

Greater Sage-Grouse Area Text Amendments

Applicant: Deschutes County

Planning Commission Public Hearing

October 8, 2015



Opening Statement for Legislative Hearing

This is a public hearing on amendment (247-15-000445-PA). The proposal implements OAR 660-023-0115, Greater Sage Grouse rules adopted by the Oregon Land Conservation and Development Commission

The Planning Commission's recommendation on this application will be based upon the record, the staff report, and the testimony and evidence presented at this hearing

The hearing will be conducted in the following order:

- Staff will provide a brief report.
- Applicant will present testimony and evidence.
- Opponents and proponents will testify and present evidence.
- Other interested persons will then present testimony or evidence.
- Applicant presents rebuttal testimony.
- Staff will be afforded an opportunity to make any closing remarks

Opening Statement for Legislative Hearing

Questions to and from the Chair may be entertained at any time at the Chair's discretion.

Prior to the commencement of the hearing any party may challenge the qualifications of any Commissioner for conflict of interest. This challenge must be documented with specific reasons supported by facts.

At this time, do any members of the Commission need to set forth any information that may be perceived as a conflict of interest?

If hearing none, the public hearing is open.

Overview

- Background
- LCDC Rulemaking
- Comprehensive Plan and Zoning amendments (247-15-000445-PA)



Background

- U.S. Fish and Wildlife Service in 2010 determined protection of greater sage-grouse under federal Endangered Species Act was warranted. Sage-grouse became a candidate species for listing
- Sage grouse habitat in Oregon includes 11 million acres distributed across five Bureau of Land Management (BLM) management districts in seven central and eastern Oregon counties
- Last January, Governor Kitzhaber requested LCDC initiate rulemaking to address potential conflicts between “large-scale development” and sage grouse habitat

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Background

- Goal is to demonstrate that Oregon can implement a plan of action that will demonstrate federal listing for sage-grouse in Oregon is unnecessary
- LCDC on July 24 adopted rules (OAR 660-023-0115) applying to non-federal lands in eastern Oregon. They became effective on August 13
- State law, ORS 197.646(3) **requires** seven eastern Oregon counties, including Deschutes, to implement them



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Comprehensive Plan Amendments

- Amending DCC 23.010.010, Introduction
- Adopting new ODFW Greater Sage Grouse Habitat [inventories](#)
- Removing outdated 1990 sage grouse inventory and lek locations from Sensitive Bird and Mammal Habitat Inventory
- Amending Chapter 2, Resource Management, Section 2.6 – Wildlife, describing new inventories and adding a policy
- Amending Chapter 5, Supplemental Sections, Section 5.12 – Legislative History

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Zoning Code Amendments

- Adopting new zone:
 - ❖ DCC Chapter 18.89, Greater Sage-Grouse Area Combining Zone ([mirrors Oregon Administrative Rule 660-023-0115](#))
- Removing outdated references to sage grouse and lek locations from DCC 18.90, Sensitive Bird and Mammal Habitat Combining Zone



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Greater Sage-Grouse Area Combining Zone

What does it accomplish?

- Establishes three sage-habitat areas in Exclusive Farm Use and Forest Use zones: core area, low density and general habitat within 3.1 miles of a lek
- Determines when development subject to land use regulation and mitigation
- Establishes disturbance threshold, limiting large scale development in each core area to 1% of total area for every ten year increment, not to exceed 3% overall

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Regulatory Thresholds

Two Types of Development Require Review

1. Large-scale development in core areas, low density, and lands within general habitat located within 3.1 miles of occupied or occupied-pending lek
2. Land uses that do not qualify as “large-scale development” require review if proposed in:
 - Core area within 4.0 miles of an occupied or occupied-pending lek;
 - Low density within 3.1 miles of an occupied or occupied-pending lek; or
 - General habitat within 3.1 miles of an occupied or occupied-pending lek

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Regulatory Thresholds

Large-scale Development

- Two part analysis:
 - Part 1 - Is it a regulated use (OAR 660-033-120 table)?
 - Part 2 -
 - ❖ Over 50 feet in height?
 - ❖ Have a direct impact in excess of five acres?
 - ❖ Generate more than 50 vehicle trips per day? or,
 - ❖ Create noise levels of at least 70 dB at zero meters for sustained periods of time?
- If yes to Part 1 and any Part 2 questions, land use subject to review

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Large-Scale Development

Core Area

- Large-scale development subject to the full mitigation hierarchy, which includes rigorous avoidance test, minimization requirements and compensatory mitigation responsibility
- Also subject to disturbance thresholds: 1% of core area over ten year increments with maximum 3% cap

Low Density

- Large-scale development also subject to the full mitigation hierarchy, but more lenient avoidance test applies to allow development in low density areas
- Not subject to disturbance cap

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Large-Scale Development

General Habitat

- Only applies to lands within 3.1 miles of a lek
- Development subject to consultation with ODFW
- Includes consideration for avoidance, in addition to minimization of activities and ordinary obligations for compensation mitigation
- Not subject to disturbance cap



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Regulatory Thresholds

Other Development

- Two part analysis:
 - Part 1 - Is it a regulated use (OAR 660-033-120 table)?
 - Part 2 – Is it located in:
 - ❖ Core area and within 4.0 miles of an occupied or occupied-pending lek?
 - ❖ Low density area and within 3.1 miles of an occupied or occupied-pending lek? or
 - ❖ General habitat and within 3.1 miles of an occupied or occupied-pending lek?
- If yes to Part 1 and any Part 2 questions, land use subject to review

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Other Development

Core Area

- If development proposed within 4 miles of lek:
 - ❖ Pre-application conference required with ODFW to determine if minimization of activities or mitigation is required
 - ❖ It should not result in denial of any proposal

Low Density / General Habitat

- If development proposed within 3.1 miles of lek:
 - ❖ Same as above

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Review Criteria

- ORS 197.646(3) requires Deschutes County to implement OAR 660-023-0115
- Changes to Comprehensive Plan and new regulations in DCC Chapter 18.89 mirror State rules
- Therefore, DCC Chapters 18.89 and revisions to DCC Chapter 18.90 are consistent with Comprehensive Plan



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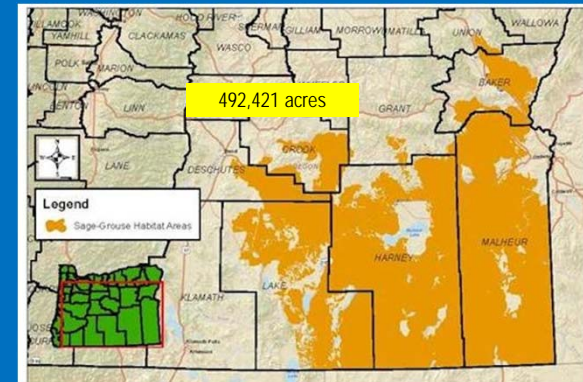
Hearing Procedure

At the conclusion of testimony the Planning Commission can:

- Continue the hearing to a date certain;
- Close the hearing and leave the written record open to a date Certain; or
- Close the hearing, commence deliberations, and consider recommendation to Board of County Commissioners



Deschutes County



Deschutes County



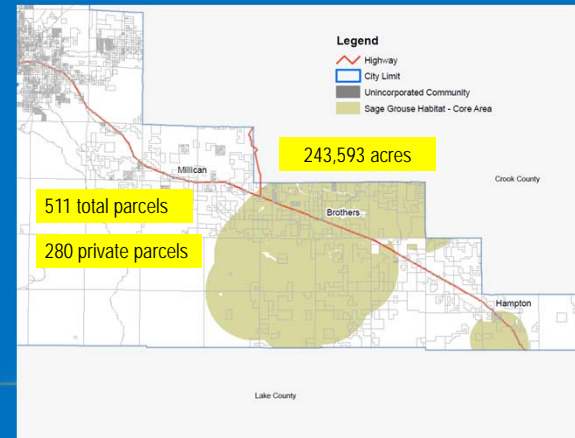
Historic Conservation Campaign Protects Greater Sage-Grouse

U.S. Fish and Wildlife Service determines federal land management plans and partnerships with states, ranchers, and NGOs avert ESA listing by conserving America's "Sagebrush Sea"

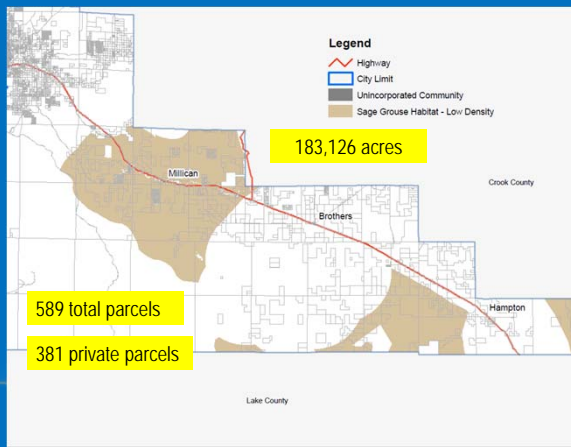
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Greater Sage Grouse Area Habitat Inventory



Greater Sage Grouse Area Habitat Inventory



Greater Sage Grouse Area Habitat Inventory

