-29
PRE 13-93	9/23/93		R99403-0030	1S4E 2 3			
PRE 14-93	9/27/93	1994	R94433-0150	1N4E33 15		5	
PRE 15-93				1N4E34 4			Denied, no lot of record
Totals	48	35				1015.99	

EFU Dwelling Approvals Not Implemented (August 14, 1980 through August 6, 1993)

Case #	Property Address	Property Owner	Owner Address	Acreage	Management Program
PRE 26-83	24637 NW Oak Island Road	Robert R. Geiger, et.al.	12385 SW Clara Ln, Lake Oswego, OR	26.17	Various field crops
PRE 7-87	14627 NW Germantown Road	Roy E. Van Raden	13821 Haileigh St., Westminster, CA	20.39	Christmas trees
PRE 23-89	13855 NW Skyline Blvd.	Western States Development	20285 NW Cornell Rd., Hillsboro, OR	20.6	Christmas trees
PRE 25-89	13855 NW Skyline Blvd.	Western States Development	20285 NW Cornell Rd., Hillsboro, OR	20.94	Christmas trees
PRE 26-89	12955 NW Skyline Blvd.	Western States Development	20285 NW Cornell Rd., Hillsboro, OR	20	Christmas trees
PRE 27-89	12955 NW Skyline Blvd.	Western States Development	20285 NW Cornell Rd., Hillsboro, OR	20	Christmas trees
PRE 2-90	14625 NW Germantown Road	Thomas J. Duncan	PO Box 10832, Portland, OR	19.57	Christmas trees & field crops
PRE 26-90	9430 NW Kaiser Road	David M. Herman	PO Box 25482, Portland, OR	28.9	Vineyard & pasture
PRE 13-93	37310 SE Howard Road	Margaret Warren	1935 SE O'Regan Road, Corbett, OR	31.31	Cow/Calf operation
				Total acreage =	207.88

**BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM BRIEFING  
STAFF REPORT SUPPLEMENT**

**To:** Board of County Commissioners

**From:** Planning Staff

**Today's Date:** February 17, 1998

**Requested**

**Placement Date:** February 19, 1998

**RE:** Public hearing on an ordinance amending the Exclusive Farm Use section of the Zoning Code to provide a two year expiration period for certain administrative approvals for single family dwellings. (Planning File C 6-97)

**I. Recommendation/ Action Requested:**

Recommend adoption of an ordinance that will amend the Exclusive Farm Use section of the Zoning Code to provide a two year expiration period for certain administrative approvals for single family dwellings.

**II. Background/ Analysis:**

The Board recently considered an appeal of a Significant Environmental Concern permit (Robinson) where the legality of the underlying farm management plan was questioned. The main issue raised involved the question of how long a farm management plan remains valid when the Zoning Code has no expiration date and the State rules have changed to eliminate farm management plans as a method of approving farm dwellings.

As a result the issues raised in the Robinson appeal, the Board directed staff to develop an ordinance amendment to clarify the status of old farm management plans and provide a method to evaluate substantial compliance with those plans when considering applications for building permits.

The Planning Commission considered this matter at two public hearings a developed language that provides the following:

- The property owner is provided a two year period to demonstrate substantial compliance with the approved farm management plan by a showing that at least two years of the farm management plan has been implemented;
- The property owner must apply for a building permit for the approved dwelling within two years of the effective date of the ordinance; and
- The owner must obtain a building permit within 180 days of the decision that the farm management plan has been implemented.

000011

- If a property owner does not, or can not, demonstrate substantial compliance with the approved farm management plan, the approval of that plan expires two years from the effective date of the ordinance

The Board considered this matter at a hearing on February 12, 1998 and directed staff to work with the representative of one of the property owners involved to generate revised language to cover concerns regarding the difficulty in obtaining building permits after land use approvals have been granted. Staff and County Counsel developed language that would:

- Provide a one year period in which to apply for a building permit after a determination of substantial compliance has been finalized;
- Provide an additional one year period after application for a building permit to obtain that permit; and
- Allow for a one-time extension of one year to obtain a building permit when the applicant is diligently attempting to obtain that permit.

These revisions were discussed and agreed upon over the telephone with Mr. Bachrach by the Planning Director. The revised ordinance was faxed to Mr. Bachrach on February 17, 1998 for any additional comment.

### **III. Financial Impact:**

No fiscal impact to the County has been identified. An ordinance provision that clarifies the status of farm management plans, will allow County resources to be utilized more efficiently and effectively in matters of higher priority.

### **IV. Legal Issues:**

The owner of six of the nine properties impacted by this ordinance revision has been represented by an attorney at previous hearings. That attorney has voiced concern regarding the proposal, but has not identified any legal issues.

### **V. Controversial Issues:**

- The County has informed individuals with approved farm management plans that those approvals have no expiration.
- In some cases, 180 days is not sufficient time to obtain all of the necessary approvals for a building permit.

### **VI. Link to Current County Policies:**

The Land Use Planning Section is actively participating in the Countywide quality improvement program RESULTS (Reaching Excellent Service Using Leadership and Team Strategies). The program is a response to the need for better, more cost-effective service. The goal is to provide our customers with excellent service based on the limited

resources available. For the Land Use Planning Section, this includes evaluating and amending the zoning code to clarify the status of decisions of the Planning Director, thus reducing future appeals.

**VII. Citizen Participation:**

Notice of the Planning Commission hearing on the proposed ordinance was published in the *Oregonian* newspaper. At the Planning Commission hearings persons testified in both support and opposition to the proposed code changes.

**VIII. Other Government Participation:**

None.

Multnomah County Board of Commissioners  
12-9-97

UNKNOWN MALE: The Multnomah County Commission is – comes to order. We'll be doing a quasi judicial land use public hearing this morning. I need to read some official, some official language as we start. This is a quasi judicial proceeding. Our duty is to apply the law, not revise it. At this hearing we sit as a tribunal, not law makers. The applicant is responsible for providing compliance with all applicable approval criteria. We must determine whether the applicant can carry out that burden. All parties are entitled to be present and rebut evidence and arguments. All parties are entitled to an impartial hearings board and this is the time for the board members to declare any of the following – a bias or pre-judgment of this case, potential or actual conflict of interest, ex parte contacts or site visits. Does any board member wish to disclose any of these? Does anyone at this hearing wish to challenge any member of the board on any of these grounds? Does anyone want to challenge the holding of this hearing on procedural grounds? Ok. The order of the presentation will be a staff presentation, hearings officer presentation, applicant presentation which I believe in this case is limited to 20 minutes, opponents, and applicant rebuttal if time is still remaining. Ok.

UNKNOWN FEMALE: I'll \_\_\_\_\_ the item so it is on the record.

SEC397 (?). \_\_\_\_\_ hearing, testimony limited to 20 minutes per side concerning the hearings officer decision regarding approval of a significant environmental concern permit in a wildlife habitat area for a single family dwelling on property located at 9430 N.W. Kaiser Road.

STAFF: Chuck \_\_\_\_\_, planning staff. I have a short synopsis of the case so far. This is a significant environmental concern permit, that was the nature of the original application which was administratively approved by staff. The significant environmental concern application process is to find whether a set of ordinances that require development of a property in a certain way are satisfied, so in that sense the SEC permit is not a permit to determine whether a use gets to be established or not. It is a permit to determine how use whether it was already right for the use established gets implemented on a piece of property. The appellant in the case raised issues that the administrative law concerning the validity of the old farm management plan which established the use to a dwelling on the property in the \_\_\_\_\_ land. Staff basically found that since there was no expiration date in the farm management plan which was approved back in 1990, that there was nothing in our code that directed staff to say or find that the farm management plan was no longer valid. The administrative decision was appealed to a hearings officer. The hearings officer's

decision basically concurs with the staff decision with the added provision that a determination still needed to be made and should be made in a separate process that a farm use existed on the property. That the property was currently employed for farm use, this is required by the statute in the administrative rules. And no determination has, up until this point, been made. Staff concurs with that decision and recommendation on the part of the hearings officer. The reason we concur with that is if you look in the staff report under Item 7 on the second page, we feel that when you read a closed reading of the ordinance requires that the farm management plan be approved in conjunction with an existing farm use that is conducted according to a farm management plan with certain elements and I reference that co-provision in the code \_\_\_\_\_ at the time at the bottom of that second page. If you want me to I can, there is an exhibit in here that has that ordinance. I can refer to that. This is consistent with the statutory provisions in effect at the time. Those are cited on the third page there and also the administrative rule in effect at that time. And so that is why we feel that it is appropriate to make a determination at some point in time that, you know, for the farm management plan is implemented to justify the dwelling. That is all I have.

Questions?

UNKNOWN MALE: The hearings officer decision does reference the county should make a determination that the land is currently employed for farm

COMMISSIONER SALTSMAN: Arnie, are you saying that if they were to, today, exempt this property and want to use it for a dwelling in conjunction with farm use, you said they couldn't do that. Does that mean you're believing that the property is not capable of meeting the income threshold requirements and things like that, that were required???

UNKNOWN MALE: The reason why it couldn't be done today is the income threshold is for prior years. Maybe in two years they could probably do it if they operate a farm and produce \$80,000 of gross income, yes, that would qualify it. That is the essential threshold for it. There are some other regulations that could probably be satisfied. The record doesn't show they are. There are things that can be done so it's not \_\_\_\_\_ for everything, it is a matter of the correct order under state law.

UNKNOWN FEMALE: I have someone that wants to testify as a public party to the proceeding.

UNKNOWN MALE: Thank you Mr. Chair.

UNKNOWN FEMALE: How much time did you want to give Mr....

UNKNOWN MALE: Three minutes.

JACK BACKRACK: I'm Jack Backrack. My address is on the record. I think you all know my connection. I'm not speaking on behalf of the appellant or the applicant here. My client, at the last Planning Commission meeting, when

this issue was discussed, they sent notice to everybody who owned these PRE permits, these old ones. Only two parties showed up. Another gentleman who had one and I was there on behalf of my client, we have five so we're talking about a limited universe of people and properties to deal with on this issue and there is one issue that I wanted to urge the county commission to address with clarity in it's decision. The first issue I'm not going to touch on is, are these PREs still valid and you've heard lots of sound legal reasons why it is contrary to Mr. Brachman's attempt to pass law differently. I'm going to assume and hope you will make a decision that the underlying permit is valid. The issue that I urge you to address with clarity is this question of implementation of a farm management plan before you can get your building permit. Well, let me first tell you how the county has treated that up until now. They have treated it as you do not have to implement your farm management plan in order to get a building permit. And the theory behind that is when you've got your farm management plan approved there is a feasibility test. You need to come in and demonstrate it would be feasible to support farming on this property in conjunction with dwelling. And if you could demonstrate it was feasible, you could go ahead and build your house. You weren't required to actually implement and I guess the theory was we just want to know somebody can farm this property, that your house does not preclude someone from farming, this piece could still be farmed. You don't necessarily

have to be that farmer but the property is being used in a way that doesn't preclude it – so called feasibility test. And for 8 years that is how the county interpreted and implemented these approvals and we have the same documentation on that for 8 years that you've been hearing about ad nauseam. People go into the counter and ask and people are writing letters asking...

END OF SIDE A

...and establishing an implementation requirement so that you don't just simply get your building permits, you have to get your building permits and show you're implementing your farm plan. And I'll be back in front of you probably at some point addressing those policy changes. What I am urging you to do in this decision today is to \_\_\_\_\_ clarity to the world that until you get your new policy decision, until the Planning Commission makes a recommendation, you act on it, that staff is directed to treat these things as they have been treating them for eight years. The permits are still good and it is a feasibility farm management plan. You just come in, as long as you're building the same location, because this application may have different issues because they are not building the same location. You'd put that aside. If what you said, eight years, the permits are good, you don't have to implement your farm management plan. So I am urging you so that it may be 60 days before you get your policy, it may be four months. In that period of time there's clarity to staff and the public which is, staff, treat

these things as you have treated them for eight years, until this board gives you the direction and that means the permits are good and you do not have to implement your farm management plan to get your building permit.

UNKNOWN MALE: Ok. Can you conclude that for us..

JACK BACKRACK: and in the context of clarity... speak for Ms. White, and I'm sure she'll make this...

Multiple speakers at once – inaudible...

UNKNOWN MALE: Excuse me. I am representing someone with five pieces of valuable property that has been denied an opportunity, I would request dispensation for one more minute to complete my thoughts. The issue that I tried to get you to make today is this property has implemented their farm management plan.

UNKNOWN MALE: I have no position on that. I am against clarifying that you give direction to staff that is not a necessary requirement if you haven't changed what was approved in 1990 and I'm urging you because if you don't make that ruling today we are going to have months more of chaos and uncertainty. So, I appreciate the extra time. I hope my request is clear and I hope you will be able to honor it. Thank you very much.

UNKNOWN MALE: Mr. Chair.

CHAIRMAN: Go ahead.

UNKNOWN MALE: Chris Foster, from records. \_\_\_\_\_ point that they did say that they can't make the \$80,000 test. And I \_\_\_\_\_ that. There are a multi-number of crops that can do that very easily. Pole berries, apples, \_\_\_\_\_, you know, vegetables, there is a number of things. The rule envisioned not, never composing that kind of a requirement or taking \_\_\_\_\_ no matter how big makes \$80,000. What they envisioned was aggregation, most of us want to know, are aggregations of lots of small parcels. For example, there is a guy on Sauvie Island who put together 3,000 acres, of which he only owns 600. That is what is envisioned by the rule of \$80,000. That parcel could do it anyway.

UNKNOWN FEMALE: Inaudible.

CHAIRMAN: At this point we will close the hearing. Does any party request a continuance to respond to evidence presented for the first time during the applicant's rebuttal? Ok. Does any party request a continuance to respond to evidence in support of the application presented for the first time at this hearing? Does anyone want to raise any objection to any aspect of this hearing? All parties will receive a copy of our written decision. Our decision may be applied to LUBA.

UNKNOWN MALE: Move to... inaudible

UNKNOWN FEMALE: I'd like to ask a question of Chuck Beasley, I assume he is still here. I can't see him. My question has to do with what's in our

ordinances currently in regards to the feasibility study as opposed to farm management plan and the requirement for implementation.

CHUCK BEASLEY: Thank you. It think that is a good question. I've included in the pack, a copy of the ordinance that was in effect at the time. So that, if you want to look at it, it is about half way through the packet. It is Exhibit C-2 as part of this \_\_\_\_\_.

UNKNOWN FEMALE: We've got page numbers.

CHUCK BEASLEY: Well, I didn't get page numbers. It is after the staff report which is Exhibit C-1.

UNKNOWN FEMALE: Ok. Why don't you read it while I'm looking.

CHUCK BEASLEY: Sure. The ordinance in effect at the time provided for a residence, customarily provided in conjunction with an existing use, a farm use as defined in the statute, subject to the following. It has got to be on a lot of records. If it is a mobile home it has to have certain features. It has to be demonstrated by the applicant that the dwelling is appropriate accessory and necessary for the realization of a farm management program. And the fifth element is that the existing farm use needs to be conducted according to a farm management plan that was a number of additional elements under the code.

UNKNOWN FEMALE: to me though, any existing ordinances suggest or apply or require that there be a certain period by which the order must implement

the plan or is it rather a feasibility, a more, is this land suitable for agricultural purpose. In other words, is there anything that we have in writing that is a part of our current code that suggests, implies or requires any of the things that we've heard in the testimony.

CHUCK BEASLEY: I think you've asked two questions when you ask the question that whether the farm management plan is a feasibility study and how, what the duration is.

UNKNOWN FEMALE: Actually no, I am not. Because I, because in my mind it is very clear about the duration. The question of duration is a non-issue for me. It is very clear to me. The question is that when we require an applicant to submit a farm management plan is the implication that he has, he or she, has a certain amount of time to implement that plan or is rather than that, a plan that says that in some future years this property will become a farm. Is there anything that we have in writing. This is a quasi judicial process not one in which we make the laws, I understand it. So what I have to go on in terms of what I intend to do in terms of a motion, it has to be based upon what we've got in our code. So that is why I am asking. What do we have in writing in our code that gives directions to the applicant that they need to implement the plan or that they just need a plan.

CHRIS BEASLEY: Ok. The current code replaces the code that we're working with today. We're not planning on approving farm management plans.

UNKNOWN FEMALE: But what we did in 1990 and in years following that. What was in our code?

CHRIS BEASLEY: I just read you what was in the code. What the code said was that the residents customarily provided in conjunction with an existing use as provided by defined in the statute, subject to being located on a lot of record, being a mobile home, certain standards, demonstration the dwelling is appropriate and necessary for accessory to realization of the farm management plan conducted according to a farm management plan. That is what the ordinance says. The staff in the past interpreted this farm management plan process for a prospective farm operation as being a feasibility test.

UNKNOWN FEMALE: So it is a feasibility...

CHRIS BEASLEY: I am not saying that. I am saying that in the past staff who implemented this ordinance this way but what we're saying now is that we think that the proper reading of the ordinance, in consideration with the statute in effect at the time, in the administrative rule in effect at the time, requires that a determination be made that the farm use exists. And what I will do is refer you to the easiest thing is the very last page in the packet. This is the Oregon Administrative Rule from 1986 that applied at the time. And it talked the loan is customarily provided in conjunction with farm use. If you go up to Subsection 4 about half way down it says that land is not in farm use unless the day to day

activities on the subject land are principally directed to the farm use of the land. The land would be principally used for residential purposes rather than for farm use. A proposed dwelling would not be customarily provided in conjunction with farm use and could only be approved as a non farm dwelling. At a minimum farm dwellings cannot be authorized before establishment of farm uses on the land. See Mateo v. Caulk County in 1984. So there, this farm management plan, farm management ordinance, pardon me, was implemented around 1980. As you can see, the farm management issues give rise to lots of conjecture and discussion and had by that time given rise to quite a bit of litigation and there had been a case, a series of cases decided on the issue of what farm management plans were intended to accomplish and what happened after these cases, to my understanding – wasn't here then, was that the department kept implementing these in the way they had, notwithstanding that there had been some case law that said you really have to do something in order to meet the currently employed provisions from the statute. So this is a change, but the law doesn't require Multnomah County if they go back and find that they have been interpreting something in a way that's maybe less correct and in another way to keep repeating the mistake. We don't have to do that. And there is a very reasonable solution, in my opinion, to this issue of what you have to do and that is adopt the hearings officer decision and come back and then later make a decision about

whether it's currently \_\_\_\_\_ or not. It's a little unwieldy because you've got to make another decision. But my opinion is that that's proper.

UNKNOWN FEMALE: Just a follow up. It would be easier I think if there was more specificity in the law so that, you know, we wouldn't have so much difficulty in trying to interpret what the intentions were or are now. It seems to me that if we, if you and the planning staff had some recommendations about requiring something that is more in greater detail than certainly than we have, that it should be another process and that we should tell all these applicants that that is our intentions and you know, apply the law accordingly. Rather than to back track and say this is what we meant, pardon us for not saying that. If you understand what I am saying. So I, at first I felt this, I was very uncomfortable about trying to apply the sorts of uses that we have in the handout that we'd been given this morning. But, I'm comfortable if \_\_\_\_\_ the motion that has been suggested by the hearings officer and the staff if that's the case. But I also want to say that if we do intend to become very specific in terms of the implementation of a farm management plan we should say so in a legal process and inform the applicants accordingly.

CHAIRMAN: Commissioner Soltz.



# MULTNOMAH COUNTY OREGON

OFFICE OF COUNTY COUNSEL  
1120 S.W. FIFTH AVENUE, SUITE 1530  
P.O. BOX 849  
PORTLAND, OREGON 97207-0849  
(503) 248-3138  
FAX 248-3377

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN, CHAIR  
DAN SALTZMAN  
GARY HANSEN  
TANYA COLLIER  
SHARRON KELLEY

*County  
1995 Counsel  
Memo*

COUNTY COUNSEL  
LAURENCE KRESSSEL  
CHIEF ASSISTANT  
JOHN L. DUBAY  
ASSISTANTS  
J. MICHAEL DOYLE  
SANDRA N. DUFFY  
KATIE GAETJENS  
GERALD H. ITKIN  
STEVEN J. NEMIROW  
HELLE ROE  
MATTHEW O. RYAN  
JACQUELINE A. WEBER

## MEMORANDUM

TO: R. Scott Pemble  
Planning Director (412)

FROM: John L. DuBay

DATE: August 11, 1995

SUBJECT: Building permit approvals

RECEIVED  
AUG 14 1995

Multnomah County  
Permits Section

You ask two questions concerning zoning clearance for residential building permits on land zoned EFU where farm management plans were approved prior to LCDC's adoption of OAR 660, Division 33.

That LCDC rule established new lot size standards for dwellings in conjunction with farm use. OAR 660-33-135(1). It became effective on August 7, 1993.

Before the rule became effective, and in compliance with the then existing code, the County approved several use permits for farm dwellings. The permits set no time limit to construct the approved dwellings.

You ask first if OAR 660-33-140 places a two year limit to place a dwelling on farm land under the use permits issued before the rule became effective. The answer is no.

This rule does require development action within two years after a final approval decision, but it applies only to discretionary decisions made after the rule became effective. Use permits issued before August 7, 1993, are not subject to OAR 660-33-140.

You next ask if the standards and conditions in the new rule must be applied to building permits for dwellings approved before the effective date of the rule. The answer is also no.

Scott Pemble  
August 11, 1995  
Page 2

This answer is based on the view that, in normal circumstances, no land use standards need be applied at the building permit stage when an underlying use permit authorizes the building.

This view was illustrated in Tuality Lands Coalition v. Washington County, 22 Or LUBA 319 (1991) where the county approved an application for a "Special Use Approval and Conceptual Development Review for an Asphalt Batch Plant." The decision noted that final approval would require approval of development plans reviewed through a Type I procedure. After the approval, the County changed the zone. The applicant submitted its Type I development application which showed compliance with the criteria in effect at the time of the first application. Staff approved this application without a hearing. The county also issued a building permit for the batch plant. Both the building permit and the development application were appealed to LUBA.

LUBA first held the building permit was not a reviewable land use decision. It said:

"The parties do not argue any land use standard is required to be applied for the county to issue a building permit for construction of the challenged batch plant, and we do not see that any such standards are applicable. As far as we can tell, all determinations concerning whether and under what circumstances the proposed batch plant is a permitted use are made during the county's development review processes, and not during the building permit processes. Consequently, the only determinations necessary for the county to make to issue a building permit are whether the applicant has certifications concerning septic approval and electrical and plumbing permits. These determinations do not involve application of the goals, comprehensive plan or land use regulations. We conclude the issuance of the building permit for the batch plant is not a land use decision subject to our review. ORS 197.015(10)(b)(a)."

LUBA came to a different conclusion with respect to the Type I approval. It held the county exercised factual and

legal judgment in applying ORS 215.428(3)<sup>1</sup> to determine what standards applied. Consequently it was reviewable.

LUBA next considered what criteria and standards applied to the Type I application. It said:

"ORS 215.428(3) requires the county to apply the standards in effect at the time a development application is first submitted, to that development application. However, there is nothing in ORS 215.428(3) which requires the county to apply the standards in effect at the time one application is submitted to a distinct and subsequent application. For purposes of ORS 215.428(3) then, the question is whether the second development application was a separate and distinct application from the application submitted in 1989." 22 Or LUBA at 319.

It found the Type I development application was a separate and distinct application as used in ORS 215.428(3). LUBA accepted the following arguments of petitioner on this point:

"In addition to separate application forms, the existence of a second application is confirmed by (1) the County's statement in its 1989 staff report and decision of the need for the applicant to file another 'application' to follow up on the [1989 development approval decision]; \* \* \* (2) [i]ntervenor['s] own characterization of the material it submitted in December 1990 as an 'application,' \* \* \* (3) the fact that two applications were subject to different review procedures (the first [development] application was assigned to be processed under a Type II process \* \* \*, while the second application was assigned to 'Procedure Type' I) \* \* \* (4) separate

---

<sup>1</sup> ORS 215.428(3) provides:

"If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted and the county has a comprehensive plan and land use regulations acknowledged under ORS 197.251, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted."

and different findings of fact and conclusions of law, \* \* \* and (5) each application led to a decision which was subject to a separate appeal process and period." 22 Or LUBA at 329.

LUBA concluded the Type I development application was an application subject to the standards and criteria in effect when the application was made.

LUBA later considered the application of ORS 227.178(3)<sup>2</sup> in Gage v. Portland, 24 Or LUBA 47 (1992). In Gage, the applicant applied for an amendment to a PUD approval after the code standards for a PUD had changed. LUBA noted the minor PUD amendment is subject to procedures and standards different from those governing initial applications for PUD approval. LUBA concluded the application for the minor amendment was a separate and distinct application subject to the standards then in effect.

The Tuality decision is significant because it illustrates the difference between a building permit authorized by a prior use permit and an application subject to the requirements of ORS 215.428(3). As LUBA noted, all determinations considering whether and under what circumstances a proposed use is a permitted use are made during the use permit process and not during the building permit process. Neither Tuality nor other case precedent have characterized building permits as separate and distinct applications subject to ORS 215.428(3).

In the circumstances under discussion here, the land use standards, including whether the dwelling is in conjunction with farm use, were all addressed in the original use permit application. The effect of ORS 215.428(3) is to freeze those original criteria for the development for which the application was made. Land use standards need not be addressed again at the building permit stage.

---

<sup>2</sup> ORS 227.178(3) applicable to cities is worded the same as ORS 215.428(3) applicable to counties.



# MULTNOMAH COUNTY OREGON

DEPARTMENT OF ENVIRONMENTAL SERVICES  
DIVISION OF PLANNING  
AND DEVELOPMENT  
2115 S.E. MORRISON STREET  
PORTLAND, OREGON 97214  
(503) 248-3043

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR OF THE BOARD  
DAN SALTZMAN • DISTRICT 1 COMMISSIONER  
GARY HANSEN • DISTRICT 2 COMMISSIONER  
TANYA COLLIER • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

August 26, 1993

Frank Walker and Associates  
13500 Monmouth Highway  
Monmouth, OR 97361

1993  
Letter

Re: PRE 7-93 and 8-93  
Western States Development Corp.

Dear Mr. Walker;

On July 30, 1993 you submitted two applications (PRE 7-93 and PRE 8-93) for dwellings in conjunction with a farm use for properties located at 12955 and 12989 NW Skyline Blvd. Similar applications and farm management plans were submitted and approved on these two properties in 1989 (PRE 26-89 and PRE 27-89). The 1989 approvals have not expired. Therefore it was not necessary to submit new applications.

PRE 7-93 and PRE 8-93 will not be processed. Refund of the application fees will be forwarded under separate cover. If you have any questions, feel free to call me at 248-3043.

Sincerely,

*Sandy Mathewson*

Sandy Mathewson  
Planner

cc: Western States Development Corp.