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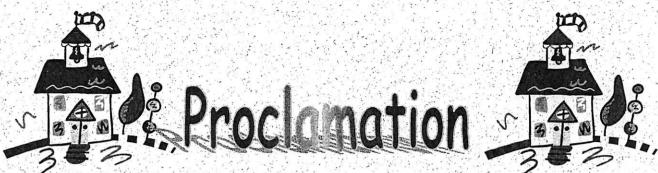
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CC-Council Chambers FH-Fire Hall Printed on 10/7/2004 8:32 AM

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WHEREAS, schools make substantial contributions to the future of America and to the development of our nation's young people as knowledgeable, responsible and productive citizens; and

WHEREAS, excellence in education is dependent on safe, secure and peaceful school settings; and

WHEREAS, the safety and well-being of many students, teachers and school staff are unnecessarily jeopardized by crime and violence, such as substance abuse, gangs, bullying, poor discipline, vandalism and absenteeism in our schools; and

WHEREAS, it is the responsibility of all citizens to enhance the learning experiences of young people by helping to ensure fair and effective discipline, promote good citizenship, and generally make schools safe and secure; and

WHEREAS, all leaders especially those in education, law enforcement, government and business should eagerly collaborate with each other and the National School Safety Center to focus public attention on school safety and identify, develop and promote innovative answers to these critical issues; and

WHEREAS, the observance of America's Safe Schools Week will substantially promote efforts to provide all our nation's schools with positive and safe learning climates:

NOW, THEREFORE, I, Rick Dentino, President of the Common Council of the City of Brookings, do hereby proclaim October 17 - 23, 2004, as

# AMERICA'S SAFE SCHOOL WEEK

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Brookings to be affixed this 11th day of October, 2004.

Rick Dentino

Brookings Common Council President

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Pool Summary 20	04	Pool Summary 20	003
Individual Swims	\$5,353.00	Individual Swims	\$5,614.11
Passes	\$5,223.40	Passes	\$6,005.00
Lessons	\$15,499.20	Lessons	\$15,445.00
Rentals	\$475.00	Rentals	\$577.00
	\$26,550.60		\$27,641.11
Attendance			
Public Swim	3,525		4,011
Lessons	588		613
Lap Swim	1,424		1,660
Rentals	9		11

TO:

Mayor and City Council

FROM:

off Planning Director

THROUGH:

Leroy Blodgett, City Manager

DATE:

October 6, 2004

Issue:

Borax Master Plan, continued hearing.

**Background:** 

At the September 13, 2004 hearing for the Borax Master Plan the hearing was closed but the record was left open for seven days to allow for additional written testimony. We have received additional testimony and written rebuttal to that material from the applicant. These materials are attached to this memo in the order received. The material from the applicant contained additional suggested conditions of approval to be considered.

This packet contains the materials submitted after the September 13 hearing. You have already received the materials submitted at the hearing and your packet from the September 13 hearing contains all of the material submitted prior to that hearing and is not included in this packet.

Recommendation:

The Planning Commission recommended approval of the Master Plan with

additional conditions, which were in your original packet.

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\A.	DITTEN TECTIMONICA		
	RITTEN TESTIMONY AL	TER CC MEETING (rec'd within the	e 7 day time period)
DD	September 20, 2004	Craig Tuss, Field Supervisor for U.S.Dept. of Interior – Fish & Wildlife Service	4 page letter
EE	9-20-04	Diana & Peter Chasar	3 page letter and exhibit 1- Goal 8 and exh.2 A and B- Oregon Water Resources data
FF	9-20-04	Yvonne Maitland Citizens for Orderly Development	2 page letter
GG	9-20-04	Ron Wimberly P. O. Box 3000F Harbor	27 page
HH	9-20-04	Catherine Wiley 96370 Duley Creek Brookings	1 page letter
il	9-20-04	Wayne & Jo Frostad 15422 Southwind West Brookings, OR 97415	1 page letter
\A/mi	Hon Doonana af IIO D		
VVII	tien Response of US Bor	ax reps to opposition written respor	ise - received 9-27-04
JJ	9-27-04	Timothy Ramis	2 page letter
KK	11	U.S. Borax, no signature	19 pages
LL	11	Western Advocates-Marty Stiven	1 page
MM	C)	OTAK-Bob Vaught	5 page + 2 page attachment from HGE, Ind July 6, 2004
NN	88	Raedeke Associates, Inc., Christopher Wright	5 pages
00	11	Scott Mansur, DKS Associates Transportation solutions	5 page letter + Exhibit A
		Transportation solutions	5 page letter + Exhibit



# United States Department of the Interior

# FISH AND WILDLIFE SERVICE

Roseburg Field Office 2900 NW Stewart Parkway Roseburg, Oregon 97470

Phone: (541) 957-3474 FAX: (541)957-3475

FAXED COPY

SXHIBIT DD

received

September 20, 2004

Reply To: 8330.04402(04)

Filename: Public\_Hearing\_Response\_9-15-04.doc

TS #: 04-3371

Log #: 1-15-04-TA-440

Linda Barker

Secretary to the City Council

**Brookings Department of Public Services** 

898 Elk Drive

Brookings, Oregon 97415

Subject:

Borax Master Plan Public Hearing, Brookings City Council, September 13, 2004;

Response to Rebuttal by Project Proponent to Service Testimony

Dear Ms. Barker:

The U.S. Fish and Wildlife Service (Service) is providing a letter to clarify testimony presented at the public hearing before the Brookings City Council of September 13, 2004, pertaining to the proposed approval of a Master Plan for Development (MPD) covering property owned by U.S. Borax Corporation (File No. MPD-1-04).

We also want to emphasize whenever possible, the Service attempts to provide project proponents with resource information, concerns and recommendations early in the planning process. It is often easier to resolve conflicts between sensitive resources and development prior to project plans being finalized.

#### **Service Position**

At the present time, we cannot take a position on the adoption of the MPD. Due the preliminary nature of the design presented, the need of information from the ongoing studies and the need to development specific design criteria for the proposed project, we continue to offer technical assistance in the form of information and suggestions meant to address natural resource issues and our trust species responsibilities.

Need for more information and future permit process

We have previously provided our concerns (in letters to John Bischoff dated July 29, August 3, and September 7, 2004) the MPD does not provide the necessary information (e.g., detailed surveys for western lily (Lilium occidentale) (lily) on the site; hydrologic analysis, etc.) to

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determine adequate setbacks for development from sensitive resources, and therefore the carrying capacity of the property with respect to number of units and other development. The setback distance from wetlands is central to whether the development goal for the MPD (i.e., maximum of 1,000 units) is feasible. We continue to offer our help in determining adequate wetland buffer size.

During the consultant's rebuttal at the September 13 meeting, information was provided to imply that since "take" is not defined under the Endangered Species Act (16 U.S. C. 1531 et seq.), as amended (1973) (Act) for plants existing on private property, the only legal requirement with respect to lily for the proposed development of the Borax property is that the action cannot jeopardize the continued existence of the species, as defined in the Act. In developing the MPD, the consultant delineated what they believe to be all habitats occupied by the plant, and have avoided those areas in the plan of development; they contend they have fulfilled all legally mandated responsibilities.

- First, the consultant admittedly has not conducted detailed surveys for the lily on the property, and therefore cannot be assured that the specific areas proposed for development do not contain the lily. The proponent does indicate that there is flexibility in the actual location of units within the development pods, such that if the lily is discovered during preparation of the Detailed Development Plans (DDP), the construction footprint can be adjusted to avoid impacts. However, this does not address the principle issue of whether there is available land space, regardless of the specific building locations, necessary to meet the residential unit MPD goal.
- Secondly, even assuming the current proposed open space areas in the MPD include all lilies present on the property, there is little reason to expect these areas will accommodate the full range of habitat attributes necessary to maintain the lily. A multitude of factors must be taken into account in determining essential habitat for any species, similar to the process the Service uses in determining critical habitat for listed species (referred to as primary constituent elements, or PCEs). For example, the footprint of the population may indicate the bare minimum space and soil requirements for the species. However, many other habitat factors may be just as essential as space and soils requirements to maintain the species. These may include, among others: adequate watershed area; adequate surrounding habitat to support pollinator species, adequate habitat area to allow necessary management of the species habitat (e.g., fire, grazing); habitat corridors necessary to maintain genetic communication and other types of connectivity; adequate habitat to counter edge effects, and so on. The MPD presented no rationale for how the delineated areas reserved for the lily were derived, and based on the present information; we believe they do not take into account important factors necessary to maintain viability of the lily population.
- With respect to the role the Service will play in future permitting of this project, where a
  federal nexus exists, such as issuance of a Clean Water Act Section 404 permit, the
  Service will coordinate with the U.S. Army Corps of Engineers (Corps) in several ways.

First, under the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.), we will provide input and recommendations regarding measures necessary to conserve wetlands. In this case, several of the wetlands located onsite exhibit very high biological diversity and high functional values. Special protective measures may be warranted for those resources beyond that typically incorporated in development projects. The Corps can choose to incorporate those measures as conditions to the Section 404 permit. Moreover, the Service may recommend against permit issuance.

In addition, under Section 7(a) 2 of the Act, the Corps is expected to consult with the Service where listed species may be impacted by the project. In this case, we anticipate the Corps to initiate formal consultation with the Service based on the potential for significant impacts on the federally endangered lily. Based on information contained in a biological assessment to be submitted by the project proponent, the Service will issue a biological opinion. The consultant correctly stated that the Act does not define take of federally-listed plants on private property, so long as the removal or destruction of plants is associated with otherwise lawful activities. The biological opinion will determine whether the action jeopardizes the continued existence of the species. Factors that will be used in deriving the biological opinion include the significance of the affected population to the overall species, and the anticipated effects of the proposed project on the affected population, taking into account effects on all aspects of the essential habitat and the long term viability of the population. The Borax population appears to be is essential to recovery of the species. In a situation where a jeopardy exists, a permit cannot be issued unless subject to an exemption.

Outside of its obligations with respect to the Service, the Corps is obligated under Section 7(a)1 of the Act to further the conservation of listed species. As a result, separate from the consultation process, the Corps may attach conditions to the permit designed to protect the lily and its habitat, thus contributing to the recovery of the species.

# Design of infrastructure

During the August 13, 2004 public hearing, the Brookings Planning Commission deliberated several issues key to the final design of the proposed project; these include road width, the installation of curbs and gutters in association with project roads and minimum lot sizes. These issues are central to the projects ability to accommodate the need for design flexibility in addressing both the MPD goal of up to 1,000 units and the desire to avoid and minimize wetland and lily impacts. We also understand the sensitive nature of allowing variations in infrastructure design and zoning regulations. We further understand the reluctance to set a precedent for future development projects.

However, in this particular case, we would support some flexibility in consideration of minimum lot size, road design (widths and inclusion of gutters and curbs) and inclusion of swales as part of the project design options. These design options could provide the needed flexibility to accommodate appropriate wetland buffers, storm-water management, maintenance of appropriate hydrologic patterns and arrangement of housing unit pods.

Thank you for this opportunity to clarify some of the issues rose during the hearing. The Service looks forward to working closely with the project proponent to ensure the conservation of these important resources.

Sincerely,

Craig A. Tuss Field Supervisor

Ciais A Russ

Chris Wright, Raedeke Associates, WA (e)
Burton Weast, Western Advocates, West Linn, OR (e)
Teena Monical, Army Corps of Engineers, Eugene, OR (e)
Lisa Grudzinski, Army Corps of Engineers, Coos Bay, OR (e)
Yvonne Vallette, Environmental Protection Agency, Portland, OR (e)
Bob Lobdell, Oregon Division of State Lands, Salem, OR (e)
Todd Confer, Oregon Department of Fish and Wildlife, Gold Beach, OR (e)
Robert Meinke, Oregon Department of Agriculture, Salem, OR (e)
John Raasch, Oregon Department of Transportation, Roseburg, OR (e)
Ken Phippen, NOAA-Fisheries, Roseburg, OR (e)
Fred Seavey, USFWS-Newport, Newport, OR (e)
David Imper, USFWS-Arcata, Arcata, CA (e)
Andy Robinson, USFWS-OFWO, Portland, OR (e)

Office Files, USFWS-OFWO, Portland, OR (e)

# DIANA & PETER CHASAR

935 Marina Heights Road, Brookings, OR 97415 • 541 469-2377 • pjc@chasar.com

September 20, 2004

**Brookings City Council** CITY OF BROOKINGS 898 Elk Drive Brookings, OR 97415



EXHIBIT EE

Dear Mayor Hagbom & Council Members:

RE: MPD-1-04 (additional testimony)

## GOAL I CITIZEN INVOLVEMENT

In his closing comments during the City Council hearing of September 13, Mr. Ramis, legal council for US Borax, strongly implied if not stated that additional testimony could be submitted only by those who requested it, in this case, myself and David Imper of US Fish & Wildlife. This is incorrect according to ORS 197.763(6) which states:

"(c) If the hearings authority leaves the record open for additional written evidence, arguments or testimony, the record shall be left open for at least seven days. Any participant may file a written request with the local government for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the hearings authority shall reopen the record pursuant to subsection (7) of this section."

Clearly, nothing in this section authorizes a local government to limit an open record period to specified persons. Any person who previously testified is permitted to provide additional testimony.

# **GOAL 8 DESTINATION RESORTS**

During the previous City Council hearing dealing with this application, as well as on several other ocassions, Mr. Weast has stated that US Borax created this MPoD because its original plans for a destination resort would not be allowed under Oregon planning rules. This is not an accurate statement.

Generally, as long as a property is located more than 24 miles from a UGB with population of 100,000 or more, it can be developed as a destination resort. In other words, US Borax could (if it chose to) build a destination resort today within the Brookings UGB. (See Exhibit 1 regarding Goal 8)

In fact, now that the US Borax property is within the Brookings UGB, there are far fewer restrictions on what can be built on it than when it was not within the UGB.

So the inference that Mr. Weast wants everyone to make — that this MPoD is the firm's only

option — can and should be disregarded. The decision to make this a master planned community rather than a resort project was not mandated by the state. It was a US Borax decision.

Like the often-mentioned "donation" of 10 acres for a college campus, Mr. Weast's comments about a destination resort should not be considered a relevant argument to approve this application.

# ADDITIONAL TESTIMONY RELATING TO GOAL 11

In my written testimony of September 13, I stated "...there's no evidence to indicate that the proposed on-site water system will be adequate."

Here is more detailed information to support that conclusion:

- According to the applicant's own Technical Appendix, the project will have average daily water demand at build-out of 420,000 gallons per day (GPD).
- According to current Oregon Water Resources well log data (Exhibit 2), on-site wells will provide only 295,000 GPD (205 gallons per minute X 1440).

That leaves of shortfall of 125,000 GPD, which will have to be provided by the City of Brookings water system. And there's no assurance that the on-site wells will continue to produce at their current flows year in and year out.

In earlier public hearings to gain annexation and then master plan zoning, the applicant assured the city and concerned citizens that the property's on-site water system would be more than adequate to meet the needs of the project, that it would even produce surplus water for the Brookings water system.

That is obviously not the case and strongly suggests that 1,000 housing units, retail stores and a college campus are too intense a level of development for this site.

# **DEFICIENCIES IN AMENDED CONDITIONS OF APPROVAL**

There is a lack of specificity and other deficiencies in some of the amended Conditions of Approval that need to be corrected.

- Condition of Approval 6 is not sufficient to ensure compliance with Goal 5, Plan Goal 5 Policy 1, Plan Goal 5 Implementation 4, BDC 70.070 OR BDC 70.010.
- Condition of Approval 15 does not impose any time frame for connection, and so is not sufficient to ensure compliance with Plan Goal 14 Urbanization Policy 9(e). The MPoD narrative states that connection will occur at some unspecified time in the future; thus the evidence in the record establishes that Plan Goal 14 Urbanization Policy 9(e) will not be complied with.
- Condition of Approval 25 is not adequate to ensure compliance with Goal 5, Plan Goal 5 Policy 1, Plan Goal 5 Implementation 4, or Plan Goal 6 Policy 1.

# TESTIMONY OF "GOAL ONE," OREGON SHORES CONSERVATION COALITION, CFOD

On September 13, along with my own written testimony, I submitted 31 pages prepared by Goal One Coalition on behalf of Oregon Shores Conservation Coalition and Citizens for Orderly Development.

As on September 13, I assert that the testimony written by Goal One, along with the many other issues that have been raised, casts serious doubt on the soundness of this MPoD. I strongly urge you to carefully review that 31-page testimony. If you do, I believe that you too will conclude that this MPoD should be denied.

Sincerely

Pete Chasar

attachments

# Oregon's Statewide Planning Goals & Guidelines

# **GOAL 8: RECREATIONAL NEEDS**

## OAR 660-015-0000(8)

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

#### RECREATION PLANNING

The requirements for meeting such needs, now and in the future, shall be planned for by governmental agencies having responsibility for recreation areas, facilities and opportunities: (1) in coordination with private enterprise; (2) in appropriate proportions; and (3) in such quantity, quality and locations as is consistent with the availability of the resources to meet such requirements. State and federal agency recreation plans shall be coordinated with local and regional recreational needs and plans.

#### **DESTINATION RESORT SITING**

Comprehensive plans may provide for the siting of destination resorts on rural lands subject to the provisions of the Goal and without a Goal 2 exception to Goals 3, 4, 11, or 14.

## **Eligible Areas**

(1) Destination resorts allowed under the provisions of this goal shall be sited on lands mapped as eligible by the affected county. A map adopted by a county shall not allow destination resorts approved under the provisions of this

goal to be sited in any of the following areas:

- (a) Within 24 air miles of an urban growth boundary with an existing population of 100,000 or more unless residential uses are limited to those necessary for the staff and management of the resort:
- (b) On a site with 50 or more contiguous acres of unique or prime farm land identified and mapped by the Soil Conservation Service; or within three miles of farm land within a High Value Crop Area except that small destination resorts shall not be closer to a high value crop area than one-half mile for each 25 units of overnight lodging or fraction thereof.
- (c) On predominantly Cubic Foot Site Class 1 or 2 forest lands as determined by the State Forestry Department, which are not subject to an approved goal exception;
- (d) In the Columbia River Gorge National Scenic Area as defined by the Columbia River Gorge National Scenic Act, P.L. 99-663:
- (e) Especially sensitive big game habitat as generally mapped by the Oregon Department of Fish and Wildlife in July 1984 and as further refined through development of comprehensive plans implementing this requirement.

Consistent with (a)-(e) above, small resorts may be allowed in the following areas:

# **GRID Query Results**

Township: 40S, Range: 14W, Section: 15,23

																	Con	struct	ion Ty	<b>/ре</b>				W	ell Use	3		
Well Log	T-R-S/ QQ-Q	Taxtot	Street of Well	Owner	Company	Well Type	First Water	Completed Depth	Static Water Level	Yield	Completed Date	Received Date	Bonded Constructor	Startcard	Well Id#	New	Abandon	Deepen	Recond.	Repair	Conversion	Domestic	Irrigation	Community	Livestock	Industrial	Injection	Thermal
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CURR 545	40.03-14.0W-15 NE-NW			PRICE, R W		w	38.0	48.0	4.0	4.0	01/22/1974	01/25/1974	SHANNON, ROBT O			x						×						
CURR 15	40.08-14.0W-15 NE-NE	102000000		BRUEGGEMAN, LEO		w	0.0	0.0	0.0		08/30/1990	09/10/1990	BARRINGTON, RONALD L	20206			х											
CURR 50690	40.09-14.0W-15 SE-NE	705	CAPE FERRELO RD, BROOKINGS	PORIOR, DON		w	35.0	52.0	32.0	3.5	05/09/2000	10/11/2000	MILLER II, W CLIFFORD ARTESIAN WELL DRILLING CO	128217	37733	x						×						
CURR 50954	40.08-14.0W-23 SW-SW	2400	LONE RANCH HWY 101, BROOKINGS		U S BORAX INC.	3		128.6	1/.0	50.0	03/12/2003	04/11/2003	MCINNIS, GREG GEO-TECH EXPLORATIONS	154769	38360				×	x		×						
CURR 14	40.08-14.0W-15 NE-NE	102000000		BRUEGGEMAN, LEO		w	160.0	200.0	160.0		08/31/1990	09/10/1990	BARRINGTON, RONALD L	20206		x						x				$\prod$		
<b>388</b>	40.08-14.0W-15 NE-NW	705	95640 CAPE FERRELO	STOKES, DAVID		w	119.0	140.0	23.0	10.0	06/20/2002	07/01/2002	MEYER, GLEN L G L MEYER WELL DRILLING	142530	49591	x						×						
CURR 50775	40.08-14.0W-23 NW-NE	2403	HWY 101, BROOKINGS; LONE RANCH		U S BORAX INC.	<b>)</b> ~	160.0	180.0	33.0	111.0	09/03/2001	09/08/2001	MEYER, GLEN L G L MEYER WELL DRILLING	142512	38359	x						×						
CURR 1372	40.08-14.0W-15 -SE	700	CAPE FERRELO RD	ARMSTRONG, MELISSA		w	0.0	0.0	0.0			03/25/1992	QUINN, BOB	23759			х					×						

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Well Log	T-R-S/ QQ-Q	Taxdot	Street of Well	Owner	Company	Well Type	First Water	Completed Depth	Static Water Level	Yield	Completed Date	Received Date	Bonded Constructor	Startcard	Well Id#	New	Abandon	Deepen	Recond.	Repair	Conversion	Domestic	trrigation	Community	Livestock	Industrial	Injection	Therma
CURR 1375	40.08-14.0W-15 -NE	700	CAPE FERELLO RD, BROOKINGS	COSTA, LORNA		w	25.0	75.0	16.0	15.0	03/17/ 1992	03/25/1992	QUINN, BOB	34072		×						x						
CURR 1854	40.0S-14.0W-15 -NE	101		BAYLOCK, ALVIN		w	280.0	320.0	310.0	0.5	08/03/ 1993	08/11/1993	MEYER, GLEN L	56848		х						х						
CURR 50884	40.08-14,0W-16 NW-NE	708	95672 HOUSE ROCK RD	CARSON, TOM	CARSON,	w	118.0	140.0	22.0	20.0	09/15/ 2000	09/26/2000	MEYER, GLEN L G L MEYER WELL DRILLING	127013	38347	×						×						
CURR 50778	40.08-14.0W-15 NW-NE	2400	HWY 101, BROOKINGS; LONE RANCH		U S BORAX INC.	<u>پر</u>	119.0	180.0	38.0	44.0	09/04/ 2001	09/06/2001	MEYER, GLEN L G L MEYER WELL DRILLING	142514	38360	x						×						
CURR 542	40.08-14.0W-16	802	95672 HOUSE ROCK RD	SOLBACK, MR CHARLES	SOLBACK, MRS CHARLES	w	32.0	42.0	26.0	8.0	04/16/ 1988	05/17/1988	MCCOY, HUGH C			×						x						
CURR 59875	40.08-14.0W-15 NE-NW	1 1	95840 CAPE FERRELO		HARGROVE CONSTRUCTION	w	98.0	120.0	25.0	15.0	06/14/ 2002	06/19/2002	MEYER, GLEN L G L MEYER WELL DRILLING	142529	49590	×						×						
CURR 543	40.08-14.0W-15	704		KESSLER, MR KURT	KESSLER, MRS KURT	w	24.0	34.0		2.0	12/12/ 1987	12/30/1987	мссоу, нивн с			×	×					×						
2URR 143	40.08-14.0W-15 -			JONES, ROBERT		w	97.0	120.0	67.0	7.0	04/18/ 1991	05/20/1991	MEYER, G L	30364	30523	×						х						
CURR 50260 (no Image)	40.09-14.0W-16 NW-SW	703		GRIFFITH, SANDRA	PO BOX AM	w									4934													
CURR 50336	40.08-14.0W-15 NE-NW	900	18812 MOTBRETIA W	GULICK, HARRY L	GULICK, PATRICIA A	w	154.0	180.0	<b>65.0</b>	9.0	06/18/ 1998	07/07/1998	MEYER, GLEN L G L MEYER WELL DRILLING	106872	19643	x						x						

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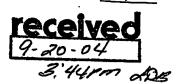
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EXHIBIT FF

# CITIZENS FOR ORDERLY DEVELOPMENT

PO Box 7102, Brookings, OR 97415 \* 541 412 - 1200



September 20, 2004

Project: Lone Ranch RAI #2003-014-003 Borax Master Plan.

Mayor Hagbom and members of Brookings City Council:

In accordance with the continuance granted at the September 13<sup>th</sup> 2004 hearing CFOD would like to point out that prior to developing a Master Plan as required... property owners shall enter into a collaborative process with the city and county to establish development goals and formalize, by written agreement, procedural and financial considerations for developing and carrying out the Master Plan.

Following annexation, the Borax property was to be Master Planned in accordance with the terms of the Joint Management Agreement. How have the financial considerations been developed and achieved between the city and Borax? And why has the financial report not been made available at the hearings?

On-site Cost Estimates for Installation of Services were provided but did not include the cost of upgrading the waste water treatment facility or water transmission lines, or any shared costs with the City of Brookings.

The \$5 million figure presented by the applicant at the Planning Commission hearing was to provide water at and to the site. In light of the fact that Borax has no water rights, have the water/well issues been misrepresented, not only to the Planning Commission but to the entire community? It is important to keep in mind that in the Public Facilities Plan, the cost of providing water north of the Chetco River has been estimated at \$30.8 million.

The Preliminary Utilities Engineering Report prepared by OTAK, Inc. February 28, 2002, for the Lone Ranch Annexation Development states, The use of existing wells and construction of additional wells will allow the Lone Ranch Development to minimize and potentially avoid any additional demands on the City of Brookings' existing water system dependent on the Chetco River. A more detailed analysis will be needed...

Two years later, it appears Borax, Inc. has done nothing more, not even applied for water rights.

The analysis completed by Otak, indicates that the reservoirs contemplated by the PFP and the proposed wells can provide adequate water supply to serve the Property at buildout. The owner or developer will bear all costs associated with the construction of the on-site water system to serve the development.

Finding... A new water source from the development of the property was considered as one of two key benefits to the city. A new, fully improved water system serving the Property. Is Borax going to be held accountable and provide a water system? Or will the city pay these additional costs?

This is just one of several issues that should be examined and resolved before approving the project.

Respectfully submitted,

Yvonne Maitland President, CFOD I SITE ORS 197.763(6)

FROMS RON Wimberly EXHIBIT FO. BOX 3000 F
HARBOR, ORE, 97415 GE Page (1) To: Brokings City Council HARBOR, ORE.
Ref: U.S. Borox Master Plan Approval hearing follow up due Sept. 4:00 PM. I wish ito point out to the Council and Mayo some history you will never know the details about if I don't make them known to you. The time from the heart concept to the present bedroom community reveals only that the human faces of Corporate structures change and agreements made from Intent-to-Goal will be broken. The City of Brookings like Borax is a Corporation and Corporations put their voting heads together to rote into law and taxation for future generations structures that individuals would not common senoce or morally wise. Corporations as formerly known fave only one purpose- to make the most profit for Their share holders-and pursuit of that Goal will be best for America in the long run. In this (are should it not be Corporations spuld have more than one purpose. They also owe something to their workers and the communities in which they operate, and they

communities in which they operate and they spuld sometimes excribite some profit for the sake of making things better for the communities and Environment

Toga 2 When the Port of Brookings was dug 2 Salmon stelland streams were blocked at - In 1970-71 when Dot Martin Bridge was built un 101 relocation rewideing Another Streams habitat from / but Side and was culverted under weigh scale garden ones Youth Bank Kood exit - Macklyn/Mill Greek is all but gone and today 24/7 corpes whatever Kensom (neck has no Ocean access for fich. Harris Crock is blocked at main fork on outflow side of Huy, 101 and beyond the Confluence of the two (seek forks fich no longer live init. Shigh (seek has an ald (ity Garbage dump weeping whatever upstream mean ald 101 junction Tow we have laylor (reek and Lone (reek with fish passage blocked by past Kighway construction. I don't believe anyone of you councilors have the right its vote on the Borax Moster Plan until you read the following Submitted - I wrote this up in 199/ by request from Jack (olvin to plead the case to ODOT AND Borax Company Thank you for Kimberly

ORS 197.763(6) states:

"(c) If the hearings authority leaves the record open for additional written evidence, arguments or testimony, the record shall be left open for at least seven days. Any participant may file a written request with the local government for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the hearings authority shall reopen the record pursuant to subsection (7) of this section."

Clearly, nothing in this section authorizes a local government to limit an open record period to specified persons. Any person who previously testified is permitted to provide additional testimony.

# 40 years in the Naturalada of S. Coastal Oregons

This paper is written and presented as a fournal of experiences from memory of one who grew up in the Vatersheds of Southern loastal Curry County. This area one of the last to be harvested in modern Times for its Timber resource. The area watersheds remained 70 per cent Hirgin Katersheds until about the mid 1960's.
The area had a small population of thite man and an extremely

The area had a small population of thite man and an extremely healthy population of Ald Crowth Doug Fir, thite Fir, Sitha Sprice, Hemlock, Tun Cak, Sparse groves of coastal feducod and Myrtle wood Trees.

In the latter 1950's the Notice Patural Files of Chinock, Silver Salmon, Steelhead, fainbow; Cuthroat Troit were overwhelming in numbers.

the children a/2 dozen of my piers were wandering renegades who knew the land and the water around us. Entire Coastal Streams were still covered with Kirgin Ald Growth Forests. These forests were alive with wonder everywhere. Ones imagination, intuition and inspiration was alive with awe and Spirit in our tens and teen years throughout this pristine area. In Harris creek just morth of Brookings our land had one of our summer campagnounds. If good stream for fishing and a hock formation in the Creek that was a waterfull waterslike with a six foot deep 30 foot long pool at its base. It but my 13th lithday civilization came; the trees disapeared. Mud rock and rubble flowed into the pool eliminating the swimming hole and changing our lives. Each of us was now growing up to be some part of resource extraction and our former native style of play and wonder would soon be gone around us.

This person grew up playing and working in the Katersheds of Southern Curry Gunty Ore and Del Porte Gunty Calif.

My father in the latter 1950's o former horticulture professor; then a nurseryman plandscaper acquired and operated the first construction designed rubber tired backhoe and 2 earthmovers In Curry-Del Morte area. Earliest memories being at grandparents farm playing in the Kinchuck fiver ( Native formican meaning Kindy River). In the summers as small croppe to the river dried up we were taught by our aunt to catch the doomed Salmonoid balyo with homemade hand note and corry Them to the river to begin their lifes journey He would make little dama in the Creeks; catch Trout and Salmon fingerlings, moving them to these Temporary deepend pools. The enjoyed feeding and watching them for hours while laying along the Greek banks. The explored every stream feeding the Mother fiver . Each had its own unique signature é voice. The voice was freedom é joy. The color was purity. Spring=rebirth and bird chips, summer= soft é relaxed, fall = cool é busy, Kinter = roared to prepare for all the fish babies to be born. Ke built our shelters, we cut our Trails and secret pathways. Every face of the fiver we climbed to the crest. Ten homes and fences along the Livers way allow freedom to wander & explore seemingly without end. Being a boy wandercome & uncivilized I went to work with my father at age six. The summer of 1958 we landscaped and grassed the County Courthouse lawns Irelands fustic lodge and Gold Beach high school baseball and football fields I remember raking every pebble over 2" diameter from the soil (as we were Taught To pay attention to detail. - The summer of 1959 my father hired his backhoe out to excavate for the contractors constructing the present U.S. 101 highway (Cold Beach to Brookings). I was allowed to go to work with him a couple days a week.

I helped frehologist feel Burreman who exploratory excavated she Tolowa speaking Pateve American lands coastal campagrounds at Jone fanch & thaleshead creek confluences to facifica Ocean. Part of the Time I rode with State Highway commissioner, engineer Dot Martin and part of the Time rode with inspector fevery. Then the cement culvert structure was being constructed at Lone land creek & told ferry (The fish won't be able to get back up the creek from the Olean because the constructed culverts outfall impediment of 30 feet will stop the fishes return.) I was told (the engineers know what their doing). Inside myself I couldn't understand of I knew it was wrong. But who was I s just a kil who asked to many questions. Erowing up fishing every foot of the Kinchuck and observing the occulptioning of the deep natural bedrock pools through out The rivers course. In particuliar how the waters currents moved from the top of the socia to the lower end potting how the fish lay still in the backuster counter currents of the design of each pool unique and inspiring to look upon By age 12 I was welding and repairing cutting edges on mass excavation ground engagement machines (Caterpillians & Backloes). I had by then helped my father install many water cistrens in many water cistrens in m. I along fiveres for private, municipal and gout. use. Many diverse projecte we undertook as seemingly good modern civilization encroached on nature. By age 13, I was operating a backloe for hire and spent non-school time, weekends, vacation and summer Time excavating mostly roadway culvert installations and stream bank alterations (mostly) channelization) from the coastal Klamath fiver south to the Roque Liver Porth. I worked in most of the Katershede throughout Owing the heavy rain years of the 1960's the winter spring rains brought mud in the streams and watersheds so Turgid and thick as clam chowder. If the soils were red

( Human blood couldn't him eclipsed the crimson water). - The largest road creator hands down was the U.S. Forestiderwice My experience with other installing drainage culverts, always with metal culverts whereas many mon fout roads and access used logs and brush to let water underflow road bed temporary However to many roads were constructed and stream crossing culverte undersized schrough out the U.S. F.S. Lomain shot never should have been Add heavy long fainfalls and I have been on many locations when one road courge culverted stream crossing culvert would plug up & the whole road bed stream crossing fell would slide out down the creek bed to The next descending road crossing and watched it blow out and soon all the way to the river below. I can remember the peak of the rain seasons mid-latter 1960's being able to get out of school to greate a backhoe when my forther was overcome with water exposure as there was no operator canopy or cabon earliest machines The job was to go as fast as you could digging debrie, silt, rock slides from the culvert inlete constantly plugging on main roads. From daylight to dark and many dark houle wain In the summer we would be all through the U.S.F.S. road system. cleaning culvert inlets and installing grated inlet covere and many new drainage road fed fills and culvette where old road beds blew out closing the roads. I have been dopens of road fills lost where 25,000-50,000 -250,000 yards of mountains slide into the rivers below. Rebuilding one culveit lay (lost fill) involved attaching a D8 Cat winch cable building 1/8 diameter to the front of a backhoe and other being lowered down a caved off close 100 feet over the edge and 300 feet vertical suspended above the Cheto river and very confully digging a culvert lay up the cliff so we could reattack o new lower and culvert to an existing culvert protruding from the

road fill that remained. The slide into the river was 100 to 150 Thoward yards for the river to digest. This slide was located between smake tooth road-chetco river road and little The most horrifying memory was the death slide the U.S. F.S. gave the Kinchuck! fiver about 1963-64. (The Making of a mutated fiver) In the latter 19 50's with the construction of the Mt. Emily road from the South and East side began the degradation of the Kinchuck watershed. Accessed from the South bank thetes river road. The main road was constructed mainly with blasting and bulldoyers side casting boulders, rubble trock soils and debris over the road surface bank coming to rest hundreds of feet to several Thousand feet down the Vertical mountain slope into the Tributagles and headwaters of Theeler freek and drainage of the Finduck river. Then a road was constructed alongide, down through over Kheeler creek connecting the Chetop road system to the Kinchuck by the way of private access from the Kindruck side by the The Fheeler creek ran much for Tor 8 years after the roads construction. The unique yellow orangeish Mt. Emily rock began showing up down the entire upper river system being seen in all the former bedrock pooled holes. The mutation was pappenings about the year 1962-63 the U.S.F.S. sold for- Tmillion board feet of Jouglas Fir on the forth side of Elk Mountain. Concurrently during the summer the U.S.F.S. determined to widen and reconstruct the road from the Kinchuck park campground to 4th of tuly creek beyond the ludlum house. The port side of Elk mountain faced vertical shear down to the Kinchuck down river from Suffum house The entire steep slope was being clear cut immeadately above the river course with the exception of a small buffer strip of trees. The road along the river to the fullum house u.a.o. n. oummer

low water crossing requiring a vechicle to cross the river twice where the river course made an 180 degree to - Turn around the Toe of the Mouth side of Elk Me of this point. - The U.S. F.S. had only one natural crossing often. That was span the river with 2 concrete siered bridges at an estimat However wheir plans soon changed when the head Engineers from Grante lass office showed up. Their plans were so brillian in just a few days of logic at work they paved the people by throwing reasoning out the door and letting logic in They goted to cut a road at the Toe of the port side Elk Mt. and the river forg cost of 35,00,00 logical dollars. - Leland Lettegraw was a local road surveyor and a U.S. F.S. employee in the Chetco district who fought with the Grants tage engineers

mot to construct a road by cutting the toe out of the Mr. Telling

them the Mt. would slide. - My brother operated backhoe installing the culvette when the noad bed was constructed and from my heart this was how it was?

That winter the under cut whole North side of the Mt. collaged - Into the fiver My uncle who lived at mile post 6.5 was at his house looking into the river and he told in (the river receded from flood stage to high oummer Time level in just a few minutes. Then about 15 minutes later all hell come down the river Trees whole and a raft of cut old growth loss followed with audicable rock boulders banging on the bedrock bottom fale river carry The next day my uncle took us upriver to the slide. The hor and shock wood of Far and carnage. You could see the two immediate giant pooled hope in the river were completely tilled up and jamed with Trees, brush, boulders, much The scene and what it brought could never be erased from my mind. Silence was upon us like a passage of a loved or revered one at a funeral burial. And in doed it was the don'the

beautiful mother of life giving. to we looked upon the scene of gran suburban truck drove up. Out steped foton Moularkey the local fish game biologist. He quickly gandered an eyeful, climbed in his rig and drove away. NOTHING WAS EVER SAID, NO RESPONSIBILITY CLAIMED NO RESTORATION (EXCUSE ME) The U.S.F.S. went down wheeler creek and facten logs to the stream bottom on top of the gravel and rubble where -These structures; something Land old timer naturalists have never seen before in nature. The U.S. F.S. had media blitge to promote these structures as logs and wood that once filled the stream beds in our areas watershads. I say ite (bull shit) for an mature there was an ocassional log with its roots up in the forest wedged along the river bank. Otherwise logs in the water end up on the leach during winter storms of may jam in a carryon area where huge rock structures will wedge them in Kery few and for between. I have never forgotten the eyent and remember to an exacting graphic Artists detail how the river changed and how the hotina pools, the artwork of the ages now buried under the abstract artwork of our culture. The water has become warmer in the summer Time as the Stream depth decreased to a minimum, as the water mow runs in the gravel and a little, above. Om the river residential development sprang up in the early 1970's to present. In particuliar about the 1.5, 3, 6.1, 7 mile post These greas are immeadately on or above the river plain formerly partureland where cowo skitted and pissed in the fige. The Kinchuck drainage in well shaded with massive confer cangey and has relatively a small river plain area which kept the water coleringly col in the summer Time unless you swam when the sunshine was direct on the water before the Elk me slide, before the heavy river plain recidential development when the cows proud in the river It was rare to lind

algae bloom above the Tidal Estuary. On cassion diring hot full summer days a few river courses would

develop some algae blooms.
The slide took the deep pooling away from the river by the year 1970 it took on the appearance of a channelized one continous riffle through out the water course. Thereas the once deep pools kept the water cool and provided much room for fish. The water in the river where you once swam and it was cool the degree you went. You you only wade in the same former pool areas and its warm.
The flood plain real estate development, has increased a continual

multiment being introduced by humans. The Slide @ fual Estate and roinfall that decreased in half of normal between 1968 and 1993. Year 1991 & saw the algae bloom so profusely and die out everywhere through out the river course before Lune 15th. Another words the phosphates and phosphurus and effluent is out of balance for the rivers pooling area. When the algae blooms and dies like this throughout the river course it takes a large portion of the oxygen and the waters food chain dies and then fish die.

he now have made another mutated river.

(Back to my journal)

- By age 16 all mobile heavy equipment for logging and road building

were Toys for me to slay with.

In high school teachers Tom McKenzie and Bruce Kitters formed an adronamous fisheries club which 12 students joined to was made aware to us fisheries habitat was changing and disappearing with mans engress into and harvesting of the Kateraheda. These teachers wanted us to have a physical, heartful scientific experience.

Years 1968-69, 69-10 65,000 Chinook and silver salmon, Stielhead and Trout eggs were hatched each year in our High School Science Laboratory-make shift hatchery. During the Spring of 1969 we due waring ponds on Tom McKenzies ranch where club members took Turns feeding and

caring for the babies through out the oummer. In the fall are fish and wildlife clipped the fisher fine for identification and released them in the Chetco river. - Some of the salmon (facks) began returning in 1972 as their clipped line identified them to fish and wildlife personal. It was an awecome 10,000 words of joy experience with nature which grounded a direction of life to endealor forward on At 17 year 1970 I was inducted into the 701 operating engineers as my fathers backhoe was leave to the contractor constructing U.S. 101 highway, improvement from Brookings to Kinchuck river south. My main work was to sioneer execuate and lay water drainage culverta length of job. During this year I engineered and built my first water impondment for Trout and wildlife watershed enhancement on a Tributary of In summer of 72 & went forth to Kashington State to construct Interstate Is -205 Interchange to totaland One by pass. Fork involved drain the Ketlando, swampa and tube the drainage incide the Highway eacement. The project superintendent Jake Kegoner was appointed boos man the dist spread for Heyaska company to build the Haska sixeline. I was offered by him to oversee the sioneering from fock site to build the bed for the sipe and road bed access. - The job opportunity was an honor at my age, but it wasn't for me. I missed the forests and the streams and wanted to plant new foresto. In 73 whenever I could I worked in porthern Calif for fedurad Chapping contractor who fell the Giante for a living. Everything related to this job upo experience, guto, logic and numbers. Leaboning had moplace on the job. The thill was being at onement with a Kigh Horse power 1969 D8H Caterpilliar Stroight bladed Kinch afixed, extra heightened track groupers. The ultimate DB mans job to manipulate around the mountain sided dense Old Growth forest building perfectly constructed level beds with 7 fort to 10 fort pillows of mounded dirt for the Giant fedured trees to be eased down on when cut. There beds had to be

perfectly level at horizon level or above in order to keep the girthy The from breaking or blowing upon impact. The first big Tree Aconstructed a led for and parkedabout 50 feet above the direction in which It was falling. When it fell and impacted a wind storm (Its last break), blew past and the smell and debrie engulfed me. An exhibarating experience from the passage of life to death. However you shrug of the thought Every Tree in the units were fell as the rumor had it the then Calif. Green movement wasn't going to stop these trees from My personal shoughts about the satisfaction accomplished was (Man over Matter) only. It taught me my future forestry direction would be suitainable thinning practices only. I don't like economic forestry practices. However this country runs on property rights and I respect the owners rights to choice. I have seen many watershed drainages on State, Cout, and private lands which presently flow 10 to 30' feet above there pre modern engrees activities for civilizations surpose or need. Roads were built up and along the stream beds and the Torn up algaes slide into the stream fottome raising the once pooled natural stream beds filling them with debits that has grown over with trees and vegetated over along the new formed stream beds. In 1974 & began a tall thee sustainable reforestry company, Contracting for 5 private landowners and buying some logged over land in The goal has been to referent all lands worked on while maintaining a forest canopy. This thought at my outset was in direct opposition to U.S.F.S. and large Timber concerno practicing economic forestry. This was a profession, a job non existent here then. There ups mo economic quick gain. (Its a struggle-Its life) However the idea, riston, thoughts - Thinking about Thinking always ison 13 The edge-understanding coming forth (Creativity) hourts?

make this attempt at reforestation work and make it affordable as the ways of commerce and business with area timberland owners was (powsineration) Philosophy. Buy cheap-sell hig and spend little for reforestation - "Let it reforest itself" - I will input 2 Timberland operators that put maximum effort into economic type reforestation practices in the M. Calif, S, Cre, area be south Coast of mbs. and Simpson Timber. The U.S. F.S in 1974 had already been refruiting their clearcuits since the early-mid 1960's. at the time they were cutting large acreage of rolumous old growth conflex. Their after logging site preparation was 100% City slash and burn everything. There reason for burning was to get sid of the volumous woody delris remains from harvesting. Mego years of humus soil building burns up with the fire. There as sustainable thinning harvesting leaves debris to compost or small amounts to beurn. Then burned units clear cut are replanted and the conifer seedlings are planted they become the only source of food when rodente, deir, Elk wander into the areas to eat for several years being The only greenery to eat. The lands we reforested were logged over generally clear cut in the latter 1950's. he weeded out by Thinning and partial culting. In some areas clearing densee brush and natural reforested alder and tanoak. Huayo small areas of clearing and leaving buffer strips for moisture barriers and partial shading for new confer seedlings. This leaves natural habitat for wildlife to live in sat and raise their young. In my experience these practices result in less confer seedling broilve. I must note however's my entire experience of 2600 + on- acrea reforested ranges from South of Gold Beach Ore. To the Calif. border and Inland 6 miles only. Rainforest area. We planted and replanted the areas up to 3 years until sufficent numbers

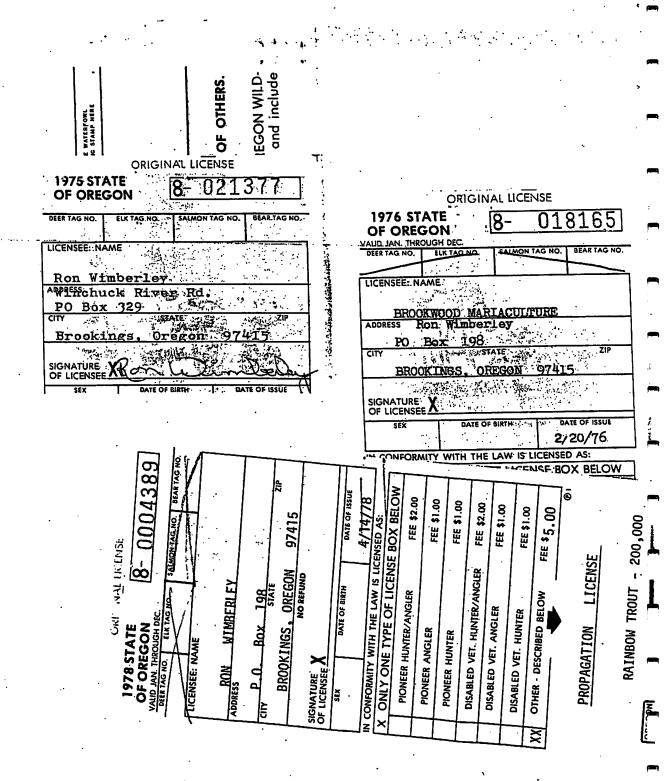
of Tries are growing. To of seedlings planted +02-2,250,000 from 1974 to present. Today earliest planted trees are 50+ feet tall

- In 1975 I built a small backyard Trout Latchery located up the Kinchuck river. I would receive the Trout eggs, hatch them in a darken Koodshed converted into a series of wooden raceways.

- After the Trout were eating given feed they were moved outside

- In the late spring various pond owners would buy them and

- To date I had constructed 10 ponds in area. The ponds were not constructed primarily for trout rearing. They serve for Waterfowl and Kildlife use and benifit.



- I have had the opportunity Tout down and discuss tatershed. and figherie habitat with U.S.F.S. district Chetco ranger Mike Frazier and Their area biologist Angle Dillingham. In brief my repeated question to them was and is to anyone concerned. Thy do you persist in Artificial attempts at stream restoration In this area? - Mr. Francero answers were The U.S. F.S. doesn't know how to reconstruct matural stream pooling and characteristics. The U.S.F.S. doesn't have The money and recoulded to implement ouch work" Mro. Dillinghamo feelings to me were " Te have to do the most good for The most people " She gave me a gout publication to review about building artificial structures to aid fish passages. I attended a ficherier summitt in foundale calif April 3/993 in which 65% of the attendies were goit semployees and the balance majority were collège trained fisheries consultants. A publication played up by many platform speakers was read a book tittled ( Adopt a Stream of the facific Porthwest) - I extract their description of streams of the Pacific Porthwest as an excellent research of Katershede that were already mobiled when They did their discovery and research. The goot publication given to me to read by U.S.F.S fisheries biologist Angie Dillingham (New Concepto In fish ladder Design) Part 1) The introduction starte out : "Artificial destruction has made lakes and rivers as barren as deserts " ... The book goes on the path of present artificial this and that and evolves into new and better artificial fixes that work for them & guess. Is artificial what we want? On is it what we get for Living in illusion always writting and improving upon artificial

- President Clinton at the Posthwest fisheries summit decreid to restore the Fatersheds of the Pacific Porthwest in Syears. Apparently he is using the Phite House dictionary to define Restoration I believe wheir definition says To return To former condition by wing the House paper to "Thite Kash" in Thought and words best no deed" How is this possible with ominous obiquities occuring through - 1/2 Fish - no Habitat Low water or mounter in Latersheds - Killer Algae blooms - State and EPA sanctioned sewage effluent relacein Rivers - Part 15 years are so of further impacting the rubble gravel, silted, debrie ladden Katersheds with logs and stumps to create artificial fish Kabitat - Coastal Tributaries fish impediments created by Kighway construction that have extended solmonoids for many decodes Our Fedral and state govtes created three agencies more Then 100 years ago to probent resource depletion and degradation. U.S. Forest Service State fish and game deptes Over 100 years has past and we are on the daylight of reaping the flowering of the ominous obiquities. Maybe shrowing head knowledge-logic out of leadership and putting track record authorative heart knowledge

reasoning (non-Political correctness) to work will

be a proper move.

The government agencies have used their power law making logic trained authoratorian degreed elected people to write papers of support and educate the unknowing and unexperienced to present conditions.

four law makers presently pass new law without sanctioning matural Kattrohed deep pooling in the restoration laws you will be decreeing an illusionary bod act. The "Civilizing of the mediator of all earthly life (Kater)."

To Explain & Most of us people here live in 8 fost floor to ceiling dwellings. If all of our dwellings were filled up with 7 feet of gravel, rock and debried—then throw in a stump and maybe o log—then live in it you and many aren't going to do well. Some of us are going to mutate and many period.

Mutation will occur plain and simple.

The last few years I have questioned local mative citizens old and young, my piers and every crosscut varying groups, politicians and professionals and I have found very rare the individual who knows how a stream was before whitemans engress into the latersheds. And meanly extinct the serson who can explain or draw (how it was) to an exacting artists detail.

- But better I ask you lawmakers sanction an "Eco Kiedom" artist with experience and the will to succeed in restoring a few coastal tributaries as I have presented in she artwork given freely to you.

- let heart knowledge persuade you let nature teach you be of she land

- please font decree rules upon (Mother tates) other then she shall be free to give forth life as before thitemans engress.

> Sincerly: En Kimberly

> > 1.0. Box 3000F Harbor, Cre. 97415

Kaher Before Khilemans Time? Kaher/Kater before Khitemana Time is presented as a creative ocience tool to take objective minds back to the Pacific Northwest before Their presence. Before the Monarche, futhoratarian Scientific community debated and the Church decreed stripping spirit from matter and The aftermath effect it has had upon Kestern Civilizatione colonizing of America and its influence upon the Earth

Kaher before Khitemana time

Earth was without light and Kaher covered The land. The Kord spoke and light of the sun was Turned Towards Earth. Kaher so pure merging with light caused a physical presence of spirit unbound rising vapor up to comic ever thanking the Kord for light given. The Mysteries of light merging upon Earth was fructifying life forma. The Kord speaking to Reality (The God of all forces) That the unceasing vapor praise and vegetation was drying up waher from the Earth causing land and see life to ever migrate to wakers shored. To continue the praise and conserve waher Eith was wrapped in a bubble. Kapor praise arose to heaven condensing to blessing showering down greening the land refreshing Eith.

22

In the tailing of this event appeared Rainbows spanning Earth and sky. The mothers wrapped little known children of the land, air and sea in silver rainbow implicitness that this union be covenanted between Comic and Earth seen on the Rainbow ones who wear the colors of Mysterys essence.

The 4 winds arose from the sea forming thate Cloud their harmony who spoke "how happy and full of green glory carthmother had become since light had revealed her spirit filled sister taker. Selfless and virtuous hosting the coomic thru the earth in all her being."

It return tord spoke "oh fertile Earth be as the sands of the seashore in lifeforms of land, water and sky.

Yaher intermediacy of change whose purity cannot

be seen or held. you are what life is to be. Searound Earth and be one to ever provide moisture for her thirst. For thy ever giving and ceaseless praise from your source many virtuous daughters are born to flow and nurture life spreading the good news from the temple Throne of life (ever to flow as long, as far as the four winds blow). Therever they play meandering down thru the mountains hardrock or across bedrock never to slow for their forthers forces masterfully carved their deep pooled courses That Purity should flow wherever morality abounds Ech pool a Sculptured Temple - a Global Chamber. Incoming are Piffles where Spirit enlivens purity and stire the forces that

enlaid gold and silver under the floors in bedrock seams and ever sculptoring round ward flowing polishing marbled walls with quarty sollings. The forces place each free sphere of rock in their courses sifting sitt from sand and pulsing each chambers rhythmic heartbeat To massage laid eggs and breathe life thru the reeds prepared for the Salmon Silver. When the babys awaken by smell they learn the Kealth, the inheritance underlying The floor of their birth chamber that latter They shall return exact to lay thousands of Silver They gleaned from Their lifes journey. In their deep pooled chambers the light reveals realitys artuork of generations. In owe they observe and listen that Kindom should lustre and glissen in each their scales fainlow silver

Cariam, Om sheir lifes journey Telling all who see "silver we shine" we are from our mothers. Temples. Our Painbow skin is covenant we wear. (Our Inheritance) we swim in water pure to Tell the future Exthe denigens that they whom will overcome the pative paturals do know each to observe the art of the forces that impulse nature To cover firma with intrinsic indegene that no inhabitants desire to seperate spirit ; Matter + Man & Indegene. Respect and Responsibility of Earths coverings that clothe her body in delicate life. so green. Earth to filter, leaves to oxygenate and straw to sweep clean accepting oxides and converting them that flesh can breather Skies of clarity, Mountains of Ore, Kills of Traes. Hell downward flowing to valleys of gathering as offering to Eithe purifying portale for the life

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Catherine J. Wiley 96370 Duley Creek Road Brookings, OR. 97415

received 9-20-04

2:36 dos 9/20/04

To: Brookings City Council
= 898 Elk Drive Dookings OR, 97415

Additional testimony for continuance.

During testimony to the Council on July 14,2003, Marty Stiven (Borax representative) stipulated a requested clarification regarding removal and/or addition of plants or trees. The stipulation was to identify and protect trees over eight inches in diameter and plants (or trees) three feet above the ground. Based on this request and the Council's concurrance, no old growth trees should be allowed to be removed. It is requested - that the Council stipulate this as a condition of the MPOD, in compliance with Goal 5.

It is also requested that the great Blue Heron rockery be potested in compliance with gothers. Qual 5.

Youl 5. finally, in consideration of the request for one-thousand (4000) dwellings on the Borax proposal, it is requested that the Council request proof that there is any minimum number required by the State, as purported in Mr. Weast's testimony.

Mank for Cacherine Skilly

EXHIBIT

18 September 2004

Brookings City Council 898 Elk Drive Brookings, OR 97415



We are writing this letter in support of the Borax Project. We have great respect and love for the Oregon coast; we were born and grew up in the Coos Bay area. We have had a business in Brookings since 1970 until retirement in 2001 and have had a home here since 1984. The Borax Company, which has owned the acreage north of Brookings for 100 years, has shown its commitment to our area over time by donating land for the highway, Lone Ranch Beach Park, and part of Samuel Boardman Park. Now they have spent hundreds of thousands of dollars studying, planning, and consulting on this project in order to make it a splendid addition to our area. Brookings is a vibrant growing community and people are moving here for the same reasons we all did. We can't stop them, but we can plan to make development as good as it can be. Certainly Borax has done its homework and intends to create a development that we can be proud of and will be an asset to our area. SWOCC has worked and waited for years for the opportunity to expand into a larger facility to accommodate the growing educational needs of our community. The Borax Project and SWOCC will fit well together; the college cannot afford to develop the infrastructure alone. We are looking forward to purchasing one of the building sites!

Sincerely,

Wayne and Jo Frostad

15422 Southwind West

Brookings, Oregon 97415

469-4950 or 944-7202

to the interest of the present participate to the participate.

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RAMIS CREW CORRIGAN & BACHRACH, LLP

Attorneys At Law

1727 NW Hoyt Street Portland, Oregon 97209 Telephone: (503) 222-4402 Fax: (503) 243-2944 www.rccb.com

September 24, 2004

COMMUNITY OFFICIALISM

City Council
City of Brookings
898 Elk Drive
Brookings, OR 97415

Re: Response of U.S. Borax to Comments in Opposition to Lone Ranch Master Plan

Dear Council Members:

On behalf of U.S. Borax and its consultants, I thank the Council for the attention it has given to the Lone Ranch Master Plan of Development (MPoD) application. I know that the Council has seriously considered all testimony and argument that have been presented. I also thank the City staff who have worked on this time-consuming and complicated application.

In this letter, I address a few of the more important conceptual issues to provide a framework for considering the issues and suggest two additional conditions of approval. Responses to specific arguments are detailed in the enclosed "U.S. Borax's Responses to Comments, September 20, 2004." With this letter I am also providing additional comments from Chris Wright of Raedeke Associates (soil and wetland scientist and certified wetland delineator); Bob Vaught of Otak (licensed professional engineer); and Scott Mansur of DKS Associates (licensed professional traffic engineer), who address issues within the scope of their expertise. I note that the opponents have not offered any expert testimony to counter the extensive expert testimony in support of the application.

Most importantly, the application before the Council is an application for approval of a master plan. Under the City's code, the Master Plan approval by itself does not allow any development. No development may proceed unless there is a further land use proceeding to approve a Detailed Development Plan. BDC 70.020 ("Prior to construction of any phase, a Detailed Development Plan (DDP) must be approved.") The Master Plan is a concept and must be evaluated as a concept, not as a development approval.

Because the MPoD is not a detailed development plan and does not directly authorize development, arguments and comments that seek to impose standards and criteria related to

City Council September 24, 2004 Page 2

actual development are premature. Calls for studies that cannot be performed until there are detailed development plans are likewise premature.

Furthermore, because the City has an acknowledged Comprehensive Plan and Development Code, the MPoD application is subject to the Plan and Code, and the statewide land use planning goals do not apply directly. ORS 197.175(2)(d). Any issues relating to goal compliance are restricted to compliance with the Comprehensive Plan goals. The provision in the Comprehensive Plan requiring post acknowledgment plan amendment procedures to be followed for an MPoD is a procedural requirement only and does not make the MPoD a plan amendment subject to direct applications for the statewide land use planning goals.

Many of the comments have been directed to the availability of public infrastructure, including water, sewer, storm sewer and transportation. The applicable standard is whether the "proposed MPoD will demonstrate that adequate utilities and infrastructure are available or can be reasonably be made available at each phase." BDC 70.070C (emphasis added). This standard only requires a demonstration that the provision of utilities and infrastructure is feasible. It does not require that the utilities and infrastructure be in place or be planned in detail. Final engineering of utility plans will occur, as contemplated by BDC 70.070C, prior to the submittal of each DDP.

I suggest three additional conditions, two related to transportation and the other to drainage to clarify what is expected as this project moves into the DDP process. The recommended additional conditions related to transportation are:

If any Detailed Development Plan will result in development that is projected to exceed the 1036 total master plan PM peak hour trips or the 839 net new PM peak hour trips as identified in the *Lone Ranch Transportation Impact Study*, taking into account traffic generated in previous phases, an additional transportation impact study will be required to be submitted with the DDP application and the DDP may be approved only if consistent with the Transportation System Plan.

To assure that the mobility standards are met at the intersection of Highway 101/Carpenterville Road, no Detailed Development Plan (DDP) should be approved that would exceed the acceptable ODOT mobility standards for Highway 101/Carpenterville Road intersection until the City of Brookings TSP is amended to identify/recommend improvements or a change to standards and the Lone Ranch development and pays a proportionate share to these improvements. Analysis at Highway 101/Carpenterville Road should be conducted to determine the level of impact for each DDP until the City of Brookings Transportation System Plan is amended to include the necessary improvements.

City Council September 24, 2004 Page 3

The recommended additional condition related to drainage is:

A hydrologic study shall be provided with each DDP, and any such study must be provided to federal and state agencies responsible for wetlands and endangered species protection. The City will review the hydrologic study to determine compliance with applicable standards relating to storm drainage.

Thank you for the opportunity to comment. I hope that this letter and the enclosed information is useful to the Council in its deliberations.

Very truly yours,

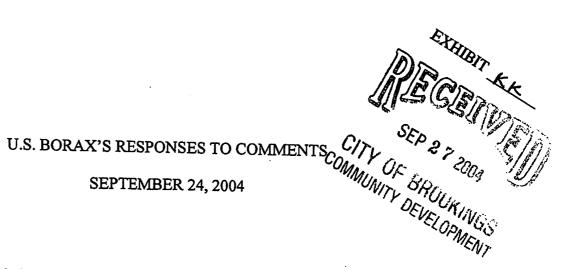
Timothy V. Ramis

nisty V. Kernin

TVR/GFF tvr/borax/brookings/CouncilLt1

cc: Dennis Boyle
Burton Weast
Christopher Raedeke
Bob Vaught

Scott Mansur



#### **General Comments**

The application being considered by the Council is an application for approval of a Master Plan of Development. It is subject to the standards applicable to MPoDs, which are mostly set out in BDC 70.070. Consistency with applicable Comprehensive Plan provisions must also be considered. However, because the City's Comprehensive Plan and Development Code have been acknowledged to be in compliance with the statewide land use planning goals, the statewide goals are not directly applicable. ORS 197.175(2)(d).

The MPoD is only one step towards development approval and is not the final step. No development may take place until a Detailed Development Plan (DDP) for a particular phase of development is submitted and approved. BDC 70.020. The evaluation at this stage is therefore confined to the plan, which is a conceptual plan. Because further approvals of specific development plans are needed before development takes place, the review if of the plan concept and is not a review of development.

The future DDP applications will include an updated statement regarding the timing, responsibilities and assurances for all public and private improvements. BDC 70.140B. The DDP applications must also address compatibility with adjacent land uses and consistency with the TSP. *Id.* These requirements assure that the DDP process will provide a meaningful review of development.

A set of proposed conditions of approval has been prepared. Some of those conditions of approval have been developed to assure compliance with applicable standards and criteria. Other conditions have been volunteered by the applicant, even though not required to assure compliance. The evaluation in the DDP approval process of consistency of the proposed development with the MPoD will evaluate consistency with the MPoD, as conditioned. No DDP will be approved if it is not consistent with the conditions of approval.

The standard for approval relating to public facilities is whether the "proposed MPoD will demonstrate that adequate utilities and infrastructure are available or can be reasonably be made available at each phase." BDC 70.070C (emphasis added). This requires only a determination that adequate utilities can reasonably be made available. It does not require specific plans, just a determination of feasibility. The DDP application for each phase will be required to provide more detailed information regarding the adequacy of utilities and infrastructure and engineered plans for any utilities or infrastructure to be provided with the development.

Some comments have been made that the proposed development standards (e.g. building height) are alternative development standards that replace existing development regulations. The

current zoning of the project is MPD. In the MPD zone, there are no existing development regulations that govern building height, lot size or similar standards. The requirement to demonstrate that alternative standards "equally or better meet the purpose of the existing regulations" applies only when the proposed standards "supersede corresponding development regulations or standards otherwise applicable to the project area through existing regulations." BDC 70.020. No height or lot size standards apply to the MPD zone or are generally applicable in all zones. Therefore those standards proposed are not "alternative standards" that must be supported by a demonstration that they equally or better meet the purpose of existing regulations.

The purpose of the existing road standards is to provide a safe and adequate transportation system. Limited deviations from road standards are proposed to limit impacts on natural resources, and possibly other resources. However, those deviations do not make the system unsafe or inadequate. They equally meet the purpose of existing road standards and provide important protection for the natural resources, justifying the adjustment. Furthermore, each use of an adjusted standard will have to be justified, and the existing standards will be used when not needed to limit in the impact on resources.

# **Responses to Specific Comments**

Responses to Comments of Goal One Coalition dated September 13, 2004

### Introductory Issues

Goal One Coalition argues that review of an MPoD application must follow the procedures and apply the criteria for Plan Map and Zoning Map amendments. This is incorrect. The area has already been zoned MPD. The City has an acknowledged Development Code that contains specific procedures (BDC 70.040) and criteria (BDC 70.070) for review of an MPoD application. The procedures and criteria of BDC 70.040 and 70.070 provide the applicable procedures and criteria. Goal One Coalition's argument is based in part on the Comprehensive Plan policy requiring that Master Plans be adopted as post acknowledgement plan amendments. This policy requires that the PAPA procedures be followed, it does not make the plan approval an actual amendment to the Comprehensive Plan. Because the MPoD approval does not amend the Plan or Code and because the City has an acknowledged Comprehensive Plan and Development Code, the statewide land use planning goals do not apply directly to the MPoD; only the acknowledged plan and code apply.

Goal One Coalition argues that an MPoD is subject to review for compliance with the Transportation Planning Rule, specifically OAR 660-012-0060. OAR 660-012-0060 applies to: "Amendments to functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility." OAR 660-012-0060(1). An MPoD approval is not an amendment to a functional plan, a comprehensive plan, or a land use regulation. It is therefore not subject to OAR 660-012-0060.

Furthermore, OAR 660-012-0060 only applies if the amendment "significantly affects a transportation facility." An amendment significantly affects a transportation facility only if it changes functional classification of a transportation facility, changes standards implementing a functional classification system, allows use inconsistent with the functional classification of a transportation facility, or reduces performance standards of a transportation facility below the minimum acceptable level identified in the TSP. OAR 660-012-0060(2). The MPoD does not change functional classification or standards or allow use inconsistent with any facility, nor does it reduce the performance standards below the minimum acceptable level in the TSP.

Under OAR 660-012-0060(1)(b), one of the ways that an amendment subject to OAR 660-012-0060 can comply with the rule is to amend the TSP to provide adequate transportation facilities. If the TSP already includes a planned transportation improvement, that improvement is considered to be in place for purposes of determining whether the amendment will reduce performance standards below the minimum acceptable level. There is only one facility, an access to the Lone Ranch site, that has been identified that could result in failing to meet minimum acceptable standards given the improvements in the TSP. However, that facility will not fail to meet minimum acceptable standards because Condition of Approval 24 requires that the improvements to Highway 101 identified in the Transportation Impact Study will be required to be in place before access to the site is approved. Those improvements will keep the facility (Highway 101) at or above the acceptable level. The approval (if it can be considered an amendment subject to the TSP), will not result in a failure to meet minimum acceptable standards because it assures that minimum acceptable standards will be maintained.

### **Phasing**

Goal One Coalition discusses the narrative requirements for MPoD applications set forth in BDC 70.040B. The application requirements are not standards or criteria for approval. The standards for approval are set out in ORS 70.070. The standards applicable to phasing are:

The proposed phasing schedule, if any, is reasonable and does not exceed 10 years between commencement of development on the first and last phases unless otherwise authorized by the Planning Commission either at the time of approval of the MPoD or by modification to the MPoD. \* \* \*

The proposed MPod will demonstrate that adequate utilities and infrastructure are available or can reasonably be made available at each phase. The proposed MPoD will further demonstrate that existing utility services and water supplies for adjacent properties will not be negatively affected at each phase.

BDC 70.070B and C. The applicable standards therefore are whether the phasing schedule is reasonable, whether the phasing schedule is either 10 years or less or approved by the Planning Commission, whether utilities and infrastructure can reasonably be made available at each phase, and whether utilities or water for adjacent properties will be adversely affected.

The phases schedule is reasonable – it provides for development of a series of neighborhoods, each of which can be developed independently. The 15 year schedule was approved by the Planning Commission and is appropriate to the size and extent of the development. Applicant has provided information that all utility and infrastructure can reasonably be made available for each phase. The MPoD also provides for an alternate water supply (connection to the municipal water supply system) to assure a safe and reliable water supply for the one adjacent property whose water supply could possibly be affected.

The City hired a licensed professional engineer to evaluate the provision of public facilities in the MPoD. The engineer concluded:

In general, Master Plan recommendations appear sound, and are provided in a manner that will benefit the development, the environment, and surrounding properties, and should not be a detriment to any public facilities. Coordination and cost sharing with the City of Brookings in developing off-site public infrastructure which benefits existing and future residents of the City appears to be fair and equitable for all parties.

In other words, the City's expert consultant concluded that adequate public facilities could reasonably be provided for the planned development.

The standards set out in MDC 70.070C and D are met.

Even if BDC 70.040B could be considered an approval standard, the application met the requirements of BDC 70.040B. The application narrative did include a statement describing the phasing of the project. The phases are substantially self-contained and self-sustaining, and they are properly tied to the existing infrastructure and to the development of the project as a whole. The natural features of the project area serve as buffers, and any transitional features (roads, utilities) for each phase will be designed to connect with and serve future phases. The phasing plan provided sufficient information regarding the number of dwelling units, parcel sizes and open space for each phase. The requirement that the plan include "timing" does not require a specific schedule, all large projects are subject to market forces that may accelerate, delay, or otherwise change anticipated schedules. The purpose of the timing requirement is to ensure that development not proceed ahead of the provision of infrastructure, and that purpose is satisfied by the information submitted by applicant that demonstrate that each phase is self-sustaining and that adequate infrastructure will be available to serve each phase.

## Sanitary Sewer

Goal One Coalition refers to Statewide Land Use Planning Goal 11. The statewide land use planning goals do not apply to the MPoD approval. Even if statewide Planning Goal 11 is applicable, the project complies with the Goal because is plans for orderly development of public facilities and services that will be in place in time to serve any development.

Goal One Coalition argues that Comprehensive Plan requires that new development use public sewer systems, except in some circumstances. The MPoD proposes use of the public sewer system, with the possible exception of a temporary on-site system for the community college if it is developed before the public infrastructure reaches the community college site. However, one exception to the requirement to connect to the public system is that an on-site system may be used temporarily if the development is at a rural level of development. While Goal One Coalition claims that the college will not be at a rural level of development, the only situation in which the temporary on-site system would be required would be if other development had not occurred in the area. A community college by itself does not constitute an urban level of development. Half of the community college area will remain open space, which is consistent with a rural level of development. The exception to the requirement to connect to city sewer is applicable to the possible on-site system for the community college.

Goal One Coalition also takes issue with whether the City's sewer system will be adequate to serve the property. The standard is whether the adequate sewer "can reasonably be made available." BDC 70.070C. As demonstrated by the evidence and testimony previously submitted on behalf of Applicant and by City staff, as well as by the memorandum of Bob Vaught of Otak submitted with these comments, adequate sewer services can reasonably be made available to serve each phase of the proposed development.

Goal One Coalition argues that the project does not comply with Comprehensive Plan Goal 11, Policy 1.C. The language quoted by Goal One Coalition is not the language in any Comprehensive Plan policy. Even if the quoted language were in the Comprehensive Plan, it only requires that wastewater treatment facilities will be monitored and expanded on a timely basis as development occurs. This is primarily an obligation on the City. To the extent that this Comprehensive Plan policy imposes any requirement on an applicant, it is the requirement to comply with the BDC 70.070C standard, which implements the policy by requiring a showing that adequate utilities and infrastructure can reasonably be made available. That standard is met.

Goal One Coalition fails to recognize that, as stated on the record by City Planning Director John Bischoff, the City's infrastructure, including its water and sewer system, have been upgraded so that actual facilities in place have more capacity than shown in the Public Facilities Plan. The evidence of Applicant's consultants and City staff demonstrate that the City has actual capacity to provide sewer service to the property. The only additional sewer infrastructure required is the infrastructure needed to provide service within the plan area and to connect the area to the existing City system. That infrastructure, as planned for in the MPoD, is feasible to construct and will be provided as needed for each phase of development.

Goal One Coalition argues that findings of compliance have not been and cannot be made. Findings of compliance with applicable standards are proposed and are supported by substantial evidence in the record as a whole, including not only evidence provided by Applicant, but evidence provided by City staff and the City's expert consultant.

#### Water

Again, Goal One Coalition bases its arguments in part on a statewide land use planning goal, which does not apply to an MPoD approval. However, if Statewide Land Use Planning Goal 11 did apply, the MPoD complies with the Goal by planning for development of public facilities so that they are developed in time to provide service to each phase.

Goal One Coalition argues further that the Comprehensive Plan requires that all development must use the public water system. Although the MPoD as originally proposed did contain an option for a partially private water supply, the Applicant has stated that it is now proposing that the entire water system be part of the City water system. The City has provided information that the City's water system and water supply is adequate to provide service to Lone Ranch. The standard of using only the public water supply system has been met.

To the extent that new water sources are required, the new water sources are ground water sources in the Lone Ranch area. That area is not a restricted ground water area, so the water is available for use. The only requirement is to follow the state procedures for permit application and development and use of the water source.

Goal One Coalition argues that the MPoD does not include a master plan for a municipal water system. Goal One Coalition misconstrues the policy. The policy requires a master plan that sets forth a plan for a water system. The MPoD does contain a plan for a water system. As amended by testimony, the plan is for a connection to the municipal water system and a system of mains to connect the entire plan area. The plan is appropriate to the Master Plan level, with more detailed plans to be developed for each DDP.

Goal One Coalition makes several specific arguments relating to the adequacy of the water system. However, the evidence supplied by the Applicant's consultants and by City staff, is sufficient to conclude that the system will be adequate for every phase. The material provided by Bob Vaught of Otak, submitted with these comments, further demonstrates that the water system is and will be adequate. Furthermore, as discussed above, the City's water system has been upgraded. The upgraded water system has capacity to serve the existing City and the level of development proposed in the MPoD, and the City has a water supply that is also adequate to do so.

# Storm Drainage

Again, Goal One Coalition cites to a statewide planning goal, but those goals do not apply directly to this application. However, the MPoD is consistent with Goal 11 because it plans for timely and orderly development of the storm drainage system. The City's MPD regulations are acknowledged to be in compliance with the goals, and compliance with the City's standards therefore satisfies the goals. The City requires that adequate public facilities can reasonably be made available, and adequate public facilities can reasonably be made available. (See comments of Bob Vaught of Otak, submitted with these comments).

#### **Transportation**

Goal One Coalition cites to Statewide Land Use Planning Goal 12. Again, the statewide goals do not apply directly. Even if the statewide goals did apply directly, the MPoD is consistent with statewide Goal 12 because it plans for a safe, convenient and economic transportation system.

The project is also consistent with the Brookings Transportation System Plan. The MPoD provides for a safe transportation system and access to Highway 101 that preserves the function, capacity, level of service and safety of Highway 101.

Goal One Coalition argues that the TSP requires that the traffic impact analysis be based on a 20 year impact study. However, the section of the TSP relies on is a recommendation, not a requirement.

Goal One Coalition argues that the traffic impact study did not fully identify all possible impacts because it failed to recognize the potential 10 percent increase in trip generation that is possible without amendment of the MPoD. A condition is proposed that would require additional traffic analysis before development of any phase of the project that would result in trip generation in excess of the trip generation assumed in the traffic impact analysis. This will ensure that the project does not result in impacts on the system that would violate the TPR or the TSP.

Goal One Coalition argues that the TPR is applicable because the project would reduce the level of service below minimum acceptable levels of service. Goal One Coalition is incorrect—the project will not reduce the level of service below minimum acceptable levels. For two of the three intersections that would fall below minimum acceptable levels, the improvements needed to keep the intersections at acceptable service levels are already in the TSP and an additional condition of approval is in place to assure significant impacts do not occur. The third intersection is one of the accesses to the site, and a condition is being imposed that requires that improvements needed to keep the intersection at an acceptable level of service be constructed before the first phase of the project is completed. Therefore, the intersection will not fall below the acceptable level of service.

Goal One Coalition argues that the Jaqua v. City of Springfield and Department of Transportation v. City of Klamath Falls cases support the conclusion that the TPR applies. They do not. Jaqua v. City of Springfield, \_\_\_ Or \_\_\_ (June 9, 2004), involved a rezoning of an entire area, not a site-specific application. Furthermore, in Jaqua, the Court of Appeals agreed with LUBA that an interim failure to meet standards would trigger the TPR. However, in this case, there is no interim failure because the improvements to the access point will occur before there is any failure. The improvements for the two other intersections are already in the TSP, so a TSP amendment to include the improvements, which is one of the means of satisfying the TPR, has already been satisfied.

Dept. of Transportation v. City of Klamath Falls, 177 Or App 1, 34 P2d 667 (2001), involved an amendment to the comprehensive plan. The MPoD application is not a Comprehensive Plan amendment, so the situations are not the same. The Klamath Falls case also involved a situation in which the city's TSP had not planned for development in the area, and the development would cause facilities to fail sooner than they otherwise would have. In contrast, the City of Brookings has anticipated Lone Ranch and the MPoD plans for improvements that will avoid failure of any facilities.

Furthermore, ODOT has determined that the TPR is not triggered. ODOT has stated that it "has no transportation concerns with the proposed project." If it believed the proposed project did not comply with the TPR as to Highway 101, a state facility, it would have said so. ODOT has particular expertise in the area of transportation and its interpretation of areas within its scope of expertise is entitled to deference. *I000 Friends v. LCDC*, 69 Or APp 717, 723, 688 P2d 103 (1984).

The scope of the TIS was adequate, as demonstrated in the memorandum of Scott Mansur of DKS, submitted with these comments.

Goal One Coalition argues that the TIS be consistent with the phasing plan. The TIS is consistent with the phasing plan because it recognizes that most impacts that would trigger the need for improvements do not occur until several phases have been completed, and further recognizes that all improvements to access points will be triggered at the same time. Given that all improvements will be provided **before** completion of the first phase, the mitigation discussed in the TIS will be consistent with the phasing plan because they will be in place before the first phase. A TIS would be inconsistent with a phasing plan only if it proposed mitigation for a time after the mitigation was needed.

Goal One Coalition makes specific arguments regarding two segments of Highway 101. Those arguments do not demonstrate any failure to comply with applicable standards, as shown in the memorandum of Scott Mansur of DKS Associates, submitted with these comments. To the extent those arguments are based on a possible 10 percent increase in trips, a condition is being imposed to require a further traffic impact analysis if the amount of trips generated exceeds the amount anticipated in the TIS.

Goal One Coalition also argues that the project should have greater connectivity. Any plan must balance various policies. Any improvement to the system from creating a parallel road or greater connectivity must be balanced against the policies of preserving natural resources. The Applicant has chosen an approach that balances the policies. While a balance more in favor of the transportation system might be possible, the balance chosen by applicant is an appropriate balance that gives effect to important policies protecting the environment.

In its letter to the Brookings City Council, dated September 13, 2004, the Goal One Coalition (the Coalition) criticizes the Master Plan of Development (MPoD) for its lack of

connectivity throughout the site. Specifically the Coalition states that "An access point connection to the existing city street system, without using US 101, is possible at the southern end of the site across Taylor Creek". At the time that U.S. Borax donated land to ODOT for the purpose of the realignment of Highway 101, four access points were deeded to US Borax. The northernmost three were for the specific purpose of providing access into the site. The fourth access, located at the southernmost portion of the site was limited to providing emergency ingress and egress to and from the site. Therefore, it is not possible to connect access from the balance of the site to the southernmost access point as suggested by the Coalition.

Goal One claims that neighborhoods G and H are isolated from the other areas in the development. And, that it is necessary to get on and off US 101 in order to travel back and forth in the development. And finally, that one or more accesses within the development area should be provided across Ram Creek. All of these statements are true and were deliberate decisions in the development of the master plan.

As required by the Brookings Land Development Code (BLDC), each master plan is required to state the project's planning objectives. During a collaborative session with local, state, and federal agencies, early in the master planning process, the applicant's development team established five planning objectives. One of the objectives is as follows:

Adopt a master plan that will achieve the following environmentally sound results:

- 1. Minimize disruption to the quality and function of the on-site wetlands;
- 2. Minimize negative impacts on existing wildlife and habitat while creating a stable environment for the Western Lily;
- 3. Respect the natural topography of the site, thereby minimizing the number of stream crossing, the amount of grading and wetland impacts.

Based on this planning objective, a plan was developed that is believed to impact less than ½ acre of wetlands. In order to accomplish this objective choices were made. Minimal stream crossings were designed, and the three major stream corridors, Taylor, Ram and Lone Ranch Creeks were determined to be off-limits for crossing or development. When it was known that the US 101could accommodate the anticipated traffic, with few improvements, the team, supported by ODOT and environmental agencies, chose to preserve wetlands over providing connectivity. This was a conscious decision. It is important to note that while Goal One raises issues of connectivity, ODOT was satisfied with the master plan. In fact, their letter dated July

26, 2004 to John Bischoff at the City of Brookings states the following:

The Oregon Department of Transportation (ODOT) has reviewed the staff report, traffic evidence and conditions of approval, and has no transportation concerns with the proposed project subject to the following corrections to the Findings of Fact and conditions of approval:

- 1. ODOT recommends that the second conclusion on page 8 in the staff report be included in the Final Findings of Fact and conclusions of law to be adopted by the City Council; and
- 2. Condition of Approval number 24 should remove the word "southern" to ensure that all improvements for the accesses to the subject property are made as part of an ODOT Road Approach Permit.

This unprecedented support by ODOT is evidence that the master plan meets the states' concern regarding connectivity.

#### Archaeological Sites

Goal One Coalition argues that the MPoD is inconsistent with Statewide Planning Goal 5. As discussed above, the statewide goals are not directly applicable to MPoD applications. However, the MPoD is consistent with Goal 5. Goal 5 requires that local governments create a jurisdiction-wide inventory of important cultural resources. The City has created its cultural resource inventory, which is part of its acknowledged comprehensive plan. No changes are proposed in the inventory or in the protection plan for the inventoried resources. The City remains in compliance with Goal 5. The inventory requirement applies to the City as a whole, not to each property within the City or each application for a land use approval.

Goal One Coalition argues that local governments must identify conflicts with inventoried Goal 5 resource sites. The Lone Ranch property within the MPoD does not contain any inventoried Goal 5 resources. Goal One Coalition further argues that OAR 660-016-0010 requires local governments to develop programs to "achieve Goal 5." However, OAR 660-016-0010 requires local governments to achieve the Goal as to inventoried sites. Because there is no inventoried site on the property, OAR 660-016-0010 does not apply.

Goal One Coalition also argues that the MPoD is not consistent with Comprehensive Plan policies, implementation measures, and code provisions relating to historic areas and physical characteristics of the site. The policy provision requires only that the City encourage conservation of historic areas. That policy does not directly apply to a private property owner. To the extent it imposes any requirement in connection with the application, the application is consistent with the policy because it demonstrates that a survey of the property has been done, that further site-specific surveys will be done before any development is started, and that a commitment to following state laws protecting historic resources has been made.

The implementation measure referred to by Goal One Coalition requires only that the City participate in county, state and regional programs. It does not apply to specific land use applications. The code provision requires only that the MPoD respect the physical characteristics of the site.

This provision is intended to protect natural physical features and does not apply to historic or cultural resources. To the extent it does apply, the provision is complied with by the requirement to conduct further surveys and to comply with state law.

Goal One Coalition offers a discussion of federal and state law regarding cultural resources. A condition of approval is being imposed requiring compliance with those laws. Applicant has committed to working with appropriate agencies so that they have an opportunity to monitor compliance with applicable historic and cultural protection laws. Dennis Griffen, lead archaeologist for the Oregon Parks and Recreation Department has submitted a letter to the City that acknowledges that the Applicant has taken appropriate steps for this stage in the process and that lays out what needs to be done for continued compliance. Contrary to what Goal One Coalition argues, the Lone Ranch plan can proceed to the next stage, with reasonable assurance based on the survey that has been performed that the project consistent with applicable laws protecting historic and cultural resources is feasible and also with reasonable assurance, based on the requirement for further surveys and continued coordination with responsible agencies, that applicable laws will be complied with.

#### Environmental Issues

To the extent that Goal 5 may apply, the project complies with Goal 5. There are no inventories Goal 5 resources of any type on the property. Goal One Coalition cites to Plan Goal 5 Implementation Measure 4, but that measure requires only that Brookings participate in county, state and regional programs. It does not apply to a site-specific land use application.

Goal One makes several arguments relating to wetlands. The memorandum of Chris Wright of Raedeke Associates, Inc., provided with these comments, demonstrates how the MPoD is consistent with all applicable wetlands regulations and will result in protection of all but a very small area of wetlands and provide mitigation for the limited impacts that are expected.

The applicable standards for protection of wetlands do not require protection of every square inch of wetlands, but instead require mitigation for any areas that are disturbed. The MPoD is consistent with the regulations, providing protection for most, and mitigation for the small area that will be impacted. The MPoD by itself does not authorize construction, and more detailed study and planning is being required before any Detailed Development Plan is approved. A condition is being imposed that all federal and state permits relating to wetlands be obtained before any development that impacts wetlands occurs. It is feasible (indeed required by law) to

comply with this condition and compliance with the condition will result in applicable standards as to wetlands protection being met.

Furthermore, a condition of approval is being proposed that will require a detailed hyrdrologic study before development of each Detailed Development Plan is approved. While such a study is premature at this point because there is insufficient detail of the proposed project to allow such a study to be performed, the studies can be performed in conjunction with Detailed Development Plans. The studies will provide information to allow a review of any possible wetlands impact from each DDP.

Goal One also argues that the project must comply with federal regulations protecting endangered species. As demonstrated in the material submitted by Chris Wright, the MPoD is consistent with those regulations. Appropriate studies are in progress and those studies will be completed. Continued coordination with federal and state agencies relating to endangered species is ongoing. As noted in the letter from Craig Tuss of USF&WS dated September 20, 2004, there will be ongoing involvement of federal agencies in reviewing the project and ongoing coordination between the applicant and responsible agencies.

Goal One discusses the federal prohibition on "taking" endangered species. As acknowledge by Goal One, the prohibition on taking applies to wildlife, not to plants. While the taking prohibition applies to private entities, studies are ongoing to determine whether there are any protected wildlife species (spotted owls or marbled murrelets) on the property. To date, those studies have not revealed the presence of any protected wildlife species. Anecdotal reports by one person with a grudge against the property owner do not establish the presence of any endangered species on the property.

The information available to date on wetlands and endangered bird and plant species is sufficient to conclude that the Lone Ranch project is feasible without violating federal and state protections of wetland and endangered species. While ongoing coordination with appropriate agencies is needed, that coordination is occurring.

Response To Comments of Peter Chasar (September 13, 2004) and Bill Smith (9-13-04)

In both the Chasar and Smith documents, misstatements are made regarding the proposed development standards. The Chasar document states that "No one can dispute that, once approved, the alternative standards being proposed will make it much more difficult to refuse similar standards proposed by others". This statement comes from a misunderstanding of the MPD District. The MPD District is a zoning district adopted by the City of Brookings to be applied to properties that were required by the terms of the Urban Growth Management Agreement (UGMA) to be master planned. It can also be applied to other large properties (greater than 50 acres) within the City of Brookings. The property was rezoned by the City Council at the time that Ordinance 03-O-446.PP was adopted. (See attached Ordinance No. 03-O-558). Although the city adopted the new zoning district, MPD, it did not adopt any development standards as provided in other zones throughout the city, such as the R-1, R-2, C-1,

C-4, or M-2 zones. This was purposeful in order to allow master planned neighborhoods to adopt development standards addressing the individual characteristics and unique conditions of each site. Therefore, in order to establish allowable uses, setbacks, building coverage ratios, building heights, etc., each master plan must set its own unique development standards. In that sense, Mr. Chasar is correct in that a precedent will be set for each master planned development to set its own development standards. There is no other option.

The standard for review of development standards is as follows:

70.020 Such alternative standards shall be clearly and specifically identified within the plan submittals, and shall include an explanation and/or drawings, which demonstrates that such alternative standards equally or better meet the purpose of the existing regulations.

70.070 (E) The applicant demonstrates that all deviations from the development standards are warranted.

There is no risk that the development standards adopted by Lone Ranch will justify the same standards for other development. Each master plan must submit development standards for the site as no others are available. Each master plan will have to demonstrate that the proposed development standards are warranted.

Lone Ranch is the first master plan to be processed under the newly adopted Master Plan Ordinance. As is common, when adopted language is applied to a project, its weaknesses are revealed. In the case of Section 70.020, the standard is not able to be applied to the Lone Ranch site. The zoning is MPD and there are no standards. Therefore, it is impossible to compare the proposed development standards with existing regulations. There are no development standards governing the MPD zoned property.

As identified in the memo from Marty Stiven to Burton Weast dated August 10, 2004, submitted to the Planning Commission and attached to this memo, the development standards proposed by the applicant for Lone Ranch were warranted based on market demands as expressed to Western Advocates, Incorporated by developers, unique site conditions, a desire to reduce impervious surface area, minimize impacts to wetlands and western lily habitat. They are therefore warranted.

Additional Response to Comments of Peter Chasar (September 13, 2004)

Mr. Chasar argues that limiting or delaying cultural surveys can lead to destruction of cultural resources. The project has conducted a survey consistent with the level of detail provided in the MPoD. As acknowledged by Dennis Griffin, Lead Archaeologist for the Oregon Heritage Conservation Division, in his August 27, 2004, letter, all development (DDPs) will be evaluated to determine whether there is impact on protected cultural resource sites to that impacts will be avoided or mitigated.

Mr. Chasar argues that the Applicant has not rebutted his argument that public facilities are not being planned and developed in a timely, orderly and efficient arrangement. The MPoD does contain a plan for timely, orderly and efficient development of public services. The fact that a sewer line is extended for a mile does not mean that the public facilities are not being planned in an orderly manner. Mr. Chasar argues that there is no evidence that the on-site water system will be adequate. While the MPoD initially offered an on-site water system as an option, the Applicant, at City's request, is now proposing that all portions of the water system be part of the City's water system. City staff has testified that sufficient City water is available to serve Lone Ranch. The memorandum of Otak, provided with these comments, demonstrates that the proposed water system and supply will be adequate.

Mr. Chasar also argues that the Applicant did not rebut his assertion that the transportation plan fails to provide for safe, convenient and economic transportation. The transportation plan for the project does provide for a safe, convenient and economic transportation system, as detailed in the comments of Scott Mansur of DKS Associates, provided with these comments. The fact that Highway 101 is the only connection is irrelevant, given that the highway will continue to function safely at acceptable levels of service.

Mr. Chasar also argues that the project does not provide for safe pedestrian access across the highway. The plan does not contemplate pedestrian travel across the highway. There is no requirement to provide pedestrian access across the highway. If the plan covered both sides of the highway, perhaps a pedestrian crossing would be required, but the plan is for an area confined to one side of the highway and no pedestrian crossing of the highway is required to be in the plan.

Mr. Chasar also argues that the project fails to enhance energy conservation because of the lack of plans for certain on-site churches, schools, ball fields, and libraries. Not all developments have all possible amenities. The zoning does not preclude any of these uses. Private entities like churches are usually not included in plans because they can develop in residential areas without the need for specific planning. There is a school on the property - a community college. If the local school district determines that there is a need for an elementary, middle or high school, those schools may be developed, but the district has not stated that there is a need for such a school. The project provides for extensive open spaces and trails, which provide recreational opportunities. There is also the possibility of developing ball fields as part of the community college site.

The MPoD does provide for a commercial area, that will provide some employment and will allow many goods and services to be obtained within the plan area. The need to enhance energy conservation must be balanced with the need to preserve the character of the City, which includes the need to preserve the City's downtown area. Enough opportunities are provided within the development – recreation, community college, goods and services, and especially the trails and pedestrian links – so that the development does enhance energy conservation.

Mr. Chasar's final argument is that the MPoD does not minimize expansion of the urban service area. Plan goal 14 explicitly requires this area to be developed by a Master Plan of Development. The area is within the City, so urban services are to be provided. The fact that the development will contain some commercial property does not violate any applicable code or plan provision – some commercial development is needed to provide services for the residents so that they don't have to travel on Highway 101 for every purchase, but the amount of commercial development is limited to protect the City's existing downtown.

### Response to Pete Chasar (September 20, 2004)

Mr. Chasar alleges that Tim Ramis, U.S. Borax's lawyer, implied that additional information could be submitted only by those who specifically requested it. Mr. Ramis did not make any such statements. U.S. Borax does not object to consideration of testimony submitted by any opponent on or before September 20, although it disagrees with the contents of the comments.

Mr. Chasar makes some comments related to destination resorts. Those comments are irrelevant. Whether a destination resort could be sited is not the issue, the issue is whether the MPoD, which does not proposed a destination resort, may be approved.

Mr Chasar makes further arguments regarding the adequacy of the water system. Mr. Chasar's suggestions regarding the adequacy of the water system are more than countered by the expert evidence that the water system is adequate. There is no shortfall. (See memorandum by Bob Vaught of Otak, submitted with these comments).

Mr. Chasar argues that proposed Condition of Approval 6 is inadequate. That condition requires consultation with responsible federal and state agencies regarding wetlands and western lilies. The provision is adequate to assure compliance with applicable plan policies and implementation measures and development code standards. None of those policies, measures or standards imposes any requirement that is not met by the condition of approval.

Mr. Chasar argues that proposed Condition of Approval 15 is insufficient to establish a time frame for connection with the existing city water system. Mr Chasar is incorrect. Condition 15 is preceded by introductory language, applicable to conditions 7 through 16, which requires that the conditions must be met "prior to or simultaneously with the approval of the first phase of construction for either commercial, college or residential development on the site."

Mr. Chasar argues that Condition 25 is insufficient to ensure compliance with various policies of Goals 5 and 6. Condition 25 requires the Applicant to not oppose efforts for fish passage under Highway 101. The Applicant is not responsible for the fish passage systems under the Highway that were built and are maintained by ODOT. The development does not in any way lessen the capacity of the fish passage systems. Condition 25 is appropriate — a condition that imposed a greater obligation would be an exaction that is not related to an impact of the

development. Furthermore, nothing in the cited policies requires an applicant to correct deficiencies caused by existing off-site development.

### Additional Response to Bill Smith (9-13-04)

Mr. Smith also argues that U.S. Borax has not dedicated any land for parks development. The plan calls for extensive open space and a trail system. Most developments do not include such vast amounts of open space or an extensive connected trail system. By providing open space and trails, the MPoD provides adequate recreational facilities. Furthermore, some portion of the community college may be developed for outdoor recreational facilities. Furthermore, parks are permitted in the plan area, so parks can be developed if the City chooses to develop parks in the area. Mr. Smith's comments on this issue are not based on any applicable standard or criterion.

Mr. Smith refers to the project as a planned resort community. It is not. It is a residential development. Mr. Smith asks whether the City's plan is to have the core of the City serve as a service area. The applicant believes that having a downtown area where most goods and services are available is a benefit to the City. While some commercial uses need to be in neighborhoods, the City would die if it were nothing but a series of neighborhoods with no downtown area. Lone Ranch is not a resort; it is a residential development that will become part of the fabric of the City of Brookings.

# Response to Pat Russell, League of Women Voters (September 13, 2004)

Pat Russell, on behalf of the League of Women Voters, asked for information about the amount of water available for the project and the City. City staff has provided evidence that the City has sufficient water using its existing water right, to serve Lone Ranch, consistent with the agreement between the City and ODFW regarding protection of the Chetco River.. Lone Ranch provides the possibility of supplementing the City's water supply with additional water from two (or possibly more in the future) production wells. The additional water supply option provided by Lone Ranch results in less impact on the existing water supply than would result if the same number of residences were added piecemeal, without adding a new water supply source.

# Response to Catherine J. Wiley (September 13, 2004)

Ms. Wiley argues that the project does not comply with Goal 5. As discussed above, the statewide land use planning goals do not apply directly to this application. If they did apply, the project is not inconsistent with Goal 5. Goal 5 requires that the local government prepare inventories of certain resources and protect the inventoried resources. It does not require an inventory of each site where development is proposed. The City has an acknowledged Comprehensive Plan with acknowledged Goal 5 inventories. There are no inventoried resources on the Lone Ranch property.

Ms. Wiley continues to repeat her arguments about possible cultural resources on the property. The survey that was performed revealed one arrowhead within the entire area and no other evidence of pre-European cultural artifacts. Dennis Griffin, The Lead Archaeologist for the Heritage Conservation Division of the Parks and Recreation Department has agreed with the master plan approach, noting: "Flexibility in design and sufficient land in which to allow modification of later structural placement in cases of future conflicts appear to have been foreseen and built into the existing ordinance and plan." He further noted that completion of the archaeological survey report, which is anticipate shortly, will allow responsible agencies to take into consideration any information revealed in the report. Dr. Griffin further notes that his agency will work together with US Borax during the development plan stages to ensure that significant cultural sites are protected.

The condition of approval to comply with applicable laws protecting cultural resources, the continued coordination with responsible agencies, and the flexibility of the plan to allow deviations to protect cultural and other resources means that the plan is feasible and consistent with protection of cultural resources.

#### Response to Catherine J. Wiley (9/20/04)

Ms. Wiley implies that a Borax representative stipulated to nonremoval of trees over eight inches in diameter. No such stipulation or statement was made. No condition limiting the removal of trees is required by any applicable standard or criterion.

Ms. Wiley also asks for protection of a Great Blue Heron rookery. Herons have been noted near the confluence of Lone Ranch and Duley Creeks, however no development is proposed in the nesting location, nor is it likely that proposed site development would affect any potential Heron nest sites. Blue Herons are not on the endangered species list, however they are sometimes considered a species of concern, but are not afforded any specific protections at this time.

### Response to Yvonne Maitland (September 10, 2004)

Ms. Maitland's comments are not tied to any of the approval criteria. She argues that a drainage and stormwater plan and a hyrdologic analysis are needed. Conceptual plans have been provided, but a hydrologic analysis is premature because no detailed development plans have been proposed. Without those plans, a hydrologic analysis is not possible. Detailed drainage plans will be provided with each DDP, and a condition is proposed to provide a hydrologic analysis for each stage of development. The plans and information that have been provided are sufficient for the Master Plan level of analysis. They show that the project and associated drainage system is feasible. Ms. Maitland argues that baseline data is not provided, but baseline data is not required. In preparing drainage plans, it is sufficient to know the expanse of impervious area to be able to design systems to detain additional runoff.

Ms. Maitland points out that Borax has not produced any permits for its wells. Under the groundwater permitting system, strict timelines are imposed for use of wells. Once a permit is applied for, the well must be drilled within a limited period of time, and use within a period of time after than must be proven. Given that actual development and use of the well water is still some time in the future, no permit is possible. The way the groundwater permitting system works, the permit is perfected only after development and use.

Ms. Maitland notes that there are many streams and wetlands on the property. What she ignores is the fact that the MPoD avoids impacts on wetlands and streams to a great extent, with setbacks from streams, limited crossing of streams, and avoidance of most wetlands and mitigation for any wetland area not avoided. Ms. Maitland suggests an Environmental Impact Study. No such study is required by any applicable law. However, the Applicant has provided initial wetlands and wildlife studies and will provide more detailed information during the DDP process.

Ms. Maitland suggests that a financial feasibility study should be provided. There is no requirement to provide such a study. Furthermore, this suggestion seems inconsistent with Ms. Maitland past criticisms of U.S. Borax as being a wealthy corporation. Ms. Maitland asks whether the City has a Systems Development Charge ordinance. It does.

Additional responses to Ms. Maitland's comments are found in the memoranda of Bob Vaught of Otak and Chris Wright of Raedeke Associates.

Response to Comments of Yvonne Maitland (September 20, 2004)

In her September 20, 2004, letter, Yvonne Maitland repeats many of the same arguments she made in her September 13 letter. Again, she does not relate her arguments to any of the applicable approval criteria. None of the financial information she discusses is required to be provided with an MPoD. Her statement that the applicant has not applied for water rights is irrelevant, given that a water rights application is not needed to demonstrate that water is available. Furthermore, the City, not the property owner, is a better applicant (a city has greater ability to obtain water rights for municipal purposes), so the application should be delayed until after master plan approval.

# Response to Comments of Ron (Sept. 13, 2004)

Mr. Wimberly's comments do not relate to any applicable standard or criterion. Mr. Wimberly suggests that U.S. Borax donate extensive amounts of land to public schools and a community college. There is no requirement to do so and any requirement to dedicate land would be an unconstitutional taking of private property without compensation.

Mr. Wimberly also suggests U.S. Borax support fisheries enhancement of the Highway 101 water structures. The enhancements are the responsibility of ODOT, which built and is responsible for the structures. U.S. Borax has no responsibility to improve those structures. Its

drainage plan will take into account those structures so as to avoid increases in flow that the structures could not handle. A condition of approval has been proposed that requires U.S. Borax to not oppose any such enhancement. That condition is acceptable to U.S. Borax, which does not oppose those improvements to the ODOT facility.

Additional responses to Mr. Wimberly's comments are found in the memorandum of Chris Wright of Raedeke Associates, submitted with these comments.

Response to Comments of Ron Wimberly (9-20-04)

Mr. Wimberly submitted additional comments. However, they do not relate to any applicable standard or criterion and do not assist the analysis in any way.

Comments on Comments of U.S. Fish and Wildlife Service (September 20, 2004)

USF&WS provided a letter clarifying that it does not take any position on adoption of the MPoD, but will continue to offer technical information and suggestion to address natural resource issues. USF&WS expressed a concern that it does not have sufficient information to determine the adequacy of buffers. It should be noted that the USF&WS has neither the responsibility not the jurisdiction to determine adequacy of buffers to wetlands. The adequacy of buffers to protect wetlands is the responsibility of the U.S. Army Corps of Engineers and the Oregon Division of State Lands. All appropriate consultation with the U.S. Army Corps of Engineers and the Oregon Division of State Lands will be undertaken in the context of an application to alter wetlands on the property, if necessary. Additional information, including hydrological studies, will be available with each DDP to allow USF&WS and any other responsible entity to evaluate compliance with applicable standards. The letter from USF&WS discusses the need for future wetlands permits and its role in advising the Corps of Engineers relating to those permits. The Applicant will continue to provide information to USF&WS and the Corps to allow them to properly evaluate permit applications.

The USF&WS letter does not state that the MPoD is not feasible consistent with the protection of wetlands and endangered species. To the contrary, USF&WS acknowledges that the flexibility of the MPoD supports wetland protection. USF&WS stated that flexibility in design options "could provide the needed flexibility to accommodate appropriate wetland buffers, storm-water management, maintenance of appropriate hydrologic patterns, and arrangement of housing unit pods."

tvr/borax/brookings/ResponsesToCouncil

EXHIBIT Western Advocates Incorporated

22400 Salamo Road, Suite 201 • West Linn, Oregon 97068 toll free: 800-796-0028 • phone: 503-650-1181 • fax: 503-650-3668

Memorandum

TO: FROM: Timothy V. Ramis

Marty Stiven

DATE:

September 22, 20

SUBJECT: Response to Lone Ranch

Opponents Written Testimony submitted to

9/21/04

I have reviewed the materials submitted to the city on September 21, 2004 during the open record period following the September 13, 2004 City Council public hearing on the Lone Ranch Master Plan. I have responded to two issues raised:

- Catherine Wiley's testimony regarding the identification of plants and 1. trees on the Lone Ranch property.
- Catherine Wiley's's testimony regarding a Blue Heron Rookery. 2.

Issue 1. It is difficult to determine Ms. Wiley's point, but I believe that she believes that some clarification that I made to the Council during the adoption of the Master Planning Ordinance prohibits the removal of old growth trees from the site. I believe that the testimony that she referred to may have been my clarification of what type of existing trees were required to be identified for the Detailed Development Plan request. The ordinance requires that a landscape plan showing the location of existing trees and other significant vegetation proposed to be removed from or to be retained within the area of the site to be developed (emphasis added), be submitted at the time of the DDP request. The requirement also states that the identification of the trees shall be consistent with Section 176.B.16 of the Brookings Land Development Code (BLDC). This portion of the code refers to the definition of significant vegetation (trees over 8" diameter as measured 3 feet from base). The applicant is fully aware that within the areas of the site to be developed, they will identify significant vegetation, as defined by BLDC, during the preparation of the DDP request. Neither the Master Planning Ordinance, nor Section 176.B.16 of the BLDC requires mapping of the significant vegetation in areas where development will not occur. Further, it is not anticipated that significant vegetation will be mapped in areas where development will not occur.

Issue 2. Goal 5 of the statewide planning goals provides protection of Goal 5 resources. Neither the County nor the City have identified Blue Heron as a Goal 5 resource on the Lone Ranch property. Therefore, there is no Goal 5 protection afforded Blue Heron on the site. The presence of Blue Heron are further addressed in the response from Raedeke & Associates to Timothy V. Ramis.

Salem Office: 1284 Court Street NE · Salem, Oregon 97031 · phone: 503-378-0595 · fax: 503-364-9919

# Memorandum



700 Washington St.

Suite 401

Vancouver, WA 98660

Phone (360) 737-9613

Fax (360) 737-9651

To:

Tim Ramis, Attorney

From:

Bob Vaught

Copies:

Burton Weast, Gary Firestone, Marty Stiven, Gence

Emre, and Project File

Date:

September 21, 2004

Subject:

City of Brookings/Lone Ranch Master Plan of

Development - Response to Comments

Project #:

11843

As requested, I am providing the following responses to written comments on the proposed Lone Ranch Master Plan of Development presented at the City of Brookings Public Hearing on September 13, 2004.

#### Goal One Coalition

Jim Just, Executive Director for Goal One Coalition (Goal One), wrote a letter dated September 13, 2004, questioning whether the MPoD has demonstrated that adequate utilities and infrastructure are available or can be made available.

#### Phasing

While Section 70.070.C. of the Brookings Development Code does not require a specific phasing schedule, neighborhoods have been planned so that services can be delivered in phases in accordance with the neighborhood plan. Further, the Detailed Development Plan (DDP) for each neighborhood will be subject to additional review for consistency with the approved MDoP. Therefore, an individual phase cannot be approved unless adequate facilities are available. This type of phasing allows for the utilities and infrastructure to be designed and constructed based on demand, which HGE, Inc., the City's Engineer, considered a reasonable approach in their letter dated July 6, 2004.

#### Sanitary Sewer

The Public Facilities Plan (PFP) for Urban Growth Expansion, prepared by W&H Pacific in November 1999, and the Water and Wastewater Facilities Plan to Serve Borax Development and Surrounding Areas (WWFP), as prepared by HGE, Inc. in November 2001, are utilized by Goal One to dispute the ability to serve the urban growth area and the Borax property. The Goal One Coalition failed to include information about the wastewater treatment plant and sewer system upgrades identified in these plans that were recently completed by the City. HGE, Inc., the City's Engineer, in their letter dated July 6, 2004, stated "In general, Master Plan recommendations appear sound, and are provided in a manner that will benefit

City of Brookings/Lone Ranch Master Plan - Response to Comments

September 21, 2004

the development, the environment, and surrounding properties, and should not be a detriment to any public facilities."

Goal One raises concerns about using up all of the surplus capacity of the existing sewage treatment facility and attempts to limit the Borax property's allocation of the 2015 projected population to 1,924. The total projected population in the PFP completed in November 1999 for the areas north of the Chetco River was 5,528 and 2,802 for those areas south of the Chetco River which totals 8,330 within the urban growth boundary. The WWFP completed in November of 2001 for the Borax property and surrounding areas projected the population in 2015 to be 4,075. The additional population projected by year 2015 for flows from remaining areas north of the Chetco River and areas south of the Chetco River totaled 3,607 which results in a less total projected population of 7,682 in 2015. The current MPoD proposes less population projection (population equivalency of 2,500) for the Borax property. Therefore, development of the Borax properties as proposed by the Master Plan will not negatively affect the remaining areas of the urban growth boundary.

The use of an on-site sewer system would only be utilized as an interim measure for wastewater discharge from the community college, as is provided for in Section X. D. of the City of Brookings and Curry County Urban Areas Joint Management Agreement. The applicant expects to obtain sanitary sewer service from the City of Brookings and would agree to discontinue the on-site sewer system upon the applicant's ability to connect to the City's facilities in accordance with this agreement.

Goal One argues that the financing and replacement of the City's existing sewage collection system, which is necessary to provide service to the subject property, is feasible at each or any phase of the project has not been established. As mentioned above, recent wastewater treatment plant upgrades have been completed and HGE, Inc. considers the recommendations for cost sharing of needed system improvements with the City based on demand a reasonable approach.

Goal One believes the MPoD should include a master plan for a sanitary sewage system developed in coordination with and approved by the service provider as required by Plan Goal 14 Urbanization Policy 9(b). Section 70, Master Plan Development (MPD) District of Brookings Development Code does not require complete sanitary sewage system plans prior to the Detailed Development Plan Review. Both the City and HGE, Inc. believe that the PFP and WWFP cited above meet the intent and criteria for a master plan for these areas. Therefore, the sanitary sewer is or can be made available to serve the development.

#### Water

Goal One argues that we have not demonstrated that adequate water is available or can reasonably be made available since a water use application has not been filed. While the City or the applicant can file the water use application, it is premature to file a water use application until the MPoD is approved. In addition, the City is not as restricted in time as

#### Tim Ramis

Page 3

City of Brookings/Lone Ranch Master Plan - Response to Comments

September 21, 2004

the MPoD applicant to initiate use of the water rights in a timely manner. Nor is it necessary to establish the water rights to demonstrate the adequacy of the water system because there are no restrictions on groundwater withdrawal on the site.

The use of an on-site water system would only be utilized as an interim measure for water requirements for the community college. The applicant expects to obtain water service from the City of Brookings and would agree to turn the on-site water system over to the City upon the applicant's ability to connect to the City's facilities.

Goal One has errors in their numbers for water rights to the Chetco River. The combined 20 cfs is really 12.9 million gallons per day rather than 12.9 gallons per day and the 14 cfs is really 9 million gallons per day.

Goal One states that according to the PFP, the treatment plant capacity is 2.2 mgd. The Water System Master Plan (WSMP) states that the treatment plant capacity is expected to be in the range of 2.3 to 2.6 mgd (p.2-4). The available treatment plant capacity can be supplemented with water sources located on the Lone Ranch, and when combined with proposed water storage capacity, there is adequate water supply to meet the demand for the proposed development. The maximum daily demand (MDD) identified by Goal One is not 10.5 mgd but 1.05 mgd. The proposed 500,000 gallons of storage initially, and 610,000 at a later date when demand warrants, provides for water storage plus fire flow storage plus equalization storage that totals 1.1 million gallons. These provisions meet those presented in the WSMP.

Goal One indicates that the applicant has not established that the financing and construction of the improvements to the water distribution system necessary to provide adequate service to the MPoD is feasible at each or any stage of the project. All of the proposed improvements identified in the WWFP will benefit the City and other properties. The applicant has suggested cost sharing of needed expansion with the City of Brookings based on demand and HGE, Inc., the City's Engineer, in their letter dated July 6, 2004, considered this a reasonable approach.

Goal One believes the MPoD should include a master plan for a water system developed in coordination with and approved by the service provider as required by Plan Goal 14 Urbanization Policy 9(b). Section 70, Master Plan Development (MPD) District of Brookings Development Code does not require complete water system plans prior to the Detailed Development Plan Review. Both the City and HGE, Inc. believe that the PFP, WWFP, and WSMP cited above demonstrate that an adequate water system for this site is available or can be made available at each phase.

#### Storm Drainage

Goal One represents that the project as presented does not comply with the PFP since the applicant does not propose to improve the existing culverts under US 101. The applicant does support the replacement of these culverts, especially when the culverts can be made

#### Tim Ramis

City of Brookings/Lone Ranch Master Plan - Response to Comments

Page 4 September 21, 2004

fish friendly. However, it is reasonable to assume that we can design the stormwater system that will reasonably maintain the current hydrologic characteristics and not increase runoff discharged to the culverts.

Goal One suggests that findings of compliance with Goal 11 have not been proposed and cannot be made since the MPoD does not include a master plan for a municipal water (we will assume that Goal One mean stormwater) system as required by Plan Goal 14 Urbanization Policy 9(b). Section 70, Master Plan Development (MPD) District of Brookings Development Code does not require complete stormwater system plans prior to the Detailed Development Plan Review. Both the City and HGE, Inc. believe that the PFP cited above demonstrates that a stormwater management system for this site is available or can reasonably be made available at each phase.

#### Pete Chasar

Mr. Chasar's assertion is that public facilities and services are not being "planned and developed in a timely, orderly, efficient arrangement". Our response is provided under phasing above.

Mr. Chasar questions that the proposed water system will be adequate. At the time that the Master plan application was submitted to the City, evidence was provided that the two proposed wells could provide adequate water to serve the proposed development. Since then, the applicant and the City have worked together to commit to a water system that will rely on both the delivery of City water and the proposed wells. In fact, a condition of approval was added by the Brookings Planning Commission and agreed to by the applicant, that requires the two systems be integrated. Therefore, as acknowledged by the HGE, Inc. and the City, the proposed water system is adequate to accommodate the proposed development.

# Yvonne Maitland (Citizens for Orderly Development)

Mrs. Maitland believes that without specific plans, a detailed hydrological analysis is impossible. Brookings Development Code does not require complete stormwater system plans or hydrological analysis prior to the Detailed Development Plan Review. Both the City and HGE, Inc. believe the PFP cited above properly identifies issues related to the hydrology of this area. Other properties in Brookings and elsewhere around the State that have similar characteristics have effectively dealt with these hydrological issues and that it is reasonable to assume that a stormwater system can be designed that will reasonably maintain these hydrologic characteristics. There are proven techniques and approaches that can be incorporated into design that will mimic the natural surface and subsurface flows. Options that can be used for spreading flows that are concentrated include anchored plates, concrete sump box, and notched curb spreader. It is also reasonable that these methods will provide reasonable protection of the lily habitat.

#### Tim Ramis

City of Brookings/Lone Ranch Master Plan - Response to Comments

Page 5 September 21, 2004

Mrs. Maitland believes that since Borax has not produced any permits for their wells, they have not reasonably demonstrated an adequate water system. As discussed above under the Goal One Coalition and Mr. Chasar's comments, a clear advantage for the City to file the Water Rights and Use Application exists and we want to remain flexible on this issue.

#### U.S. Fish and Wildlife

The U.S. Fish and Wildlife Service have concerns over the wetland and lily habitat that are dependent on the hydrological characteristics of the site. As mentioned above, it is reasonable to assume that proven methods can be utilized in the design of the stormwater management system for this site that will reasonably maintain the soil moisture regime that supports the wetland and lily habitat.



ARCHITECTS ENGINEERS SURVEYORS PLANNERS

> 375 PARK AVE COOS BAY OREGON 97420

541.269.1166 FAX 541.269.1833 CELL Cell 541.404.3791 rngred@hge1.com

Richard D. Nored, P.E. Joseph A. Slack, A.I.A. Russ Dodge, PLS Stephen R. Cox



July 6, 2004

City of Brookings 898 Elk Drive Brookings, OR 97415

Attn: Leo Lightle

Community Development Director

Re: Master Plan of Development and

Technical Appendix Lone Ranch Development

Project # 01.81

Dear Leo:

We have reviewed detailed and well prepared documents constituting a Master Plan of Development for the Lone Ranch Development proposed by U.S. Borax. These documents provide a considerable planning effort which addresses anticipated environmental issues, planning requirements and preliminary engineering feasibility for the Lone Ranch property north of Carpenterville Road near Brookings. All phases of the Master Plan have been addressed in detail, and the majority of the concerns have been considered from a preliminary engineering standpoint. Concerns which we believe should be considered by the City of Brookings include the following:

1. Proposed street widths should be a concern, although statewide trends are for reduced street widths in new development. We recommend that parking be limited to one side only for proposed street widths of 24' and 28' width.

2. Sewer and water pump stations should be constructed to standards adopted by the City of Brookings. Approvals should be obtained from the City before construction is permitted.

3. Planning by the City of Brookings has addressed a need for extending water and sewer service to the Rainbow Rock Condominium project. The Lone Ranch plan addresses the fact that the Rainbow Rock water supply is a surface water source obtained from the Lone Ranch property. Water quality and quantity for Rainbow Rock will be impacted by the proposed Lone Ranch development.

4. Geotechnical issues have been addressed in a thorough report, and the project development appears feasible. All construction shall be developed in accordance with geotechnical recommendations of the Lone Ranch Master Plan.

5. A transportation impact study is included in the technical appendix, and the recommendations appear sound for the projected growth. The City of Brookings should address the extent of transportation work to be provided by varying phases of the Lone Ranch development, and make this work an integral portion of approvals for development.

6. A thorough wetland assessment has been provided in the Master Plan of Development. The assessment identifies endangered species including the

Western Lily. In general, concerns on this site appear similar to typical coastal environmental conditions. Proposed construction addresses needed work in wetland areas, and makes a point that no fill should occur within wetland boundaries. Impacts to wetland areas are very limited, and plans are to work around wetlands wherever possible. Recommendations for mitigation of site impacts are provided and appear reasonable.

7. Master Plan recommendations for off-site water improvements include expansion from Carpenterville Road. Total needs of the Brookings system to allow service for the Lone Ranch development include system expansion along Highway 101 to Easy Street, and on Easy Street to Seventh Street. Recommendations suggest cost sharing of needed expansion with the City of Brookings based on demand, and this seems to be a reasonable approach.

8. Master Plan recommendations for off-site wastewater improvements reference the Water and Wastewater Facilities Plan to Serve Borax Development and Surrounding Areas, as prepared by HGE Inc., November 2001. Recommendations once again suggest cost sharing of needed system improvements with the City of Brookings based on demand, and this seems to be a reasonable approach.

In general, Master Plan recommendations appear sound, and are provided in a manner that will benefit the development, the environment, and surrounding properties, and should not be a detriment to any public facilities. Coordination and cost sharing with the City of Brookings in developing off-site public infrastructure which benefits existing and future residents of the City appears to be fair and equitable for all parties.

If you have any questions or concerns, please contact me.

We appreciate the continuing opportunity to be of assistance to the City of Brookings.

Very truly yours,

HGE INC., Architects, Engineers, Surveyors & Planners

Richard D. Nored, P.E. President

LeRoy Blodgett, City Manager
 John Bischoff, Planning Director
 John Cowan, Public Works Supervisor
 LauraLee Gray, Building Official





COMMUNITY OF BELLEVINGS

September 24, 2004

Mr. Tim Ramis Ramis Crew Corrigan and Bachrach, LLP 1727 NW Hoyt Street Portland Oregon 97209

Re:

Lone Ranch – Response to Comments

(RAI # 2003-014-003)

Dear Tim,

At the request of U.S. Borax, Raedeke Associates, Inc. has prepared the following response to comments regarding the Lone Ranch Master Plan of Development, received at the September 13, 2004 City Council Meeting as well as written testimony submitted to the City of Brookings on September 20, 2004. Specifically this letter will address comments from Goal One Coalition, Citizens for Orderly Development, Mr. Ron Wimberly, the U.S. Fish and Wildlife Service, and Ms. Catherine Wiley.

## **GOAL ONE COALITION – SEPTEMBER 13, 2004**

The Goal One Coalition letter cites a July 29, 2004 letter from the U.S. Fish and Wildlife Service (USFWS) expressing concern about adequate protection of the endangered western lily. It is important to note that there is no federal or state requirement to conduct a complete census of listed plant species on private land. The Clean Water Act is administered by the U.S. Army Corps of Engineers (COE) for impacts to "waters of the United States" including wetlands. The Clean Water Act requires the protection of species listed by the USFWS as endangered, threatened, or sensitive. Prior to issuance of any federal permit to alter wetlands, the COE must consult with the USFWS to determine if the proposed wetland alteration will result in a significant adverse impact to a listed species. The Wetland Assessment prepared for the Master Plan application identified lily habitat on the site and provided an inventory of mature flowering lilies in previously undocumented locations on the property. Site planning provided in the Master Plan application is not intended to show all lily locations on the property, rather it was intended as a guide to planners in order to avoid impacts to known lily locations. The conclusion that approval of the Master Plan should be contingent upon a complete site census and hydrologic analysis is incorrect and beyond the jurisdictional authority of the USFWS. The project proponent continues to coordinate with USFWS in a good faith effort to avoid any adverse impact to western lily on the property.

Goal One Coalition also asserts that the Master Plan fails to demonstrate that western lily habitat and wetlands are preserved to the greatest extent possible. The proposed development has avoided direct impacts to any known lily locations on the property. The Master Plan identifies a potential to fill or modify approximately 0.5 acres of wetland on the site, less than 2 percent of the total wetland area on the property. Wetland impacts

are contemplated for road crossings and necessary access to developable uplands on the site. The wetland areas potentially affected by the development are not appropriate habitat for western lily and it is unlikely that the proposed modifications would affect western lily habitat on the site. Federal and state laws require that mitigation be provided to compensate for wetland impacts. Detailed wetland mitigation plans will be prepared in conjunction with site specific development plans and permit applications to satisfy regulatory agency requirements. There is no requirement that wetlands or endangered plants be preserved to the greatest extent possible. Federal and state laws require that wetland impacts be avoided to the extent <u>practicable</u> and that endangered plants be protected on public lands.

Goal One Coalition states that proposed project would result in a complete fragmentation of the existing ecosystem. Although loss and fragmentation of habitat are unavoidable with development, the proposed Master Plan retains large, contiguous open space tracts containing nearly all wetland acreage, streams, and buffers on the property. In addition, the proposed Master Plan identifies road crossings only at narrow portions of wetlands on the property, retaining over 98 percent (approximately 27.5 acres) of the wetlands on the property in their existing condition.

The comment letter also cites the Wetland Assessment in identifying that wetland area would be reduced without mitigation. The letter fails to cite the portion of the Wetland Assessment that acknowledges that federal and state laws will require compensatory wetland mitigation for any unavoidable adverse impacts to wetlands and identifies potential mitigation measures to compensate for any wetland loss. Mitigation plans will be developed as part of the site level permit process to compensate for proposed impacts, in accordance with regulatory requirements.

The Goal One Coalition letter points out that federal law requires the COE to review proposals to affect wetlands and that impacts may require permits from the COE. These requirements were identified in the Wetland Assessment as well as the requirements to seek permits and approvals from the Oregon Division of State Lands (ODSL) and the City of Brookings. It is important to note that the detailed plans and potential impacts to the wetlands will be reviewed by the City of Brookings, the COE, and ODSL prior to issuance of any site development permits or authorizations. Commenters have suggested that the COE and ODSL be asked to confirm the wetland delineation prior to approval of the Master Planned Development application. This request is contrary to the appropriate and approved method for conducting the wetland alteration approval process. No application can be submitted to the regulatory agencies until the City of Brookings approves the Master Planned Development for the project site and site specific development plans are generated. Upon approval of the Master Plan, site specific development plans would be prepared and application made to the appropriate regulatory agencies, initiating the review process.

Goal One Coalitions letter raises the issue of additional listed species on the property. Site specific marbled murrelet and spotted owl surveys using standard USFWS protocols were conducted during the nesting and breeding season in 2004, and will be conducted for the 2005 nesting and breeding season. No evidence of site use by marbled murrelet or spotted owl was detected during the 2004 site surveys.

The Goal One Coalition letter cites Section 7 of the Endangered Species Act (ESA) with regard to the adequacy of project information that has been submitted as part of the Master Plan application. It is important to note that the sections cited by Goal One Coalition specifically address the adverse modification of critical habitat. The USFWS has not designated any critical habitat for the western lily. In regards to consultation between the USFWS and the COE under Section 404 of the Clean Water Act, there is no prohibition against the issuance of permits that may result in adverse impacts to listed species, provided that adequate compensatory mitigation is provided. The permit may stipulate that appropriate mitigation to offset the impact be provided.

Goal One Coalition also cites the USFWS recommendation that a detailed hydrologic analysis be undertaken in order to determine how much of the site potentially could be developed. While we are aware of the potential impacts development can have on wetlands, stormwater facility designs and water quality treatments can be designed to offset or eliminate the potential for large scale development to negatively affect wetlands. It is premature to conduct a detailed hydrologic analysis of the potential impacts to site hydrology when no general Master Plan has been approved to base the site design upon.

The Goal One Coalition letter continues to discuss the potential for a "take" of endangered species and the lack of coordination with federal and state agencies responsible for managing and regulating threatened, endangered, and sensitive species. As previously stated, protocol surveys for marbled murrelet and spotted owl have been conducted on the site. No owls or murrelets have been observed on the Lone Ranch property. The project proponent continues to coordinate with the USFWS regarding the protection of western lily and its habitat on-site. Approval of the Master Plan does not authorize any development on the property, therefore no impact to any listed species can occur predicated on approval of the Master Plan. Subsequent to Master Plan approval, site specific detailed development plans will be prepared for review and approval by regulatory agencies.

## CITIZENS FOR ORDERLY DEVELOPMENT – SEPTEMBER 13, 2004

The Citizens for Orderly Development have stated that they believe that the COE and ODSL would review the Master Plan. The COE and ODSL have each informed us that they will not take action to review the wetlands on this project site until such time as an application to alter wetlands is submitted to them. These agencies have neither the staff or the resources to review project sites for which there is no application.

### MR. RON WIMBERLY - SEPTEMBER 13, 2004

Mr. Ron Wimberly provided written testimony indicating that he had seen two spotted owls on the property. Professional owl surveyors have not observed or identified any spotted owls on the Lone Ranch property to date, and suitable habitat for nesting spotted owls appears to be lacking. In the course of the protocol surveys conducted during the 2004 breeding and nesting season, Raedeke Associates, Inc. staff observed or identified at least three great-horned owls on the property. Because great-horned owls have been known to prey on spotted owls, it is unlikely that great-horned owls and spotted owls will both occur on the property. Barred owls, which resemble spotted owls in appearance, could also inhabit the site. Barred owls are not a state or federally protected species.

### U.S. FISH AND WILDLIFE SERVICE - SEPTEMBER 20, 2004

The USFWS letter of September 20, 2004 clearly states that they cannot take a position regarding the proposed Master Plan for the Lone Ranch site. The USFWS also states that they look forward to working with the project proponents in developing site specific plans to ensure the continued existence of western lily on the project site. The USFWS continues to express a desire to see detailed hydrologic analysis of a development plan. This analysis can be conducted only after a site specific development plan has been prepared.

## MS. CATHERINE WILEY - SEPTEMBER 20, 2004

Ms. Wiley has requested that protection be provided for a great blue heron rookery. Biologists visiting the site to conduct spotted owl and marbled murrelet surveys did note 7 or 8 great blue herons roosting in trees at the confluence of Lone Ranch and Duley Creeks in the extreme northern portion of the project site. No development is proposed for this portion of the site and no disturbance of the roost trees would occur as a result of the Master Plan approval or of site specific development plans. Great blue herons are not a state or federally protected species and are not listed under Goal 5.

#### **CONCLUSIONS**

The proposed Master Plan Development for the Lone Ranch development has taken into account the potential natural resource impacts of the plan. The Master Plan will not result in unmitigatable impacts to wetlands or western lily. Site specific development plans would need to be developed and appropriate permits acquired prior to any impacts to wetlands or endangered plant species on the property.

#### **LIMITATIONS**

We have prepared this letter at the request of and for the exclusive use of U.S. Borax, and their consultants. No other person or agency may rely upon the information, analysis, or conclusions contained herein without permission from them.

The determination of ecological system classifications, functions, values, and boundaries is an inexact science, and different individuals and agencies may reach different

conclusions. With regard to wetlands, the final determination of their boundaries for regulatory purposes is the responsibility of the various agencies that regulate development activities in wetlands. We cannot guarantee the outcome of such determinations. Therefore, the conclusions of this report should be reviewed by the appropriate regulatory agencies.

We warrant that the work performed conforms to standards generally accepted in our field, and was prepared substantially in accordance with then-current technical guidelines and criteria. The conclusions of this report represent the results of our analysis of the information provided by the project proponent and their consultants, together with information gathered in the course of the study. No other warranty, expressed or implied, is made.

Thank you for the opportunity to prepare this material for you. If you have any questions or comments please do not hesitate to contact me

Sincerely,

RAEDEKE ASSOCIATES, INC.

Christopher W. Wright Soil and Wetland Scientist

# **DKS** Associates

TRANSPORTATION SOLUTIONS



# **MEMORANDUM**

TO:

Tim Ramis, Ramis Crew Corrigan & Bachrach, LLP

FROM:

Scott Mansur, PE, DKS Associates SM

DATE:

September 20, 2004

**SUBJECT:** 

Lone Ranch Master Plan Response to Additional Transportation Related

**Comments** 

P03014-000

This memorandum is in response to additional transportation related comments submitted by Goal One Coalition and Peter Chasar at the Lone Ranch Master Plan City Council meeting on September 13, 2004.

# Response to Goal One Comments (letter dated September 13, 2004):

Planning Horizon (transportation section E, subsection 1 on p. 16) - Goal One questioned how the planning horizon was selected for the transportation study and that the Transportation System Plan required 20-year analysis.

The planning horizon was selected at the beginning of the project based on guidelines provided by OAR 734-051 "Division 51" and coordination with ODOT and City of Brookings staff<sup>1</sup>. Division 51 states that "future analysis shall include the year of planning horizon for the Transportation System Plan (TSP) or 15-years, whichever is greater". Since the coordination with ODOT and City of Brookings staff was in March of 2003, the year 2018 was selected for the future year analysis since it surpassed the City's TSP horizon year (the TSP horizon year 2017).

Although the City's TSP acknowledges future buildout of Lone Ranch, it allowed the city to defer specific analysis of the traffic impacts until a master plan was proposed. The TSP recommendation for Lone Ranch was for the city to assess the traffic over a 20 year planning horizon, not knowing at that time, what the future phasing might be. It is important to note that the 20 year planning horizon was a recommendation for the city, not a requirement. Therefore,

1400 SW Fifth Avenue Suite 500 Portland, OR 97201

(503) 243-3500 ((503) 243-1934 fax www.dksassociates.com

<sup>&</sup>lt;sup>1</sup> Lone Ranch Transportation Impact Study Issues Report, DKS Associates, March 14, 2003. <sup>2</sup> City of Brookings Transportation System Plan, DEA & H. Lee Associates, August 2002, p. 6-6.



MEMORANDUM September 23, 2004 Page 2 of 5

DKS coordinated with ODOT and City of Brookings staff and it was determined that a 15-year analysis would be sufficient for the *Lone Ranch Transportation Impact Study* since it surpassed the TSP horizon year and was consistent with OAR 734-051.

Trip Generation (transportation section E, subsection 2 on p. 16-18) - Goal One questioned the uses assumed in the trip generation for the Lone Ranch Transportation Impact Study and the exception for a 10% threshold for additional project traffic to be in conformance.

The Lone Ranch Transportation Impact Study assumed the worst case trip generation for expected land uses associated with the Lone Ranch Master Plan based on market studies and what the site plan would allow. No additional PM peak hour project trips are expected above and beyond what was analyzed in the Lone Ranch Transportation Impact Study. The master plan ordinance allows for additional uses that were not identified in the Lone Ranch Transportation Impact Study but they are not expected at this time. If new uses are considered at a later date, these uses should not exceed the 1036 total master plan PM peak hour trips or the 839 net new PM peak hour trips as identified in the Lone Ranch Transportation Impact Study. For example if a hotel was considered within the Lone Ranch development, other internal uses such as residential units or commercial would have to be reduced until there was no net increase above and beyond what was assumed in traffic unless a new traffic study or trip generation study were provided.

The master plan ordinance allows a 10% additional PM peak hour traffic threshold above what was approved in the Lone Ranch Master Plan to be in compliance. Since the additional 10% of traffic was not analyzed in the Lone Ranch Transportation Impact Study, it is recommended that an additional condition should be added as follows:

If any Detailed Development Plan will result in development that is projected to exceed the 1036 total master plan PM peak hour trips or the 839 net new PM peak hour trips as identified in the Lone Ranch Transportation Impact Study, taking into account traffic generated in previous phases, an additional transportation impact study will be required to be submitted with the DDP application and the DDP may be approved only if consistent with the Transportation System Plan.

Applicability of the Transportation Planning Rule (transportation section E, subsection 3 on p. 18-19) - Goal One stated that the Goal 12 TPR should apply to this project.

DKS identified three locations in the Lone Ranch Transportation Impact Study that would not meet ODOT mobility standards. These locations include Highway 101/Carpenterville Road, Highway 101/Fifth Street, and the Lone Ranch main access. Highway 101/Carpenterville Road and Highway 101/5<sup>th</sup> Street were previously identified in the TSP as needing improvements to meet ODOT mobility standards. Since the Lone Ranch Master Plan was found to generate approximately 58% lower PM peak hour traffic volumes than was assumed in the TSP therefore the project is consistent with the TSP findings. The third location was on Highway 101 at the main access point to the Lone Ranch site. The TSP did not identify specific improvements to the

# **DKS** Associates

TRANSPORTATION SOLUTIONS

MEMORANDUM September 23, 2004 Page 3 of 5

frontage of the Lone Ranch site. The improvements at the main access point necessary to allow the intersection to meet ODOT mobility standards will be implemented as required by ODOT with the associated access permit. Therefore these improvements would be constructed prior to occupancy of phase 1 (see staff report condition #24).

The State of Oregon Transportation Planning Rule does not specifically apply to this proposed project. Under Goal 12, OAR 660-12-060 (1) (Plan and Land Use Regulation Amendments), only amendments which "significantly affect a transportation facility" must be analyzed. A significant effect on a transportation facility occurs only if it: (a) changes the functional classification; (b) changes the standards implementing the functional classification; (c) allows land uses which would result in levels of travel inconsistent with the facilities classification; or (d) would reduce the level of service below the minimum acceptable level. This proposed project will not cause such impacts; therefore, Goal 12 does not specifically apply to this project. ODOT staff has agreed with this finding by stating "The Oregon Department of Transportation (ODOT) has reviewed the staff report, traffic evidence and conditions of approval, and has no transportation concerns with the proposed project...". The ODOT letter is attached (see exhibit "A")

Scope of TIS (transportation section E, subsection 4 on comment p. 19) - Goal One stated that based on findings from the TSP, the scope of the TIS should have included the intersections US 101/Arnold Lane and US 101/Mill Beach Road.

Since the proposed Lone Ranch Master Plan was found to generate approximately 58% lower PM peak hour traffic volumes than was assumed in the TSP, US 101/Arnold Lane and US 101/Mill Beach Road were not determined as critical intersection for analysis in the Lone Ranch Transportation Impact Study. DKS Associates submitted the proposed analysis study area at the initiation of the study that was approved by ODOT and City of Brookings staff<sup>3</sup>.

Consistency with Phasing Plan (transportation section E, subsection 5 on p. 19-20) - Goal One stated that the Lone Ranch Transportation Impact Study is not consistent with the phasing plan.

The Lone Ranch Transportation Impact Study outlined improvements that were needed based on the expected phasing and level of development. The frontage improvements at all of the proposed Lone Ranch access points will be required by ODOT with the associated access permit; therefore these improvements would be constructed prior to occupancy of the proposed development (see staff report condition #24). The remaining improvements at Highway 101/Carpenterville Road and Highway 101/5<sup>th</sup> Street as identified in the TSP would be covered through SDC's or LID's; Therefore, the phasing of the development would have no affect on the improvement findings.

<sup>&</sup>lt;sup>3</sup> Lone Ranch Transportation Impact Study Issues Report, DKS Associates, March 14, 2004.

# **DKS** Associates TRANSPORTATION SOLUTIONS

MEMORANDUM September 23, 2004 Page 4 of 5

US 101 north of Carpenterville Road to south of Alder Street (transportation section E, subsection 6 on p. 20-21) – Goal One stated that the TSP found that the Highway 101 segment between Carpenterville Road and Ransom Avenue would operate above mobility standards and the Lone Ranch Transportation Impact Study had different findings. Goal One also questioned the "future traffic" assumptions used in the Lone Ranch Transportation Impact Study.

As was mentioned previously, it was determined that the Lone Ranch Master Plan would generate approximately 58% fewer trips than assumed in the TSP. This reduction of project trips would allow the Highway 101 segment between Carpenterville Road and Ransom Avenue to operate in conformance with the ODOT mobility standard (see p. 25 in the Lone Ranch Transportation Impact Study).

The "future traffic" assumptions used in the Lone Ranch Transportation Impact Study were based on the ODOT Transportation Planning Analysis Unit (TPAU) travel demand model created specifically for Brookings. All growth assumptions in the model are based on approved land use characteristics inside and outside of the Brookings UGB. The City of Brookings TSP specifically assumed 150,000 square feet of commercial, a golf course and hotel within the Lone Ranch site (see Brookings TSP Table 5-14). Based on the findings of the Lone Ranch Master Plan, it was determined that the majority of these uses should be removed from the transportation analysis because they are no longer reasonably expected to develop. The removal of these uses did not affect the assumptions from the model for any other developments outside of the Lone Ranch property as defined in the Lone Ranch Master Plan. Therefore the findings in the Lone Ranch Transportation Impact Study are not in error. ODOT has agreed to this conclusion as well (see ODOT letter from Thomas Guevara dated July 26, 2004).

US 101/Carpenterville Road intersection (transportation section E, subsection 7 on p. 21-23) – Goal One stated that the Lone Ranch Transportation Impact Study is in error in stating that signalization of the US 101/Carpenterville Road intersection is adopted.

The Brookings TSP identified several improvements including a traffic signal and intersection widening to the intersection of US 101/Carpenterville Road that totaled \$550,000. The TSP stated that "This intersection could benefit from a traffic signal today" and that traffic signal warrants are currently met. The recommendation in the TSP was to do nothing at this time. Since our findings are consistent with the TSP, in that, improvements are needed but none were recommended, we recommend that the following condition of approval be added to assure there are no significant impacts from the Lone Ranch development:

To assure that the mobility standards are met at the intersection of Highway 101/Carpenterville Road, no Detailed Development Plan (DDP) should be approved that would exceed the acceptable ODOT mobility standard for Highway 101/Carpenterville Road intersection until the City of Brookings TSP is amended to identify/recommend improvements or a change to standards and the Lone Ranch development and pays a proportionate share to these improvements. Analysis at Highway 101/Carpenterville Road should be conducted to determine

# **DKS** Associates

TRANSPORTATION SOLUTIONS

MEMORANDUM September 23, 2004 Page 5 of 5

the level of impact for each DDP until the City of Brookings Transportation System Plan is amended to include the necessary improvements.

Connectivity (transportation section E, subsection 8 on p. 23) – Goal One states that the Lone Ranch site has not provided a parallel route to Highway 101 for congestion purposes and there is no internal connection from areas G and H to the rest of the development.

A parallel route to Highway 101 was not needed since the existing Highway segment from Lone Ranch to Brookings would meet the ODOT mobility standards through the planning horizon.

The Lone Ranch team looked extensively into providing an internal connection between the north (areas G and H) and the south sections. A vehicular connection was not provided within the Lone Ranch site due to environment constraints (impacts to wetlands and Ram Creek), but a pedestrian/bicycle connection would be provided.

# Response to Pete Chasar Comments (letter dated September 13, 2004):

Goal 12 (p. 2) – Mr. Chasar stated that the Lone Ranch Master Plan does not provide safe pedestrian access across Highway 101.

The State of Oregon Transportation Planning Rule does not specifically apply to this proposed project. Under Goal 12, OAR 660-12-060 (1) (Plan and Land Use Regulation Amendments), only amendments which "significantly affect a transportation facility" must be analyzed. A significant effect on a transportation facility occurs only if it: (a) changes the functional classification; (b) changes the standards implementing the functional classification; (c) allows land uses which would result in levels of travel inconsistent with the facilities classification; or (d) would reduce the level of service below the minimum acceptable level. Therefore, a pedestrian crossing of Highway 101 does not apply to the TPR. However, the Lone Ranch project team has previously had discussions with ODOT regarding a pedestrian crossing of Highway 101 adjacent to the Lone Ranch property. The Lone Ranch project team is not opposed to a safe pedestrian crossing of Highway 101, but there are significant issues associated with providing either an at-grade or grade separated pedestrian crossing. These issues include topography, design standards, connectivity to adjacent destinations, and coordination between Lone Ranch, ODOT, and Oregon State Parks and Recreation. Due to these issues, a pedestrian crossing is not shown on the Lone Ranch Master Plan at this time.

Let me know if you have any questions or comments.



**Department of Transportation** 

Region 3 - Planning 3500 NW Stewart Parkway Roseburg, OR 97470 Telephone (541) 957-3692 FAX (541) 957-3547 thomas.guevara@odot.state.or.us

JULY 26, 2004

JOHN C. BISCHOFF, PLANNING DIRECTOR CITY OF BROOKINGS PLANNING DEPARTMENT 898 ELK DRIVE BROOKINGS, OREGON 97415

Re: US Borax Lone Ranch Master Plan (MPD-1-04)

Dear Mr. Bischoff,

This correspondence is to provide comments on the approval of a Master Plan for the development of land to establish 1,000 dwelling units of various types, a commercial area, a college site, with new streets, walking trails and natural areas located on the east side of US 101 starting approximately 0.8 miles north of Carpenterville Road and extending 1.8 miles north along the highway. The Oregon Department of Transportation (ODOT) has reviewed the staff report, traffic evidence and conditions of approval, and has no transportation concerns with the proposed project subject to the following corrections to the Findings of Fact and conditions of approval.

- 1. ODOT recommends that the second conclusion on page 8 in the staff report be included in the Final Findings of Fact and conclusions of law to be adopted by the City Council; and
- 2. Condition of Approval number 24 should remove the word "southern" to ensure that all improvements for the accesses to the subject property are made as part of an ODOT Road Approach Permit.

We appreciate the opportunity to provide assistance on the proposed project, and look forward to serving the City of Brookings in the future. Please contact me at (541) 957-3692 if you have any questions or need additional information.

Sincerely,

## THOMAS GUEVARA

**Development Review Planner** 

Cc: Marty Stiven, Western Advocates

## CITY OF BROOKINGS



# **MEMO**

TO:

Mayor, City Council

FROM:

Leo Lightle,

Community Development Director

DATE:

October 7, 2004

ISSUE:

Authorization to award Bids –Highway 101 water and sewer line replacement and installation sections: Chetco Lane to Fifth Street; Crissey Circle to north of

Parkview Drive; Arnold Lane to Rubio's Restaurant.

BACKGROUND:

We have opened bids and have received responsible bids. The Engineers are checking the figures and will forward their recommendation. We will hand out the memo regarding the bids at the Council meeting. The bids are in line with the engineer's estimate of approximately \$1,300,000. The monies for this project are contained in the City's Budget for Fiscal year 2004-2005.

We need to give authorization to sign the awarding of the project.

RECOMMENDATION:

The recommendation will be presented at the Council meeting.



# CITY OF BROOKINGS



## **STAFF REPORT**

Date:

October 4, 2004

To:

Mayor Hagbom & City Councilors

From:

Leroy Blodgett, City Manager

Subject:

LOC Voting Delegate

#### **BACKGROUND**

Each year the League of Oregon Cities (LOC) holds its Annual Business Meeting during the conference in November. At the meeting, delegates will vote on resolutions recommended by the Resolutions Committee, new members for the Board and possibly other related issues. Anyone can attend and comment on issues, but to insure that each City is given only one vote City Council must appoint a "voting delegate" and an alternate delegate. In past years the Mayor has been the voting delegate and council president the alternate.

#### STAFF RECOMMENDATION

Appoint Mayor Hagbom as voting delegate and Council President Dentino as alternate voting delegate for the 2004 LOC Annual Business Meeting.

Phone: (541) 469-2163 Fax: (541) 469-3650 America's Wild Rivers (1) MAR OF MARKET COAST.

# League of Oregon Cities 79th ANNUAL CONFERENCE and BUSINESS MEETING

November 4 - 6, 2004 — Portland Marriott Downtown

# Designation of Voting Delegate at Annual Business Meeting

The annual business meeting will be held Saturday, November 6, at 3:45 p.m. Each city is entitled to cast <u>one</u> vote at the business meeting; however, <u>all</u> city officials are encouraged to attend.

Use this form to indicate those persons who will represent your city as a voting delegate and alternate delegate. The voting delegate or alternate should pick up a voting card at the Conference Registration Desk on Saturday afternoon prior to entering the business meeting. NOTE: Delegates may not vote without a voting card, and voting cards will be issued only to a person indicated on this form. Voting by proxy will not be permitted.

OR THE C	CITY OF		<del></del>
	VOTING DELEGATE		
	Name		
	Title		
•	ALTERNATE		•
	Name		
	Title		
,	Submitted By		
	Name	(Signature)	
	Telephone Numbe	\ <b>_</b>	

Return by October 15 to: League of Oregon Cities P.O. Box 928 Salem, OR 97308

#### CITY OF BROOKINGS

#### **COMMON COUNCIL MEETING MINUTES**

### City Hall Council Chambers 898 Elk Drive, Brookings, OR 97415

September 27, 2004 7:00 p.m.

#### I. Call to Order

Council President Rick Dentino called the meeting to order at 7:00 p.m.

#### II. Pledge of Allegiance

Led by Council President Dentino.

#### III. Roll Call

Council Present: Council President Rick Dentino, Councilors Frances Johns Kern, Craig Mickelson, and Larry Anderson, a quorum present

Council Absent: Mayor Bob Hagbom

#### Staff Present:

City Manager Leroy Blodgett, City Attorney John Trew, Community Development Director Leo Lightle, City Planner John Bischoff, Fire Chief William Sharp, Finance Director Paul Hughes and Administrative Secretary Linda Barker

Media Present: Curry Coastal Pilot Reporter Brian Bullock

#### Other:

Approximately 15 other citizens

#### IV. Ceremonies/Appointments/Announcements

#### A. Ceremonies

- Proclamation—Disability Employment Awareness Month
   Liz Prendergast, South Coast Independent Living, accepted a proclamation declaring October as Disability Employment Awareness Month.
- Proclamation—Fire Prevention Week
   Fire Chief William Sharp accepted a proclamation declaring October 3 through 9 as Fire Prevention Week.
- 3. Acceptance of Certificate of Achievement for Excellence in Financial Reporting

  Finance Director Hughes accepted a hardwood plaque recognizing the City of Brookings as recipient of the Certificate of Achievement for Excellence in Financial Reporting. This is the highest form of recognition in the area of governmental accounting and financial reporting. The City has earned this award nine out of the last eleven years.

4. Certificate of Appreciation to Randy Mitchem—5-Year Work
 Anniversary
 Randy Mitchem accepted a certificate for 5 years of service to the City as Parks Maintenance/Public Works worker.

At this time the Council took a short recess to fix the audio feed going out to cable channel 4. The meeting reconvened at 7:14 p.m.

B. Announcements
None

The agenda was modified at this point to move Item VI. Oral Requests and Communications from the Audience ahead of the scheduled public hearing.

- VI. Oral Requests and Communications from the Audience
  - A. Committee and Liaison reports
    - 1. Council Liaisons
      Ex Officio Counc

Ex Officio Councilor Enos reported on activities at the High School. He said enrollment is up with 60 more students than last year. In particular the freshman class has 40 more students than last year. The bus entrance area has been moved which has resulted in better traffic flows around the high school area. There will be leadership training on September 29 for all class and school officers in this league at Camp Mytlewood near Myrtle Point. Fall sports season has started. Spirit Week begins October 11 with an evening bonfire and concludes with the homecoming dance on Saturday. The homecoming game is against the Douglas Trojans.

B. Unscheduled

Larry Aslinger, 439 Buena Vista Loop, presented a packet to each Councilor containing information on biosolids and domestic septage. He hopes biosolids and domestic septage will be researched fully before a decision is reached on the issue.

The meeting recessed from 7:22 to 7:29 p.m. to again work on the audio output.

- V. Public Hearing
  - A. In the matter of Planning Commission File No. APP-2-04, an appeal of the Planning Commission's approval of a Planned Unit Development to create 36 condominium units on a 9.09 acre parcel of land located at the northerly end of Timberline Drive; Assessor's Map 40-13-31CA, Tax Lot 900 zoned R-1-6 (Single Family Residential, 6,000 sq. ft. minimum lot size) and Assessor's Map 40-13-31CD, Tax Lot 4900 zoned R-1-10 (Single Family Residential, 10,000 sq. ft. minimum lot size); Bruce Brothers, LLC, applicant, Debbie Hodges, appellant

City Attorney Trew read procedures for quasi judicial public hearings into the record. Council President Dentino opened the public hearing at 7:33 p.m. Councilor Mickelson declared ex parte contact due to a site visit. No member of the public questioned the Councilor about the substance of the ex parte contact. No Councilor declared actual personal interest or personal bias. Councilor Anderson declared a potential conflict of interest with no pecuniary gain. The nature of the potential conflict was a contractual dispute with the applicant three years ago. The issue was litigated in small claims court and dismissed. He stated he has the ability to evaluate the findings and deliberate and deliver an impartial decision on the matter. Richard Wise, office manager for Bruce Bros., PO Box 61, Brookings, commended Councilor Anderson for bringing the past history to light and asked that Anderson recluse himself from the proceedings. Trew stated that under Oregon law a potential or actual conflict of interest relates to financial impact to the public official, the official's relatives or business with which the official or official's relative is associated and that Councilor Anderson had, according to state law, stated what he characterized as a potential conflict of interest for the record. Anderson said he did not plan to recluse himself. There was no objection from the public as to the Council's jurisdiction to hear the matter.

Council President Dentino read the remaining procedures into record. Planner Bischoff gave his staff report, ending by saying that staff and the Planning Commission were recommending approval for the Planned Unit Development. The Planning Commission's recommendation is being appealed in this hearing.

Several Councilors had questions for Bischoff. Conditional of Approval No. 39 was not listed on the Conditions in the packet and copies were made for the Councilors. Discussion regarding rain storming and its maintenance, grades, street widths, passing turnouts, wetland identification, RV parking and neighborhood CCRs ensued. Condition No. 39, which was added to the original conditions by the Planning Commission, was read into the record. There were no further questions of staff by the Council.

### Testifying at the hearing were:

Jim Capp, PO Box 2937, Harbor, representing the Bruce Brothers, the applicant. There were no questions to Capp from the Council.

No members of the Planning Commission or supporters of the application addressed the Council.

The appellant Debbie Hodges, PO Box 1780, Brookings, next addressed the Council. As Hodges is the appellant she was granted additional time to present her evidence over the customary five minutes. During her statement a point of order was made by Richard Wise objecting to Hodges use of the term

violations. Hodges was asked by the Council President to categorize her statements as allegations of violations.

Further procedural issues were raised regarding meeting dialog between the appellant and the applicant. Trew advised there should not be questioning between the appellant and the applicant. Bill Smith, 820 Highland Avenue, Brookings, asked if all opponents should give their statements before applicant rebuttal. Trew responded affirmatively.

Councilor Anderson asked that the five-minute limit be reinstated and Council President Dentino said this will be enforced.

Speaking in Opposition to the project were: Bill Smith, 820 Highland Avenue, Brookings Don Drivon, 942 Timberline Drive, Brookings Susan Roughen, 1020 Brooke Lane, Brookings Catherine S. Martin, 933 Third Street, Brookings

Hodges asked that all Councilors read everything she presented and that the record be left open for seven days. She stated she has been in communication with State Attorney General Hardy Myers. She is expecting a letter from him and wanted the record held open to include it.

The meeting recessed at 9:23 p.m. and reconvened at 9:32 p.m.

Wise rebutted a number of issues. There were no questions from the Council for Wise. Capp also gave rebuttal testimony. There were brief questions to Capp regarding wetlands.

There were no other questions from Council to the applicant's representatives or staff.

Hodges was granted her request for seven additional days to submit written evidence. The applicant also requested seven days to respond to this written evidence. Hodges' evidence must be to the Planning Department by October 4 and Bruce Bros.' written rebuttal must be turned in by October 11. The Council will deliberate on the project at their regularly scheduled meeting October 25.

The public hearing closed at 10:22 p.m. with the record remaining open as stated above.

### VI. Oral Requests and Communications from the Audience

This item was handled before the public hearing. See changed order of the agenda above.

#### VII. Staff Reports

- A. Finance Department
  - Council Chambers sound system

    City Manager Blodgett gave the Finance Department report on the quotes for installing new sound and recording equipment for the Council Chambers. The upgrade will include new microphones, speakers, mixer board, wiring and a DVD recording system. Staff recommended accepting the quote of Diamond Communications.

Councilor Anderson moved, a second followed, and the Council voted unanimously to accept the quote from Diamond Communications in the amount of \$7,659 to upgrade the Council Chambers sound system.

- B. City Manager
  - 1. Other None

#### VIII. Consent Calendar

- A. Approval of Council Meeting Minutes
- 1. Minutes of September 13, 2004, regular Council meeting End Consent Calendar

Councilor Mickelson moved, a second followed, and the Council voted unanimously to accept the Consent Calendar as printed.

#### IX. Ordinances/Resolutions/Final Orders

- A. Ordinances
  - 1. Ordinance No. 04-O-555.A, an Ordinance amending Ordinance No. 04-O-555 an Ordinance granting Coos-Curry Electric a 20-year franchise for operation of an electric power distribution system in the City of Brookings.

City Manager Blodgett explained the purpose of the proposed ordinance was to update the existing franchise ordinance to the current level of street lights and population including the nine street lights added on the Dot Martin Bridge. Staff recommended approval of the ordinance. Blodgett read the ordinance in its entirety.

Councilor Anderson moved, a second followed, and the Council voted unanimously to have the second reading of Ordinance No. 04-O-555.A by title only.

Blodgett read the ordinance by title only.

2. Councilor Johns Kern moved, a second followed, and the Council voted unanimously to adopt Ordinance No. 04-O-555.A, an

Ordinance amending Ordinance No. 04-O-555, an Ordinance granting Coos-Curry Electric a 20-year franchise for operation of an electric power distribution system in the City of Brookings, to update the Ordinance to the current level of street lights and population including the nine street lights added on the Dot Martin Bridge.

<b>X.</b>	Remarks from Mayor and Councilors										
	A.	Council									
		None									
	В.	Mayor									
		None									
Χ.	Adiou	ırnment									
	•	no further business before it, the Council adjourned at 10:37 p.m.									
Respe	ctfully s	submitted:									
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#### **MINUTES**

#### **BROOKINGS PLANNING COMMISSION**

## Regular Meeting September 7, 2004

Vice-Chair Collis assumed the chair and called the meeting of the Brookings Planning Commission to order at 7:00 p.m. in the Council Chambers at Brookings City Hall on the above date with the following Commission members and staff in attendance.

#### Commissioners Present:

Jim Collis

Ted Freeman

Bill Dundom

Bruce Nishioka

Randy Gorman

Bill Smith

Emilia Parada, Ex Officio Student Commissioner

#### Commissioners Absent:

Bob Gilmore

#### Staff Present:

John Bischoff, Planning Director

Dianne Snow, Assistant Planner

Cathie Mahon, Community Development Secretary

#### Media:

Curry Coastal Pilot reporter, Brian Bullock

#### Other:

Approximately 15 citizens in the audience.

#### CHAIRPERSON ANNOUNCEMENTS

None.

#### **MINUTES**

By a 6-0 vote (motion: Commissioner Freeman) the Planning Commission approved the minutes for the special meeting on July 27, 2004 and the continuance on August 17, 2004, as written.

By a 5-0-1 vote (motion: Commissioner Freeman; Commissioners Dundom, Smith, Freeman, Gorman, and Collis voted in the affirmative; Commissioner Nishioka abstained due to absence at the meeting) the Planning Commissioner approved the minutes of August 3, 2004, as amended

# THE PLANNING COMMISSION TOOK THE FOLLOWING ACTION ON WRITTEN REQUESTS AND COMMUNICATIONS

1. By a 6-0 vote (motion: Commissioner Dundom) the Planning Commission approved the final map to divide a 2.96 acre lot parcel into a 14 lot subdivision to be known as *Oakwood Subdivision*: located at Parkview Drive and Hampton Lane; Assessor's Map 40-13-31 C, Tax Lots 601 and 603; File No. SUB-9-03; Kurt Kessler, applicant.

2. By a 6-0 vote (motion: Commissioner Gorman) the Planning Commission approved the final map for an 11-lot subdivision, known as *Ocean Way Estates*; located on the west side of Tanbark Road; Assessor's Map 41-13-07AA, Tax Lots 601 and 603; File No. SUB-2-04; Ross Walton, applicant.

# THE PLANNING COMMISSION TOOK THE FOLLOWING ACTION IN THE PUBLIC HEARINGS

- 1. By a 5-1 vote (motion: Commissioner Gorman; Commissioners Collis, Dundom, Nishioka, Gorman, and F reeman voted in the affirmative; Commission S mith voted in opposition) the Planning Commission approved the application for variance to encroach 5 feet into the required 10 foot side yard setback of an accessory structure; located at 912 Easy Street; Assessor's Map 41-13-06AB, Lot 1500; R-1-6 (Single family residential, 6,000 square foot minimum lot size) zone; Brian Woosley, applicant, File No. VAR-3-04.
- 2. By a 5-1 vote (motion: Commissioner Freeman; Commissioners Collis, Dundom, Nishioka, Gorman and Freeman voted in the affirmative; Commissioner Smith voted in opposition) the Planning Commission approved the Final ORDER and Findings of Fact for File No. VAR-3-04.

The action was taken following questions and comments regarding the request from the following:

Brian Woosley

P. O. Box 883

Brookings, OR 97415

Read into the record was a letter from:

Patrick & Susan Dodgen P. O. Box 1628 (Barbara Lane) Brookings, OR 97415

There was no challenge from the audience as to the jurisdiction of the Commission to hear the request.

3. By a 6-0 vote (motion: Commissioner Smith) the Planning Commission approved a request for a conditional use permit to establish a dwelling group of two single-family units on a 0.32 acre parcel; located at 524 Myrtle Street; Assessor's Map 41-13-05CA, Tax Lot 102; R-1-6 (Single-family Residential, 6,000 square foot minimum lots size) zone; Bart Kast, applicant; File No. CUP-6-04.

The motion was amended to include the following conditions to the Conditions of Approval:

- The applicant must contact the U.S. Post Office to determine appropriate mailbox location.
- A 6-foot high fence must be constructed along the northwest property line to provide a visual barrier.
- Commissioners Gorman, and Freeman declared they had done business with the applicant but stated they could hear the case with bias. Commissioner Smith, and Freeman declared ex parte due to a site visit. There was no challenge from the audience as to the jurisdiction of the Commission to hear the request.

A recess was declared at 9:16 p.m. The meeting reconvened at 9:21 p.m. with the same six board members. Ex Officio Parada left the meeting.

At the request of the applicant and agreement from the Chair, the public hearing was re-opened at 9:40 p.m. (The applicant wanted clarification of the fence placement). The public hearing was officially closed at 9:42 p.m.

The action was taken following questions and comments regarding the request from the following:

Bart Kast17230 Rustic LaneBrookings, OR 97415John Babin514 Mrytle StreetBrookings, OR 97415Bill Youngman418 Pine StreetBrookings, OR 97415

Letters were read into the record from the following:

Deane Roppe 420 Pine Street Brookings, OR 97415
John & Ellen Babin 514 Mrytle Street Brookings, OR 97415

There was no challenge from the audience as to the jurisdiction of the Commission to hear the request.

4. By a 6-0 vote (Motion: Commissioner Smith) the Planning Commission approved the amended Final ORDER and Findings of Fact for File No. CUP-6-04.

# THE PLANNING COMMISSION TOOK THE FOLLOWING ACTION ON COUNTY REFERRALS

1. By a 6-0 vote (Motion: Commissioner Gorman) the Planning Commission will send a favorable recommendation to Curry County in the matter of File No. **CR-P-0409**, a request for a partition of a 0.89 acre parcel into two parcels; located at 16691 Crown Terrace; Assessor's Map 41-13-04BB, Tax Lot 1300; R-3 (Residential) county zone; Bill and Barbara Giles, applicants.

#### UNSCHEDULED PUBLIC APPEARANCES

None.

#### PROPOSITIONS AND COMMISSIONERS COMMENTS

None.

#### PLANNING DIRECTOR COMMENTS:

Planning Director Bischoff said no cases have been filed for the October 5<sup>th</sup> public hearing. A meeting will be held sometime in October to review the new Downtown Business (DB) zone district and members will be contacted for that hearing.

- Bischoff reported a couple of meetings. On Monday, September 13, 2004, the Borax project will be heard before City Council.
- An appeal of the Planning Commissions approval of File No. PUD-2-04, the planned development for Ransom Creek Condominium project will be heard before City Council on Monday, September 27<sup>th</sup>.

Several members requested copies of the appeal, and any new documents.

3

#### **ASSISTANT PLANNER COMMENTS:**

Assistant Planner Snow updated the Planning Commission on their recommendation for approval on two county cases heard and forwarded to the county for their public hearings.

- In July for Margaret Cockran and Kim Jones, File No. CR-S-0402, a replat in the Crestline Subdivision was approved.
- In August for John & Jennifer Donnelly, File No.CR-P-0405, a request for a partition was approved along with the condition suggested by the Planning Commission:

Prior to construction of Parcel 1, an engineered storm drainage plan be submitted and approved to prevent runoff from damaging other properties.

#### ADJOURNMENT:

With no further business before the Planning Commission, the meeting adjourned at 10:15 p.m.

Respectfully submitted,

**BROOKINGS PLANNING COMMISSION** 

R. Gilmore, Chairperson

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<u> </u>	Per	Date	Check No	Vendor No	Payee	Check GL Acct	Amount	
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لسنا	09/04	09/02/2004	49899		Applied Industrial Technology	10-00-2005	78.63	
	09/04	09/02/2004	49900		Arlene Remien	10-00-2005	12.80	
	09/04	09/02/2004	49901		Becco, Inc	10-00-2005	57.90	
	09/04	09/02/2004	49902		B-H Chamber of Commerce	10-00-2005	6,336.84	
	09/04	09/02/2004	49903		Brookings Vol Firefighters	10-00-2005	2,083.33	
	09/04	09/02/2004	49904		Chetco Federal Credit Union	10-00-2005	3,330.00	
	09/04	09/02/2004	49905		Chris Shobert	10-00-2005	16.51	
	09/04	09/02/2004	49908		Coastal Paper & Supply, Inc	10-00-2005	155.70	
<u> </u>	09/04	09/02/2004	49907		Crystal Fresh Bottled Water	10-00-2005	125.00	
	09/04	09/02/2004	49908		Darrel D Smedstad	10-00-2005	30.62	
	09/04	09/02/2004	49909		Day-Wireless Systems	10-00-2005	40.60	
<del>-</del>	09/04	09/02/2004	49910		Donald & Roberta Chandler	10-00-2005	548.00	
	09/04	09/02/2004	49911	153	Ferrellgas	10-00-2005	3,317.99	
	09/04	09/02/2004	49912	298	Freeman Rock, Inc	10-00-2005	497.75	
	09/04	09/02/2004	49913		G Lloyd Williams Jr	10-00-2005	2.77	
لبهنا	09/04	09/02/2004	49914	2882	Globalstar USA	10-00-2005	118.78	
	09/04	09/02/2004	49915	2109	Granite Construction Co.	10-00-2005	286.15	
	09/04	09/02/2004	49916	139	Harbor Logging Supply	10-00-2005	41.20	
	09/04	09/02/2004	49917	131	VOID - HGE, Inc	10-00-2005	.00	
	09/04	09/02/2004	49918	1447	ISCO	10-00-2005	133.64	
	09/04	09/02/2004	49919	2894	J Homan	10-00-2005	27.68	
	09/04	09/02/2004	49920	2889	Jennifer Friar	10-00-2005	6.91	
<del>-</del>	09/04	09/02/2004	49921	2883	Jennifer Sain-Thomason	10-00-2005	12.53	
' '	09/04	09/02/2004	49922	2892	Jerry D Holman	10-00-2005	30.07	
	09/04	09/02/2004	49923	2887	John G O'Hara	10-00-2005	22.98	
	09/04	09/02/2004	49924	2890	John M Do	10-00-2005	7.21	
( <del></del> )	09/04	09/02/2004	49925	2860	Kiefer	10-00-2005	227.20	
	09/04	09/02/2004	49926	262	Kim Hunnicutt Court Reporting	10-00-2005	20.00	
	09/04	09/02/2004	49927	2598	Larry Garcia	10-00-2005	66.53	
	09/04	09/02/2004	49928	2382	Law Enforcement Targets	10-00-2005	56.98	
_	09/04	09/02/2004	49929	681	Linda Barker	10-00-2005	30.00	
	09/04	09/02/2004	49930	2891	Linda Stimson	10-00-2005	10.78	
	09/04	09/02/2004	49931		Information Only Check	10-00-2005	.00	V
	09/04	09/02/2004	49932	2122	Mastercard	10-00-2005	800.02	
' '	09/04	09/02/2004	49933	322	Postmaster	10-00-2005	586.00	
	09/04	09/02/2004	49934	1193	PRN Data Services, Inc	10-00-2005	3,810.00	
	09/04	09/02/2004	49935	378	Quality Control Services	10-00-2005	9.89	
(mar)	09/04	09/02/2004	49936	187	Quality Fast Lube & Oil	10-00-2005	28.00	
	09/04	09/02/2004	49937	963	Randy Gorman	10-00-2005	51.78	
	09/04	09/02/2004	49938	2831	Renner Petroleum	10-00-2005	389.69	·
	09/04	09/02/2004	49939	199	Richard Harper	10-00-2005	300.00	
<del></del>	09/04	09/02/2004	49940		Richard Whitaker	10-00-2005	13.55	·
	09/04	09/02/2004	49941		Rogue River Myrtlewood	10-00-2005	450.00	
	09/04	09/02/2004	49942		Ron Plaster	10-00-2005	412.54	
_	09/04	09/02/2004	49943		•	10-00-2005	7.87	
11	09/04	09/02/2004	49944			10-00-2005	219.40	•
	09/04		49945		•	10-00-2005	164.00	
	09/04	09/02/2004			•	10-00-2005	7.13	
<b>—</b>	09/04					10-00-2005	16.25	•
	09/04				, ,,,,	10-00-2005	5,727.41	
	09/04				•	10-00-2005	308.55	
	09/04				•	10-00-2005	131.16	
<del></del>	09/04				- ·	10-00-2005	22.75	
	09/04					10-00-2005	19.44	
	09/04	09/02/2004	4995	3 2880	Zurich North America	10-00-2005	757,50	

M = Manual Check, V = Void Check

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09/04	09/08/2004	49956	1132	OR Department of Justice	10-00-2005	322.15	
09/04	09/08/2004	49957	1742	OR Department of Justice	10-00-2005	307.93	
09/04 .	09/08/2004	49958	2366	OR Department of Justice	10-00-2005	203.08	
09/04	09/08/2004	49959	205	PERS Retirement	10-00-2005	11,941.78	
09/04	09/08/2004	49960	.213	Teamsters Local Union 223	10-00-2005	660.00	
9/04	09/08/2004	49961	718	Western Mercantile Agency Inc	10-00-2005	451.99	
9/04	09/09/2004	49962	150	Any Time Coffee Service	10-00-2005	22.85	
09/04	09/09/2004	49963	342	Applied Industrial Technology	10-00-2005	11.11	
9/04	09/09/2004	49964	496	APSCO	10-00-2005	1,594.57	
9/04	09/09/2004	49965	490	Ameson Motor & Machines	10-00-2005	20.00	
9/04	09/09/2004	49966	2902	Bernie Lindley	10-00-2005	30.26	
9/04	09/09/2004	49967	110	Brookings Auto Parts	10-00-2005	35.58	
9/04	09/09/2004	49968	2421	Brookings Harbor Booster Club	10-00-2005		
9/04	09/09/2004	49969	2600	Brookings Laser Arts	10-00-2005	1,040.00 59.95	
9/04	09/09/2004	49970	370	CCIS	10-00-2005	34,341.64	•
9/04	09/09/2004	49971	2393	Charlotte L Beeson	10-00-2005	•	
09/04	09/09/2004	49972	822	Coast Auto Center		35.22 80.40	
9/04	09/09/2004	49973	2339	Coastal Window Tinting	10-00-2005	80.40	
09/04	09/09/2004	49974	151	Curry Coastal Pilot	10-00-2005	300.00	
9/04	09/09/2004	49975	•••	Information Only Check	10-00-2005	2,347.15	
9/04	09/09/2004	49976	166	Dan's Auto & Marine Electric	10-00-2005	V 00.	
9/04	09/09/2004	49977	259	Da-Tone Rock Products	10-00-2005	296.39	
9/04	09/09/2004	49978	2899	Decatur Electronics	10-00-2005	458.84	
9/04	09/09/2004	49979	185	Del Cur Supply	10-00-2005	3,510.00	
9/04	09/09/2004	49980	1729	Devan Strahm	10-00-2005	122,45	
9/04	09/09/2004	49981	186	Hennick's Hardware	10-00-2005	56.74	
9/04	09/09/2004	49982	1082	Hilary Thompson	10-00-2005	4.75	
9/04	09/09/2004	49983	2874		10-00-2005	21.38	
09/04	09/09/2004	49984	307	Holiday Inn Wilsonville	10-00-2005	255.13	
09/04	09/09/2004	49985		Industrial Steel & Supply Inc	10-00-2005	217.88	
09/04	09/09/2004	49986	2416	ITT Flygt Corp	10-00-2005	1,085.39	
09/04	09/09/2004			Information Only Check	10-00-2005	V 00.	
09/04	09/09/2004	49987		Information Only Check	10-00-2005	.00 V	
09/04	09/09/2004	49988		Information Only Check	10-00-2005	.00 V	
09/04		49989	400	Information Only Check	10-00-2005	.00 V	
09/04	09/09/2004 09/09/2004	49990	162	Kerr Hardware	10-00-2005	551.16	
		49991	328	Les Schwab Tire Company	10-00-2005	335.08	
09/04 09/04	09/09/2004	49992	1127	Lyle Signs Inc	10-00-2005	263.20	
	09/09/2004	49993	1890	Marvin Parker	10-00-2005	109.00	
09/04	09/09/2004	49994	1844		10-00-2005	93.52	
09/04	09/09/2004	49995	2051	National Waterworks, Inc	10-00-2005	2,383.41	
09/04	09/09/2004	49996	2283	NW Technical Internet Service	10-00-2005	21.95	
09/04	09/09/2004	49997	2903	Patricia Fiant	10-00-2005	41.12	
09/04	09/09/2004	49998	1029		10-00-2005	1,019.00	
09/04	09/09/2004	49999		Information Only Check	10-00-2005	.00 V	
09/04	09/09/2004	50000		Ray's Food Place	10-00-2005	269.20	
09/04	09/09/2004	50001	278	Ron Plaster	10-00-2005	87.46	
09/04	09/09/2004	50002		Roto Rooter	10-00-2005	125.00	
09/04		50003		S Griffeth	10-00-2005	8.01	
09/04		50004		Stadelman Electric	10-00-2005	78.00	
09/04		50005		State of Oregon-Corp Div	10-00-2005	20.00	
09/04		50006		That Special Touch Florist	10-00-2005	45.00	
09/04				Trew, Cyphers & Meynink	10-00-2005	714.00	
09/04				United Pipe & Supply Co Inc	10-00-2005	1,366.50	
09/04				Verizon Northwest	10-00-2005	520.71	
09/04	09/09/2004	50010	861	Village Express Mail Center	10-00-2005	12.54	

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<del>-</del>	Per .	Date	Check No	Vendor No	Payee	Check GL Acct	Amount	
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<u> </u>	09/04	09/16/2004	50013	2856	Ag-Gressor One	10-00-2005	40,750.00	
	09/04	09/16/2004	50014	167	American Sigma	10-00-2005	55.40	
	09/04	09/16/2004	50015	2881	B & M Products Co	10-00-2005	256.75	
_	09/04	09/16/2004	50016	2910	Bell Trucking Co.	10-00-2005	7,203.00	
المصنا	09/04	09/16/2004	50017	2121	Bound Tree Medical Inc	10-00-2005	518.42	
	09/04	09/16/2004	50018	178	Chetco Pharmacy & Gift	10-00-2005	25.00	
	09/04	09/16/2004	50019	1745	Coastal Paper & Supply, Inc	10-00-2005	99.80	
	09/04	09/16/2004	50020	183	Colvin Oil Company	10-00-2005	1,827.74	
	09/04	09/16/2004	50021	2829	Com Fab Steel Fabrication	10-00-2005	360.00	
	09/04	09/16/2004	50022	803	Commercial Landscape Supply	10-00-2005	475.78	
_	09/04	09/16/2004	50023	182	Coos-Curry Electric	10-00-2005	3,985.43	
<u>—</u> )	09/04	09/16/2004	50024	1357	Curry County Clerk	10-00-2005	51.00	
•	09/04	09/16/2004	50025	195	Curry Transfer & Recycling	10-00-2005	553.02	
	09/04	09/16/2004	50026	185	Del Cur Supply	10-00-2005	60.00	
<del>-</del>	09/04 09/04	09/16/2004 09/16/2004	50027 50028	498 2729	Dictaphone Corp DJC	10-00-2005	1,556.72	
	09/04	09/16/2004	50029	2682	DMV - Record Services	10-00-2005 10-00-2005	728.00 6.50	
	09/04	09/16/2004	50030	2907	Donald & Cherie Mitchell	10-00-2005	13.10	
	09/04	09/16/2004	50031	2906	Driftwood Shores	10-00-2005	224.64	
	09/04	09/16/2004	50032	2480	Freeman Contracting, Inc.	10-00-2005	15.00	
	09/04	09/16/2004	50033	2900	G.A. Industries Inc	10-00-2005	205.85	
	09/04	09/16/2004	50034	198	Grants Pass Water Lab	10-00-2005	183.00	-
<del></del> 1	09/04	09/16/2004	50035	139	Harbor Logging Supply	10-00-2005	137.21	
•	09/04	09/16/2004	50036	131	HGE, Inc	10-00-2005	27,275.39	
	09/04	09/16/2004	50037	2852	ICC	10-00-2005	83.79	
	09/04	09/16/2004	50038	1699	Imagistics	10-00-2005	294.55	
	09/04	09/16/2004	50039	2909	John or Candye Herzog	10-00-2005	20.70	
	09/04	09/16/2004	50040	2216	John Rapreager Inc	10-00-2005	82,063.38	
	09/04	09/16/2004	50041	202	League of Oregon Cities	10-00-2005	25.00	
<del>( – )</del>	09/04	09/16/2004	50042	328	Les Schwab Tire Company	10-00-2005	87.49	•
• •	09/04	09/16/2004	50043	1791	McDonald's	10-00-2005	75.00	•
	09/04	09/16/2004	50044	155	Mory's	10-00-2005	6.00	
	09/04	09/16/2004	50045 50046	424	Munnell & Sherrill	10-00-2005	367.41	
	09/04 09/04	09/16/2004 09/16/2004	50046	2051 1330	National Waterworks, Inc Northwest Uniforms, Inc	10-00-2005	206.76	
	09/04	09/16/2004	50047		One Call Concepts, Inc	10-00-2005 10-00-2005	458.58 46.20	
	09/04	09/16/2004	50049		•	10-00-2005	125.00	
_	09/04	09/16/2004	50050			10-00-2005	35.00	
<del></del>	09/04	09/16/2004	50051			10-00-2005	43.44	
	09/04	09/16/2004	50052			10-00-2005	5,093.14	
	09/04	09/16/2004	50053	2908	Roy Martin	10-00-2005	20.64	
	09/04	09/16/2004	50054	267	SeaWestern Fire Apparatus	10-00-2005	274.77	
	09/04	09/16/2004	50055	2577	SuppliesUSA.com, Inc	10-00-2005	124.46	
	09/04	09/16/2004	50056	2640	The Dyer Partnership	10-00-2005	1,282.00	
_	09/04	09/16/2004	50057	' 135	The World	10-00-2005	1,440.05	
	09/04				• • • • •	10-00-2005	463.28	
	09/04	09/16/2004				10-00-2005	19.17	
	09/04	09/16/2004			· · · · · · · · · · · · · · · · · · ·	10-00-2005	48.64	
(mm)	09/04				•	10-00-2005	273.48	
	09/04				· ·	10-00-2005	5.52	
	09/04 09/04					10-00-2005	1,100.00	
_	09/04					10-00-2005 10-00-2005	11.55 27.54	
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	09/04				AFLAC	10-00-2005	369.48	

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#### Check Register - Summary Report GL Posting Period(s): 09/04 - 09/04 Check Issue Date(s): 09/01/2004 - 09/30/2004

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Per	Date	Check No	Vendor No	Payee	Check GL Acct	Amount
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09/04	09/21/2004	50070	910	OR Department of Justice	10-00-2005	115.38
09/04	09/21/2004	50071	1132	OR Department of Justice	10-00-2005	322.15
09/04	09/21/2004	50072	1742	OR Department of Justice	10-00-2005	307.93
09/04	09/21/2004	50073	2366	OR Department of Justice	10-00-2005	203.08
09/04	09/21/2004	50074	144	OR Teamster Employers Trust	10-00-2005	10,543.80
09/04	09/21/2004	50075	189	OR Teamster Employers Trust	10-00-2005	23,196.36
09/04	09/21/2004	50076	214	Regence Life & Health Ins	10-00-2005	254.40
09/04	09/21/2004	50077	213	Teamsters Local Union 223	10-00-2005	660.00
09/04	09/23/2004	50078	2898	Air Gas	10-00-2005	154,74
09/04	09/23/2004	50079	167	American Sigma	10-00-2005	400.25
09/04	09/23/2004	50080	2914	APCO/NENA	10-00-2005	210.00
09/04	09/23/2004	50081	303	Associated Bag Company	10-00-2005	149.10
09/04	09/23/2004	50082	200	Bob Hagbom	10-00-2005	150.37
09/04	09/23/2004	50083	1480	Bruce Brothers	10-00-2005	45.00
09/04	09/23/2004	50084	178	Chetco Pharmacy & Gift	10-00-2005	10.04
09/04	09/23/2004	50085	2915	College of the Redwoods	10-00-2005	136.00
09/04	09/23/2004	50086	183	Colvin Oil Company	10-00-2005	1,979.71
09/04	09/23/2004	50087	182	Coos-Curry Electric	10-00-2005	3,310,29
09/04	09/23/2004	50088	888	CRS	10-00-2005	925.00
09/04	09/23/2004	50089	2775	Curtiss Lunsford	10-00-2005	189.00
09/04	09/23/2004	50090	284	Day-Wireless Systems	10-00-2005	4,250.04
09/04	09/23/2004	50091	185	Del Cur Supply	10-00-2005	357.14
09/04	09/23/2004	50092	2912	Donald Townsend	10-00-2005	31.37
09/04	09/23/2004	50093	2117	Edge Wireless	10-00-2005	124.20
09/04	09/23/2004	50094	749	Emerald Pool & Patio	10-00-2005	49,050.00
09/04	09/23/2004	50095	261	Engineered Control Products	10-00-2005	89.41
09/04	09/23/2004	50096	153	Ferreligas	10-00-2005	180.45
09/04	09/23/2004	50097	113	Fred Meyer	10-00-2005	59.98
09/04	09/23/2004	50098	139	Harbor Logging Supply	10-00-2005	12.50
09/04	09/23/2004	50099	131	HGE, Inc	10-00-2005	3,630.68
09/04	09/23/2004	50100	2416	ITT Flygt Corp	10-00-2005	300.00
09/04	09/23/2004	50101	2918	Jeanette McVay	10-00-2005	6.98
09/04	09/23/2004	50102	526	Joe ingwerson	10-00-2005	90.00
09/04	09/23/2004	50103	438	John Bishop	10-00-2005	179.97
09/04	09/23/2004	50104	162	Kerr Hardware	10-00-2005	16.45
09/04	09/23/2004	50105	262	Kim Hunnicutt Court Reporting	10-00-2005	105.00
09/04	09/23/2004	50106	1328	Kustom Signals, Inc	10-00-2005	560.00
09/04	09/23/2004	50107	2598	Larry Garcia	10-00-2005	11.08
09/04	09/23/2004	50108	2474		10-00-2005	175.00
09/04	09/23/2004	50109	877		10-00-2005	200.50
09/04	09/23/2004	50110	2913		10-00-2005	16.63
09/04	09/23/2004	50111	1817		10-00-2005	90.00
09/04	09/23/2004	50112	155	Mory's	10-00-2005	37.20
09/04	09/23/2004	50113	424		10-00-2005	133.57
09/04	09/23/2004	50114	1844	•	10-00-2005	88.00
09/04	09/23/2004	50115	2051	National Waterworks, Inc	10-00-2005	251.83
09/04	09/23/2004	50116	2025		10-00-2005	196.20
09/04	09/23/2004	50117	2917		10-00-2005	355.52
09/04	09/23/2004	50118	293	_ •	10-00-2005	90.74
09/04	09/23/2004	50119			10-00-2005	42.50
09/04	09/23/2004	50120			10-00-2005	2,000.00
09/04	09/23/2004	50121	169		10-00-2005	3,732.64
09/04	09/23/2004	50122			10-00-2005	237.60
09/04	09/23/2004	50123		•	10-00-2005	1,116.00
09/04	09/23/2004	50124	2586	TMG	10-00-2005	12.07

#### Check Register - Summary Report GL Posting Period(s): 09/04 - 09/04 Check Issue Date(s): 09/01/2004 - 09/30/2004

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9/04 9/04 9/04 9/04 9/04	09/23/2004 09/23/2004 09/23/2004 09/23/2004 09/23/2004	50125 50126 50127	161 136	United Communications Inc	40.00.0005	
9/04 9/04 9/04 9/04 9/04	09/23/2004 09/23/2004		136		10-00-2005	2,346.26
9/04 9/04 9/04 9/04	09/23/2004	50127	100	United Pipe & Supply Co Inc	10-00-2005	223.00
19/04 19/04 19/04	-		2919	Unity Center of Brookings	10-00-2005	25.00
19/04 19/04	09/23/2004	50128	269	WW Grainger	10-00-2005	634.49
9/04		50129		Void Check	10-00-2005	.00
	09/23/2004	50130	2216	John Rapreager Inc	10-00-2005	58,999.22
9/04	09/24/2004	50131	205	PERS Retirement	10-00-2005	11,970,34
	09/30/2004	50132	1284	Allied Electronics, Inc	10-00-2005	25.52
	09/30/2004	50133	146	Bay West Supply, Inc	10-00-2005	484.71
	09/30/2004	50134	714	Brookings Signs & Graphics	10-00-2005	27.20
	09/30/2004	50135	715	Budge McHugh Supply	10-00-2005	44.64
	09/30/2004	50136	2364	C&S Fire-Safe Services	10-00-2005	133.00
	09/30/2004	50137	2053	CDM Properties	10-00-2005	2.03
	09/30/2004	50138	182	Coos-Curry Electric	10-00-2005	13,011.68
	09/30/2004	50139	1357	Curry County Clerk	10-00-2005	5.00
9/04	09/30/2004	50140	2058	Curry General Hospital	10-00-2005	75.00
09/04	09/30/2004	50141	284	Day-Wireless Systems	10-00-2005	438.00
09/04	09/30/2004	50142	101	Deluxe Business Forms	10-00-2005	379.25
09/04	09/30/2004	50143	2186	Ferguson Enterprises - GP	10-00-2005	19.25
09/04	09/30/2004	50144	153	Ferreligas	10-00-2005	197.60
09/04	09/30/2004	50145	298	Freeman Rock, Inc	10-00-2005	505.12
09/04	09/30/2004	50146	2882	Globalstar USA	10-00-2005	79.81
09/04	09/30/2004	50147	139	Harbor Logging Supply	10-00-2005	50.00
09/04	09/30/2004	50148	2239	Helga Bertrand	10-00-2005	2.03
09/04	09/30/2004	50149	2916	ICC Membership Services	10-00-2005	100.00
09/04	09/30/2004	50150	386	Lab Safety Supply Inc	10-00-2005	51.95
09/04	09/30/2004	50151	1127	Lyle Signs Inc	10-00-2005	2,139.00
09/04	09/30/2004	50152	2122	Mastercard	10-00-2005	262.69
09/04	09/30/2004	50153	155	Mory's	10-00-2005	5.75
09/04	09/30/2004	50154	334	North Coast Electric	10-00-2005	21.50
09/04	09/30/2004	50155	266	Northern Tool & Equipment Co	10-00-2005	1,110.45
09/04	09/30/2004	50156	2025	Numberg Scientific	10-00-2005	30.59
09/04 09/04	09/30/2004	50157 50158	573 2923	OBOA	10-00-2005	386.93
09/04	09/30/2004	50156	1700	Peter P Ftacnik	10-00-2005	1.67
09/04	09/30/2004	50160	1700		10-00-2005	35.00
09/04 09/04	09/30/2004	50160	380	Richard Harper Stadelman Electric	10-00-2005	160.25
09/04	09/30/2004	50161	2870	Unicom	10-00-2005	3,195.08
09/04	09/30/2004	50162	2870 136		10-00-2005	16,827.50
09/04	09/30/2004	50163	1374	and the manager of the same	10-00-2005 10-00-2005	812.40
09/04	09/30/2004	50164	1574		***************************************	598.60
09/04	09/30/2004	50166	108		10-00-2005	99.69
09/04	09/30/2004		444		10-00-2005 10-00-2005	175.90 40.00

City of B	rookings		· · · · · · · · · · · · · · · · · · ·	Check Register - Si GL Posting Period( Check Issue Date(s): 09/	Page: 6 Oct 01, 2004 08:15am		
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