



BOARD OF COMMISSIONERS' MEETING

REQUEST TO SPEAK

Agenda Item of Interest 902 11 Date 10/28/15

Name Anne Gregersen

Address _____

Phone #s _____

E-mail address _____

In Favor Neutral/Undecided Opposed

Submitting written documents as part of testimony? Yes No

1



BOARD OF COMMISSIONERS' MEETING

REQUEST TO SPEAK

Agenda Item of Interest _____ Date 10/28/15

Name Wendell Ewers

Address _____

Phone #s _____

E-mail address _____

In Favor Neutral/Undecided Opposed

Submitting written documents as part of testimony? Yes No

2



BOARD OF COMMISSIONERS' MEETING

REQUEST TO SPEAK

Agenda Item of Interest Goal 11 Date _____

Name John Blakinger

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Bend 97707

Phone #s 541-410-1158

E-mail address _____

In Favor Neutral/Undecided Opposed

Submitting written documents as part of testimony? Yes No



BOARD OF COMMISSIONERS' MEETING

REQUEST TO SPEAK

Agenda Item of Interest Goal 11 Date 10-26-15

Name James Ed Criss

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La Pine Oregon

Phone #s 541-233-9022

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In Favor Neutral/Undecided Opposed

Submitting written documents as part of testimony? Yes No

to be sent by email if record still open.



BOARD OF COMMISSIONERS' MEETING

REQUEST TO SPEAK

5

Agenda Item of Interest _____ Date 10.28.15

Name ROBERT RAY

Address 17535 HOLEGAZE CT

Phone #s 541 536 5306

E-mail address NOV SPORTS MARI @MSN.COM

In Favor Neutral/Undecided Opposed

Submitting written documents as part of testimony? Yes No



BOARD OF COMMISSIONERS' MEETING

REQUEST TO SPEAK

6

Agenda Item of Interest Goal 11 Exception Date 10/28/15

Name Tom Huddell

Address POB 1295, the Pine

Phone #s 341-728-3201

E-mail address tom.president@ca9.us

In Favor Neutral/Undecided Opposed

Submitting written documents as part of testimony? Yes No
Email later



BOARD OF COMMISSIONERS' MEETING

REQUEST TO SPEAK

Agenda Item of Interest Goal 11 Date 10/28/15

Name Judy Forsythe

Address Laline

Phone #s _____

E-mail address _____

In Favor Neutral/Undecided Opposed

Submitting written documents as part of testimony? Yes No

07



BOARD OF COMMISSIONERS' MEETING

REQUEST TO SPEAK

Agenda Item of Interest Goal 11 Exception Date 10/28/15

Name 1 Dan Varcoe

Address 15990 Pierce Rd
Laline OR 97739

Phone #s 541-771-9177

E-mail address dvarcoe@gmail.com

8

In Favor Neutral/Undecided Opposed

Submitting written documents as part of testimony? Yes No

Bocc

Deschutes County, Oregon

Dear Commissioners

I am here to ask you to vote no on the goal 11 exception

I attended your work session on Oct 7th, and I read at home the report handed out by CDD

I was shocked to learn the report included water monitoring by a sanitary authority

I am totally against another taxing government over us

I was also shocked to read the so called water monitoring was to be a " nitrates cheap test, nitrate testing only- no scientific new test wells

You are actually employees of the people as elected commissioners

For your reelection chances, vote no on goal 11

Look around, do you see Mike Daly or Dennis Lukes? They did not stand up for the people, and they are no longer in office. Do you want in the voter's pamphlet that you voted for a sanitary authority and

Cheap nitrates testing

Stop this process right now before it goes to recall or referendum

Yours truly



Anne Gregersen, home owner in South County, Oregon, October 28th, 2015

October 28, 2015

Public Testimony re: Goal 11 Exception given before the Deschutes County Board of County Commissioners

Good evening Commissioners. My name is Judy Forsythe and I have been a resident of South Deschutes County for 16 years.

As you are aware, many resident taxpayers have followed the septic issues in South Deschutes County for years and are very concerned about the implications of the 'health hazard' language in the Goal 11 Exception before you tonight.

In reviewing the Planning Commission's Sept. 10th work session again, I want to commend the Planning Commissioners for their diligence. Tonight, I want to share with you some of the 'other' concerns and questions raised by that Committee, in more detail.

Although a motion did pass from the Planning Commissioners to send this Goal 11 Exception to the Board of County Commissioners, there were some profound discussions heard from that recording which I feel merit your consideration. Have you listened to that Sept. 10th recording?

- The language is so bad: Commissioner Criss articulated that one problem with the Goal 11 language is that the justifications are based on may be's, could be's and might be's and these conclusions are damaging property values in South Deschutes County. The statements make it sound like our water is trashed and that is the furthest thing from the truth; it's just not true. It is so far from the truth it is unbelievable. Commissioner Criss asks the question: **Does the language have to be this 'brutal'?** The predictions regarding groundwater contamination have been wrong; we have not exceeded the EPA standards as was predicted by 2010, for example.
- Commissioner Criss then asked: **Can this language move from the 'burden of proof' to the appendix? (with a reference to it in the Comprehensive Plan that 'there is the work that has been done')**. Personally, I don't feel

this 'health hazard dance' language belongs in the body of our Comprehensive Plan, either.

- Chair Palcic said he did not believe the burden of proof had been met and that the language is very loosely written, possibly setting it up for a 'challenge'. He went on to state that on page 28 of the report, DEQ and DLCDC's own language actually admits the failing of the test stating it is not an imminent threat, but inevitable. I believe he is referring to the 'imminent health hazard' test as defined in OAR 660. Chair Palcic goes on to state that the foundation behind the assertions and beliefs are missing, that DEQ and DLCDC's own facts are against them. It cannot be shown that a public health issue is 'imminent' – about to happen – at any moment - as the word would imply.
- Chair Palcic asked an important question: **If DEQ is not going to do modeling again and/or have routine testing, how will we ever measure success; what does success look like?** His comments also included reference to the fact that **all** of the Steering Committee's recommendations should be included in this Committee's endorsement to the Board of County Commissioners so they are not lost along the way. It is believed the Steering Committee's recommendations were meant to be a 'package'.
- Commissioner Tunno asked: **How do we articulate our response to the Board of Commissioners to share that 'what we see as helpful and beneficial in Goal 11 for the region is one thing. But, in supporting that, we do not want the implication to be that we think this report is great; we don't.** We take exception to the scientific data to support the basic contention as being inadequate; we do not see that DEQ's report fulfills all the mandates, requirements and tests.
- Commissioner Tunno went on to share her concerns about changing the narrative that has surrounded this issue, saying that we need to 'exit' the scenario that get in the press every time about this issue. She shared she would like to 'free' this area from the 'blight' that surrounds our community and asked: **What can we do to help change the public perception back to 'based in reality' instead of being 'based upon pseudo-science and inadequate reporting?**

- And, Commissioner Powell asked a very important question in my estimation: **How do we as a Committee package this recommendation to send a total message to the Board of Commissioners so they understand there are other issues?** (Other issues discussed included well testing, monitoring, development and some citizen's concerns of possible misuse of a sanitary district to force an issue in an area, to name a few.) Commissioner Powell emphasized that this Committee can underscore these facts. Staff noted that this Committee can ask the Board of Commissioners to take these 'other' issues into consideration, while also sharing that not all of these 'other issues' may be within the County's purview/authority.

I have attempted to highlight 'other' significant issues raised by the Planning Commissioners in their deliberations and indirectly by those who have testified along the way.

My request tonight would be that the Board of County Commissioners accept that these 'other' concerns/issues do exist and acknowledge that they will be addressed in the appropriate fashion and at the appropriate time.

Thank you,

Judy Forsythe



50 SW Bond St., Ste. 4 | Bend, OR 97702
Phone: (541) 647-2930
www.centraloregonlandwatch.org

October 27, 2015

Board of County Commissioners
Deschutes County
c/o Peter Russell
Community Development Dept.
PO Box 6005
117 NW Lafayette Ave.
Bend, OR 97708-6005

Re: File No. 247-15-000308-PA; Goal 11 Exception

Dear Commissioners:

I just yesterday received a copy of DLCD/DEQ's letter of September 3, so have not had a chance to fully review it. I also won't be able to attend this evening's hearing for family reasons but would like to provide these additional comments to our letter of August 13 to the Planning Commission.

A central premise of DLCD/DEQ's support for this Goal 11 exception is their broad interpretation of OAR 660-011-0060(9) as not requiring "an imminent and significant public health hazard." Relying on the language, "include but not are limited to," DLCD/DEQ reason that something less than an imminent and significant public health hazard is allowable and even contend that the standard of "no practical alternative to a sewer system" isn't relevant to a Goal 11 exception. As we have said before, where LCDC has set a particular standard it does not make sense to interpret the language of "include but not limited to" in a way that makes (9)(a) meaningless.

Also, DLCD/DEQ's broad application of this reasons exception to 7,000-10,000 lots over such a wide area (counting upcoming Klamath County work) is excessive without some localized analysis of the proposed lots. A reasons exception process requires a more thorough analysis and a more precise delineation of what is to be excepted.

There is also no basis for the assertion that the threat will worsen if no action is taken in the coming years. To the contrary, as septic systems need to be replaced, new ATT systems can improve the situation.

In addition to inadequate information on the conditions on individual lots or areas of lots, there is also inadequate information on exactly what sewer systems are being considered. It is not adequate as DLCD/DEQ have done to say any kind of sewer may be applied. The "reasons" exception



process requires a more critical analysis, identifying where sewers are to be extended or newly built, and what that build-out will encompass. See, for example, the attached Comprehensive Plan Amendment Staff Report and Memorandum of Agreement for Jackson County's Goal 11 exception. That process was not only based on an imminent health hazard but required careful delineation of areas to fall within the exception.

The process also should require assessments of lots less than the 10-acre maximum apparently used here. Reasons exceptions should be narrowly drawn, yet there is no analysis of an exception that would only apply to two-acre lots, for example, where there can apparently be more of a problem because of inadequate room for septic fields.

The DLCD/DEQ letter is also inadequate where it doesn't identify evidence in the Record for such issues as whether people with existing septic systems will switch to sewer systems, whether drilling deeper wells will be necessary, etc.

Finally, the assertion in the DLCD/DEQ letter that this Goal exception is not to allow additional development is not well-taken. A central moving force behind this Goal exception from the beginning has been to facilitate development on lands currently not considered to be developable.

While we do not believe that this proposed Goal 11 reasons exception is warranted, it may be that a more limited exception targeting smaller areas with smaller lots where there may truly be a health hazard could be appropriate.

Thank you for this opportunity to comment and please notify us in writing of any further ability to comment on this matter and when any final decision is made.

Very truly yours,

Paul Dewey,
Executive Director

50 SW Bond St., Ste. 4 | Bend, OR 97702
Phone: (541) 647-2930
www.centraloregonlandwatch.org



RECEIVED

APR 29 2009

JACKSON COUNTY
PLANNING

MEMORANDUM OF AGREEMENT

The parties to this Agreement are the State of Oregon through the Department of Land Conservation and Development ("DLCD") and Jackson County, Oregon ("the County").

WHEREAS, the Bear Creek Valley contains large areas with soils that are severely limiting for the use of individual sewage treatment systems; and

WHEREAS, due to these limitations on the use of individual sewage treatment systems, the Bear Creek Valley Sanitation District ("the District") (subsequently renamed the Rogue Valley Sanitation Service) was formed in 1966; and

WHEREAS, the District constructed a valley-wide sewer system serving and designed to serve the cities of Talent, Phoenix, Medford, Central Point, Eagle Point, and Jacksonville and areas outside these cities; and

WHEREAS, the Land Conservation and Development Commission adopted Statewide Planning Goal 11, "Public Facilities and Services," in 1974, which among other things regulates the planning of sewer systems; and

WHEREAS, Goal 11 was amended in 1994 to prohibit the extension of sewer lines outside of urban growth boundaries; and

WHEREAS, Oregon Administrative Rule (OAR) 660, division 11 was amended in 1998 to clarify the definition of sewer line extensions and to provide for extensions of sewer service if the extension is the only practicable alternative to mitigate a public health hazard; and

WHEREAS, OAR 660, division 11, was amended in 1998 to clarify that exceptions to Goal 11 may be taken in order to allow extensions of sewer service provided there is no practicable alternative to the sewer system, and provided the local government adopts land use regulations that prohibit the sewer system from serving any uses or areas other than those justified in the exception; and

WHEREAS, OAR 660, division 11, was amended in 2005 to specify that one appropriate reason for an exception includes a finding that an extension of sewer service is necessary to avoid an imminent and significant public health hazard that would otherwise result if the sewer service is not provided; and

WHEREAS, there continues to be a need for sewer service within the District to areas outside urban growth boundaries that are severely limited for the use of on-site sewage treatment systems, and such sewer service in many cases can only be authorized by the adoption of an exception to Goal 11; and

WHEREAS, after receipt of the work products in DLCD paragraph 2, below, the County would initiate a quasi-judicial proceeding via a land use application or initiate a legislative post-acknowledgment plan amendment or amendments under ORS 197.610, including findings sufficient to justify exceptions to Goal 11 as necessary in order to

provide sewer service to identified lands, and including a public hearing for adoption of such plan amendment.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

DLCD:

- 1) DLCD will provide technical support from its Community Services Specialist and its Southern Oregon Regional Representative not to exceed 80 hours in accordance with paragraph 2.
- 2) The technical support to be provided pursuant to the preceding paragraph number 1 will be:
 - a) An evaluation of data and maps so that DLCD can delineate areas for which a Goal 11 exception can be reasonably justified. DLCD will collaborate with County and District staff to finalize delineated areas selected through this process. A final map, showing all areas agreed upon by DLCD, the County and the District, will be provided to the County no later than May 1, 2009; and
 - b) Preliminary findings will be prepared and submitted to the County to support a Goal 11 exception for the areas delineated on the final map by no later than July 1, 2009.
- 3) DLCD will not select areas for which an exception to Goal 11 cannot reasonably be justified, and DLCD agrees not to file a formal objection or appeal to the Land Use Board of Appeals for areas identified by DLCD and included in an exception adopted by the County. DLCD's agreement to not appeal does not apply to any areas not identified by DLCD that the County chooses to include as additional areas subject to Goal 11 exceptions.

Jackson County:

1. A Senior Planner of the County with GIS expertise and knowledge of the sewer service issues will provide DLCD with necessary data and maps at a scale that is appropriate for mapping areas for an exception or exceptions to Goal 11 no later than April 27, 2009.
2. The Senior Planner's time on the project shall not exceed 40 hours.
3. The County's staff time contribution for the project outlined within this MOA will not exceed \$5,000 and the term of this MOA will not exceed one year.

Applicable Law

This Agreement is necessary to demonstrate commitment by both parties to complete needed comprehensive plan amendments and to address imminent public health hazards. To the extent the applicable law is modified or clarified through subsequent

rulemaking, legislative enactment, or judicial decision, the County shall make decisions under Goal 11 and related administrative rule according to the newly adopted statutes, rules or decisions.

Termination

Either party can terminate this agreement by providing the other party with written 15 days notice.

Executed on April 22, 2009

Richard Whitman, Director
Department of Land Conservation
and Development

Danny Jordan, for Jackson County

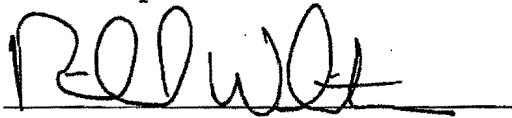
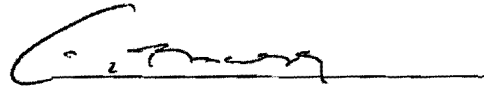
Handwritten signature of Richard Whitman in black ink, written over a horizontal line.Handwritten signature of Danny Jordan in black ink, written over a horizontal line.

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- B. Board Order 253-09 – Bear Creek TMDL Implementation Plan
- C. Methodology to Select Tax Lots in Area-Wide Goal 11 Exception
- D. Exception Area Tax Lots – Analysis Data
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I. INTRODUCTION

This document begins by providing background information on the proposed amendment to the Jackson County Comprehensive Plan for an area-wide Goal 11 exception. The document then explains the proposed amendment, detailing how and why properties were selected for the exception area. The applicable State and County approval criteria are then presented with findings that demonstrate how this proposal complies. Finally, staff's recommendation is presented with suggested conditions of approval.

If approved, this proposal will, by Ordinance, establish an area that will be excepted from Statewide Planning Goal 11's restrictions to extending sewer lines outside of urban growth and urban containment boundaries. The proposal described in this document would thereby allow for the potential connection of 1,603 taxlots within the Rogue Valley Sewer Service District.

II. BACKGROUND ON PROPOSED AMENDMENT

A. Septic Treatment Process

A septic tank system consists of three major components: the septic tank, a distribution device and an absorption field. A septic tank is a large, watertight, corrosion-resistant, buried container that receives raw sewage from the plumbing drains of a home or other structure. In it, solids are separated out of the raw sewage and are partially digested by anaerobic (oxygen-lacking) bacteria.

The septic tank must be large enough to allow retention of the raw sewage and some decomposition for at least 48 hours. Solids that are not digested either float to the top to form a scum layer or settle to the bottom of the tank as sludge. Depending on tank size and sewage volume, the sludge and scum must be pumped out at least every 2 to 5 years to allow bacterial digestion to continue in the tank. Otherwise, raw sewage may flow directly through the tank and into the absorption field, causing its failure.

After primary treatment in the septic tank, the liquid effluent flows through the distribution device, which ensures that equal quantities of effluent go to each pipe in the absorption field. The absorption field is a subsurface leaching area within the soil that receives the liquid effluent from the distribution device and distributes it over a specified area where it is allowed to seep into the soil. The filtering action of the soil, combined with further bacterial action, removes disease organisms and treats the harmful material in the effluent, completing the treatment process so that the water is recycled to the surface or groundwater source.

The absorption field provides final treatment of the wastewater, so it is critical to have uncompacted, unsaturated soil surrounding the soil treatment system. The effluent leaving the septic tank contains viable pathogenic organisms. The soil's purpose is to destroy these pathogens, treat and degrade organic materials, and act as a physical, chemical and biological filter to purify the effluent and make it acceptable quality for groundwater. Soils must be capable of absorbing the volume of wastewater from the septic tank at all times of the year. The five soil-related properties which bear directly on the functionality of the septic treatment process are:

WATER TABLE: A high seasonal water table limits the capacity of the soil to absorb and filter the additional liquid being discharged by the drain field or any other soil absorption installation. The probable result is usually contamination of groundwater supplies or the surfacing of the untreated effluent - in some instances both.

IMPERVIOUS AND POROUS ROCK MATERIAL: Soils which are shallow and overlie bedrock or other impervious layers do not have adequate volume to absorb and filter sewage effluent. In addition, dense bedrock acts as an impervious layer which can conduct untreated effluent laterally for long distances, thereby endangering underground water sources. Conversely, coarse grained material (gravel, cobbles, and boulders mixed with some fine material) permits sewage to percolate too rapidly to be filtered. Again, groundwater contamination is a potential result.

SLOPE: The natural slope of the landscape affects both the manner of sewage effluent distribution and the level of free water in the soil. Soil absorption systems installed on sloping sites must also make allowances for groundwater entering the area from higher elevations, either as surface runoff or as water moving down slope within the soil. Either condition raises the free water level in and around the disposal system causing absorption and filtration to become more difficult. Slope and depth to restrictive or impervious layers are intricately related. The steeper the slope, the deeper the requirement to either of the two layers. This is due to the increased possibility of effluent surfacing below the drainfield as slope increases.

FLOOD PLAIN: Subsurface sewage disposal systems installed in flood plains subject to stream overflow create a serious environmental health hazard. Inundation of these systems causes contamination which greatly increases the risk of contacting communicable diseases.

PERMEABILITY: Very slow movement of water through a soil will not provide adequate absorption of sewage effluent or exchange of air, whereas extremely rapid movement of waste material constitutes a potential pollution hazard to groundwater supplies. High shrink-swell clay soils, for example are too dense to allow adequate movement of air and water, and they tend to become "clogged" when effluent movement is restricted; hence, the problem is compounded. In general, medium textured soils containing equivalent amounts of sand, silt, and clay size particles serve as the best filter material. Soil permeability is also a function of structure (natural soil aggregation) and pore space (void space, shapes and sizes of pores).

Soils that are deficient with respect to the five factors described above can quickly become saturated with untreated effluent which eventually surfaces and/or contaminates groundwater and other water sources.

B. Septic Treatment Issues in the Rogue Valley

Approximately 40% of the population of Jackson County has its domestic wastewater disposal needs provided by on-site septic systems. And, based on data from the Natural Resource Conservation Service (NRCS) Soil Survey of Jackson County, many of these septic systems are located in areas that are unsuitable for effective treatment and disposal of wastewater. The NRCS data indicates that the vast majority of properties in the Rogue Valley are in areas with a "severe" limitation for septic suitability (see Figure

1, Exhibit A). Many of these properties are also in areas with either high water tables, "severe" shrink-swell soils, or both (see Figures 2 and 3, Exhibit A).

Though there are several examples of problematic soils found in the Rogue Valley, two of the worst in terms of septic suitability are briefly described below:

Agate-Winlo Soils – White City Area

The Agate-Winlo soils are the typical 'patterned ground' recognized by the mounds and intermounds seen throughout the area. The small mounded areas are the Agate soils with very shallow depths of reasonably good soil over a 'cemented hardpan'. It is not porous and therefore unacceptable for septic system use. The Winlo soils are the intermound areas, the low spots that fill with water to form small interconnected ponds – or vernal pools - for approximately six months of the year. The gravelly clay surface soil in the intermounds is very shallow in depth to the impermeable hardpan thus resulting in the collection of the runoff water. The very limited area of the mounds combined with the shallow soil depth and required system setback requirements to protect the intermound ponds makes these sites unacceptable for septic system consideration.

Vertisol Clay Soils – Eastern Valley Area

The Vertisol clay soils are popularly known as the 'black sticky' soils. These are dense clay soils, such as Carney, Cove, Coker and Padigan, that formed from a type of clay that is extremely poor for septic system consideration. The water table is near the surface during the winter months and may also be high during the summer irrigation season. These clays are also known as churning soils referred to as 'shrink and swell' soils. Due to the nature of the soils' clay particles they shrink and dry up in the summer to form the wide, deep cracks that are seen throughout the area. These cracks usually extend to the depth of the underlying rock. During the winter, these soils absorb the first rains and then swell up, closing the cracks and becoming virtually sealed. The soil remains saturated throughout the winter months. Rainfall runs off to nearby ditches and streams. The process of shrinking and swelling destroys the natural structure and pores of the soil making them extremely poorly drained. This movement of the soils disrupts structure foundations, displaces fence posts and moves and breaks pipes within the soil including septic system pipes. Water movement through the soil is very, very slow. Septic system trenches installed in these soils will typically fill with sewage in a short period of time since the soil cannot absorb additional moisture and then result in failure of the system with sewage surfacing and running into runoff collector ditches, roadside ditches and nearby streams.

In addition to poor soil suitability, there are other factors that conspire to limit the effectiveness of on-site septic systems in the Rogue Valley. Perhaps foremost among these factors is the existing density of development. Figure 4 in Exhibit A depicts areas within the Rogue Valley of relatively high density rural development (parcel sizes under 10 acres). Many subdivisions in the rural areas of the Rogue Valley were done prior to the enactment of zoning regulations and without adequate consideration given to the suitability of soils for septic treatment. And, even if some of these areas have soils that are adequate for the treatment of sewage, parcel sizes under two acres can often be too

small to meet modern spacing requirements for septic repair areas and/or other required setbacks.

If a septic system failure occurs, property owners typically have the option to repair or replace their existing system. However, even with the most technically advanced treatment systems available, in some of these areas with severe soil limitations, such efforts are often not enough to prevent discharge of the sewage effluent into ground or surface waters. In many situations, an existing system that is failing may not be "repairable" at all. The only other option is to remove the source of the health hazard by requiring the property to be vacated.

C. Septic-Related Water Quality Issues in Rogue Valley

The Bear Creek sub-basin of the Rogue River, which includes nearly all of Jackson County's industries and the vast majority of its population, has the poorest quality of any of the waters in the Rogue Basin. Monitoring by the Department of Environmental Quality (DEQ) and the Bear Creek Total Maximum Daily Load (TMDL) Project shows that most of the streams in the Rogue Valley are water quality impaired. These streams are included on the Clean Water Act Section 303(d) list and violate the State Instream Water Quality Standards. The majority of violations are for fecal coliforms and E.coli, indicating water contamination from fecal sources. Several streams, including Bear, Jackson, Griffin, Crooked, Larson, Wagner, Coleman, and Neil Creeks consistently violated water quality standards and were posted as health hazards by the Jackson County Health Department. While a portion of the bacterial levels recorded may be coming from animal sources, a major portion is suspected to be of human origin. This fact is substantiated by the progressive increase in fecal bacteria levels recorded downstream from areas with known septic tank failures. Figures 5 and 6 in Exhibit A depict the streams in the Bear Creek sub-basin that violate the water quality standards for fecal coliform and E. Coli.

Obviously, human contact with sewage contaminated water is a serious public health concern. To address these and other water quality issues, Jackson County, has adopted strategies designed to restore the water quality in these streams. Such strategies include identifying and eliminating failing on-site septic systems, which are identified as a source of bacterial pollution in the Bear Creek TMDL Implementation Plan. (see Exhibit B, Board Order 253-09).

Until December 2008, efforts toward addressing water quality-related septic issues in the Rogue Valley were being administered by Jackson County staff. Four positions in the Environmental Quality section of the County's Development Services Department administered DEQ's On-site Wastewater Treatment System Rules (OAR Chapter 340, Divisions 071 and 073) and thereby assisted in the identification, repair and/or replacement of failing septic systems in the Rogue Valley and elsewhere in the County. Unfortunately, due to budgetary limitations, the Environmental Quality section was eliminated and the County's on-site septic efforts were discontinued. DEQ now administers this program with only one staff position split between both Josephine and Jackson Counties.

D. Summary of Efforts to Resolve Septic-Related Water Quality Issues

There is a long history behind Jackson County's efforts to address the water quality issues previously described. And, because the problems are of a severity that they cannot easily be remedied by technological or other improvements to existing septic systems, the County's efforts have largely focused on the development of a regional sewage collection infrastructure.

Rogue Valley Sewer Services (RVS - formerly Bear Creek Valley Sanitary Authority or BCVSA) was formed and its service district boundaries established in August, 1966. RVS' boundary comprises an area of approximately 207 square miles, which covers the urbanized portion of Jackson County from the Rogue River to the northern limits of the City of Ashland.

The Bear Creek Interceptor (BCI) is the regional collector of the Bear Creek Valley Waste Management System and is maintained by RVS. The BCI transports sewage from the cities of Medford, Central Point, Phoenix, Talent and Jacksonville, as well as sewage from residences, commercial businesses and industrial facilities within the RVS boundaries in unincorporated areas of the County to the Regional Water Reclamation Facility (RWRF) for treatment and disposal. The BCI was designed to serve a projected population of 274,000 in the service area, plus an equivalent population of 100,000 for commercial and industrial flow capacity, bringing the total capacity to about 374,000 people (equivalent). The current equivalent population being served by RVS is approximately 150,000, meaning that there is abundant spare capacity in the existing sewer infrastructure.

As mentioned above, RVS currently serves several properties that are located outside of urban growth or urban containment boundaries (UGBs and UCBs). Figure 7, Exhibit A, depicts the RVS District Boundary and shows the current sewer line infrastructure as well as the properties either served or approved for service by RVS. There are 2,184 properties that are currently served and 350 properties that are currently approved (but not served) for an RVS sewer connection outside of UGBs and UCBs. At the time that most of these areas were approved for sewer, a relatively simple process was required. However, in order to serve multiple properties like this today, it is generally necessary to approve an exception to Statewide Planning Goal 11.

Statewide Planning Goal 11 calls for the efficient planning of public services such as sewer, water, law enforcement, and fire protection. The goal's central concept is that public services should be planned in accordance with a community's needs and capacities rather than be forced to respond to development as it occurs. Goal 11 generally prohibits the extension of sewer services outside of urban growth boundaries as well as extensions of sewer lines from within urban growth boundaries to serve lands outside those boundaries, except where the new or extended system is the only practicable alternative to mitigate a public health hazard.

In Jackson County, Goal 11's provisions relating to sewer extensions have served to limit the options for many property owners with inadequate on-site septic treatment systems. This is primarily because the property-by-property Goal 11 health hazard (or Goal exception) provisions force individual property owners to pay the full cost of sewer installation to their properties – a very expensive proposition in most cases. Consequently, many "repaired" systems continue to discharge inadequately treated

sewage into streams and groundwater. This situation has led Jackson County and its partners at the Department of Land Conservation and Development and Rogue Valley Sewer to develop this proposal for an area-wide Goal 11 exception. The remainder of this document explains this proposal and the requirements for its approval.

III. DESCRIPTION OF PROPOSED AMENDMENT

A. Summary of Proposal

The background information presented above provides the general rationale for developing this proposed area-wide exception to Statewide Planning Goal 11. To summarize, many of the properties in the rural portion of the Rogue Valley are located on severely limited soils for septic treatment and have already been developed to suburban densities. Many of these properties treat sewage through the use of an on-site septic system. The reliance on these septic systems has resulted in water quality issues that have been a concern since the early 1970's. This concern contributed to the development a centralized sewage collection and treatment system (RVS), which already serves much of this area. The extent of this sewer service is limited by Goal 11's restrictions on extending sewer lines outside of urban growth and urban containment boundaries (UGB/UCBs).

Goal 11's objectives with respect to limiting urban sprawl by restricting the extension of sewer lines may be well-intentioned. However, when it comes to sewer extensions in the Rogue Valley, these objectives are not particularly applicable. This is because, unlike most sewer providers in Oregon that are operated by municipalities, the sewer services in Jackson County are provided by a regional service provider (RVS) with no interest in the expansion of urban land uses on rural lands. Also, there is no evidence to show that the extension of sewer lines in the Rogue Valley has resulted in levels of urbanization that would otherwise not be present today or that zone changes or other planning actions have been directly influenced by the sewer's presence. And, given the restrictions inherent in State and County planning regulations and zoning ordinances, it is unclear how urban development patterns could be directly affected by sewer extensions.

Nevertheless, the perception that urban development naturally follows the extension of sewer lines persists. This proposal addresses this issue by restricting potential sewer connections to properties that are either already developed or are committed (through zoning) to relatively dense rural and suburban land uses. Additionally, a condition of approval will restrict uses on properties included in this proposal to those allowable in the existing underlying zoning district and prohibit the "up-zoning" of properties on the basis of a sewer connection.

The Goal 11 administrative rule (OAR 660-011-0060(9)) provides local governments an option for extending sewer lines to multiple specified properties outside of UGB/UCBs by taking a "reasons" goal exception. The primary reason for this goal exception is to avoid an imminent and significant public health hazard that would otherwise result if the sewer service is not provided. No practicable alternative to the sewer extensions exists in order to avoid this public health hazard.

The proposal described below is to allow for the potential connection of 1,603 taxlots outside of UGB/UCBs to the RVS regional sewer system. Nearly all (91.5%) of these properties are currently developed. So, the intent of this proposal is not to provide the infrastructure to allow additional urban development but rather to provide for the adequate sewage disposal needs for development that exists today. As mentioned previously, much of this development pre-dates statewide planning laws and may have lacked an adequate consideration of whether or not soils could properly treat effluent through use of on-site septic systems. And, as also previously noted, approximately 60% of RVS's effluent capacity is unused today, meaning that the sewage treatment needs for the proposed exception only requires the extension of sewer lines and no additional treatment infrastructure.

B. Selection of Tax Lots Included in Area-Wide Goal 11 Exception

Figures 1 through 7 in Exhibit A presented in the background section of this document demonstrate: 1) How most of the soils in the Rogue Valley (Bear Creek Sub-Basin Area) are severely limited with respect to septic treatment and have other soil limitations such as severe shrink-swell characteristics and high water tables; 2) How dense rural and urban land uses, reliant on septic systems for sewage treatment, currently exist in many of these areas; 3) How this situation contributes to water quality problems including fecal contamination as indicated by the presence of E. Coli and fecal coliform in Rogue Valley streams; and 4) The extent of the current RVS sewer system including properties that are outside of UGB/UCBs.

An analysis of the above information, as well as a consideration of other planning-related factors, led to the development of a methodology to select the properties that are included in this area-wide Goal 11 exception proposal. This methodology is summarized below and is described in further detail in Exhibit C.

Summary of Methodology Used to Determine Exception Area

Figure 7 in Exhibit A shows the RVS District boundary as well as the current extent of RVS sewer lines and the properties that are either served or approved for sewer service. Since all properties included in this proposal will be served by RVS, this information was a logical starting point for determining which properties to include in the exception area.

After examining factors such as topography, soils, as well as the nature of development in the rural areas of the Valley, a distance of one mile from existing RVS sewer lines was selected as a study area. This area captures the majority of properties within the lower elevations of the Valley where densities are generally higher and the extension of sewer lines is more economical. The Goal 11 Study Area Boundary (a one mile distance from existing RVS sewer lines) as well as tax lots (taxable units of land in Jackson County), which graphically depict the pattern of land division in rural Bear Creek Valley, are shown in Figure 8 in Exhibit A.

After establishing the study area, the next step was to analyze the tax lots outside of UGB/UCBs. Tax lots that are already served or eligible for service by RVS, as well as residential tax lots within 300' of sewer lines that existed as of January 1, 2005 (eligible for sewer connection per OAR 660-011-0060(8)), were

eliminated from further analysis. (Figure 9 in Exhibit A depicts these tax lots which are also listed in Exhibits J and K)

Next, **developed** and **vacant** tax lots within a “non-resource” comprehensive plan designation (i.e., residential, commercial, industrial, aggregate and limited use lands) were selected for inclusion in the exception area. Eighty one percent (81%) of tax lots included in the exception area fall into this category. The remaining nineteen percent (19%) of tax lots included in the exception area are **developed** with a “resource” comprehensive plan designation (i.e., Exclusive Farm Use or Open Space Reserve/Woodland Resource) that are either: 1) Under 20 acres and within close proximity (300') to an existing sewer line; or 2) Under 2 acres; or 3) Under 10 acres and within 100' of the above-identified tax lots.

After selecting exception area tax lots in the manner above, a culling was done in order to minimize the extension of sewer lines while maximizing the ratio of tax lots served/mile of sewer extended. To do this, tax lots were eliminated from the exception area that were: 1) More than 100' from an existing sewer line; and 2) Not part of a “continuous” (less than 100' gap) grouping of tax lots extending from areas that are already eligible for sewer service.

The only properties included in the exception area that do not comply with this methodology are 35 lots on Fern Valley Road (east of Phoenix). This was done for the reasons explained in the text under the Phoenix Sub-Area description beginning on page 20.

Figure 10 in Exhibit A shows the Comprehensive Plan (or “Comp Plan”) Designation for the tax lots selected through this methodology. Exhibit D lists exception area tax lots along with the data used in the methodology.

Table 1, below, provides a summary of the attributes of the 1,603 tax lots that were selected through the methodology described above. As shown in the table, the overwhelming majority (72%) of tax lots selected for the exception area are zoned rural residential, with an average lot size of about 3 acres. About 19% of exception area tax lots are within a resource zoning district. These lots have an average size below 6 acres.

TABLE 1 – Exception Area Tax Lot Summary

Comp Plan Designation	Acres	Taxlots		Mean Taxlot Acres	Severely Limited (Septic)
		Vacant	Total		
Aggregate	387.13	0	17	22.77	17
Commercial	0.5	0	1	.5	0
Industrial	227.40	11	26	8.75	13
Limited Use	170.85	2	2	85.43	2
Rural Residential	3517.75	110	1149	3.06	1087
Urban Residential	81.93	14	109	.75	109
Ag Land (EFU)	1561.61	0	265	5.89	255
WR/OSR	173.52	0	34	5.10	34
TOTALS	6120.69	137	1603	3.82	1517

As shown in Table 1, approximately 95% of tax lots included in the exception proposal have a majority of their area within soils that are severely limited for septic treatment. However, it should be noted that there are several tax lots within this group that likely have soils that are adequate for septic disposal. Such a determination can only be made through a site-specific soil survey.

C. Description of Exception Area and Sub-Areas

As mentioned above, the methodology used to select the exception area tax lots resulted in the selection of mostly rural residential properties with an average lot size of about 3 acres. Most of the remainder of the tax lots included in the exception area are zoned for urban residential and small-lot (hobby) farms. Together, the properties included in the exception area represent a clustered pattern of fairly dense rural development adjacent to areas that are already served by sewer. The extension of sewer lines to these areas therefore makes sense, not only because of the poor soil conditions that exist in the area, but also because enough properties are concentrated within a close proximity for sewer line extensions to be economically viable.

Ten divisions (or sub-areas) of the overall exception area have been created to more easily depict mapping information and to facilitate the description of the unique land use, soil, septic repair, stream contamination and documented health hazard characteristics that apply to each sub-area. Figure 12 in Exhibit A shows the location of the ten sub-areas. Figures 15 through 22 are maps of the individual sub-areas with the "resource" Comprehensive Plan designations (Exclusive Farm Use (EFU), Woodland Resource (WR) and Open Space Reserve (OSR) are represented) shown in green and "non-resource" designations (Residential, Industrial, Commercial or Limited Use) shown in purple. Grey is used for Aggregate Removal properties, which is also a "non-resource" designation.

Three other maps included in Exhibit A are referenced in the sub-area discussion below. The first of these maps is Figure 11, which shows exception tax lots that are within the FEMA 100-Year Floodplain. The second, Figure 13, shows fecal coliform and E. Coli contaminated streams as well as "Potential Health Hazard Areas" as identified in Appendix D of the "Greater Bear Creek Basin Waste Treatment Master Plan," (RVCOG, 1977 - attached as Exhibit E). And the third map is Figure 14, which identifies tax lots in the study area that have a history of major septic repairs.

It is worth noting that, although septic repair history was not included in the methodology to select exception area tax lots, there is nevertheless a high correlation between the two. An analysis of the County's major septic repair data in the Goal 11 study area shows that 89% of these repairs occurred on taxlots included in the exception area (whereas, only 50% of potentially eligible taxlots in the study area were included in the exception area). This correlation provides a "real world" check on the appropriateness of the methodology used to select exception area tax lots.

Table 2 on the following page lists all the soil types found in the exception sub-areas. The limitations from the NRCS Soil Survey are listed as well as the septic disposal rating and the area covered by each of the soil types within the exception area. The total acreage discrepancy between Tables 1 and 2 is due to mapping-related errors that do not affect the analysis. Exhibit F provides more detailed NRCS survey information concerning those soils listed in Table 2.

TABLE 2 –Exception Area Soils Summary

Soil Type	Limitations* (per NRCS)	Septic Limit (per NRCS Table 10)	Soil Symbol	Acres	Percent of Ex-Area
Abin silty clay loam	f, p, w	Severe	2A	20.27	0.3%
Agate-Winlo complex	hp, w	Severe	6B	59.48	1.0%
Barron coarse sandy loam	no limitation	Slight	10B	160.53	2.6%
Brader-Debenger loams	b, s	Severe	17C, 17E	122.77	2.0%
Camas sandy loam	f, fc	Severe	21A	0.33	0.0%
Camas-Newberg-Evans	f, fc	Severe	23A	507.81	8.3%
Caris-offenbacher gravelly loams	n/a	Severe	25G	1.53	0.0%
Carney clay	b, p	Severe	27B, 27D	186.14	3.0%
Carney cobbly clay	b, p, s	Severe	28E	2.74	0.0%
Central Point sandy loam	w	Moderate	31A	157.20	2.6%
Coker clay	p, w	Severe	33A	338.23	5.5%
Coleman loam	p, wt	Severe	34B	574.58	9.4%
Cove clay	f, p, w	Severe	35A	158.89	2.6%
Darow silty clay loam	b, ls, p, s, ss	Severe	43B, 43D, 43E	304.71	5.0%
Debenger-Brader loams	b, s	Severe	44C, 44E	173.85	2.8%
Evans loam	f	Severe	55A	103.16	1.7%
Foehlin gravelly loam	p	Severe	61A	27.83	0.5%
Gregory silty clay loam	ls, p, ss, w	Severe	76A	162.61	2.7%
Kerby loam	p	Severe	97A	24.67	0.4%
Kubli loam	ls, p, ss, w, wt	Severe	100A, 100B	157.39	2.6%
Langellain-Brader loams	b, p, ss, w	Severe	102B	49.31	0.8%
Manita loam	p, s, ss	Severe	108B, 108D, 108E	125.80	2.1%
Manita-Vannoy complex	b, p, s, ss	Severe	109E	124.42	2.0%
Medford clay loam, gravelly substratum	ls, p, ss, w, wt	Severe	128B	5.44	0.1%
Medford silty clay loam	ls, p, ss, w, wt	Severe	127A	517.34	8.5%
Newberg fine sandy loam	f, fc	Severe	133A	19.59	0.3%
Padigan clay	ls, p, ss, w	Severe	139A	54.50	0.9%
Phoenix clay	b, ls, p, ss, w	Severe	141A	5.10	0.1%
Pits, gravel	n/a	n/a	146	7.75	0.1%
Provig very gravelly loam	p, s, ss	Severe	150E	4.87	0.1%
Provig-Agate complex	hp, p, ss	Severe	151C	170.33	2.8%
Riverwash	n/a	n/a	154	5.03	0.1%
Ruch gravelly silt loam	p	Severe	158B, 158D	494.51	8.1%
Ruch silt loam	p	Severe	157B	312.53	5.1%
Selmac loam	ls, p, ss, w, wt	Severe	162B, 162D	17.44	0.3%
Shefflein loam	p, s, ss	Severe	164D	333.81	5.5%
Tallowbox gravelly sandy loam	n/a	Severe	188G, 189G	136.51	2.2%
Vannoy silt loam	b, ls, p, s	Severe	195E, 196E	305.76	5.0%
Vannoy-Voorhies	n/a	Severe	197F	114.19	1.9%
Water	n/a	n/a	W	41.75	0.7%
Winlo very gravelly clay loam	hp, w	Severe	198A	13.85	0.2%
				6104.58	100.0%

***Key to Limitations:** b = depth to bedrock; f = flood hazard; fc = poor filtering capacity; hp = depth to hardpan; ls = low strength; n/a = not suitable for septic disposal; p = slow permeability; s = slope; ss = high shrink-swell; w = wetness; wt = high water table

Central Point Sub-Area

Sewer lines extend west of the Central Point UGB toward a large cluster of residentially-zoned properties that lie along the east facing slopes west of Old Stage Road. Much of this development is on Sheffleyn loam soils which are rated severely septic-limited due to slopes, slow permeability and high shrink-swell characteristics. The other portion of this sub-area is characterized by soils with limitations including high water tables, severe shrink-swell, wetness and slow permeability. Some of the larger EFU-zoned properties may have inclusions of soils appropriate to effectively treat sewage.

Fourteen tax lots within this sub-area are within the FEMA 100-Year Flood Plain, shown in Figure 11. Jackson Creek, contaminated with fecal coliform and E. Coli, runs through this sub-area. Several of the tax lots within this sub-area are either within or near "Potential Health Hazard Areas" 5A, 5B, 9 and 10 (see Figure 13), from the *Greater Bear Creek Basin Waste Treatment Master Plan* (see Exhibit E). Sixty two tax lots included in this exception sub-area have a history of at least one major repair (see Figure 14), indicating that a septic system failure has occurred. Tables 3 and 4 provide a summary of the tax lot and soils data in this sub-area.

TABLE 3 – Central Point Sub-Area Tax Lot Summary

Comp Plan Designation	Acres	Taxlots		Mean Taxlot Acres	Severely Limited (Septic)
		Vacant	Total		
Aggregate	33.38		5		5
Commercial					
Industrial					
Limited Use					
Rural Residential	781.76	25	240	3.26	214
Urban Residential					
Ag Land (EFU)	236.92		34	6.97	29
WR/OSR	9.67		1	9.67	1
TOTALS	1061.73	25	280	3.79	249

TABLE 4 – Central Point Sub-Area Soils Summary

Soil Type	Limitations (per NRCS)	Septic Limit (per NRCS Table 10)	Soil Symbol	Acres	Percent of Sub-Area
Agate-Winlo complex	hp, w	Severe	6B	6.98	0.66%
Barron coarse sandy loam	no limitation	Slight	10B	39.98	3.79%
Brader-Debenger loams	b, s	Severe	17C, 17E	5.71	0.54%
Camas-Newberg-Evans	f, fc	Severe	23A	0.49	0.05%
Central Point sandy loam	p	Moderate	31A	45.69	4.33%
Coker clay	p, w	Severe	33A	9.46	0.90%
Coleman loam	p, wt	Severe	34B	4.43	0.42%
Cove clay	f, p, w	Severe	35A	6.41	0.61%
Evans loam	f	Severe	55A	4.69	0.44%
Gregory silty clay loam	ls, p, ss, w	Severe	76A	11.66	1.11%
Kerby loam	p	Severe	97A	12.96	1.23%
Kubli loam	ls, p, ss, w, wt	Severe	100A, 100B	103.59	9.82%
Langellain-Brader loams	b, p, ss, w	Severe	102B	15.24	1.44%
Manita loam	p, s, ss	Severe	108B, 108D, 108E	49.91	4.73%
Medford silty clay loam	ls, p, ss, w, wt	Severe	127A	42.01	3.98%
Newberg fine sandy loam	f, fc	Severe	133A	0.33	0.03%
Padigan clay	ls, p, ss, w	Severe	139A	0.94	0.09%
Ruch gravelly silt loam	p	Severe	158B, 158D	3.96	0.37%
Shefflein loam	p, s, ss	Severe	164D	540.01	51.19%
Tallowbox gravelly sandy loam	n/a	Severe	188G, 189G	106.26	10.07%
Vannoy silt loam	b, ls, p, s	Severe	195E, 196E	42.45	4.02%
Winlo very gravelly clay loam	hp, w	Severe	198A	1.87	0.18%
TOTALS				1055.01	100.00%

East White City Sub Area

Sewer lines extend east of White City to within close proximity of most of the tax lots included in this sub -area. Development in this sub-area is on some of the worst soils in the Valley, including Agate-Winlo complex soils that, due to the shallow depth to hardpan, are virtually impossible to use for adequate septic treatment. A large portion of this sub-area is characterized by soils with severe shrink-swell, wetness and slow permeability.

Five tax lots within this sub-area are within the FEMA 100-Year Flood Plain, shown in Figure 11. Whetstone Creek, contaminated with E. Coli, runs through this sub-area. Many of the tax lots within this sub-area were included within "Potential Health Hazard Areas" 3A and 3B (see Figure 13), from the *Greater Bear Creek Basin Waste Treatment Master Plan* (see Exhibit E). Ten tax lots included in this exception sub-area have a history of at least one major repair (see Figure 14), indicating that a septic system failure has occurred. Tables 5 and 6 provide a summary of the tax lot and soils data in this sub-area.

TABLE 5 – East White City Sub-Area Tax Lot Summary

Comp Plan Designation	Acres	Taxlots		Mean Taxlot Acres	Severely Limited (Septic)
		Vacant	Total		
Aggregate					
Commercial					
Industrial					
Limited Use					
Rural Residential	78.44	2	18	4.36	18
Urban Residential					
Ag Land (EFU)	131.90		18	7.33	18
WR/OSR	16.72		3	5.57	3
TOTALS	227.06	2	39	5.82	39

TABLE 6 – East White City Sub-Area Soils Summary

Soil Type	Limitations from map unit descriptions	Septic Limit (per NRCS Table 10)	Soil Symbol	Acres	Percent of Sub-Area
Abin silty clay loam	f, p, w	Severe	2A	28.61	12.62%
Agate-Winlo complex	hp, w	Severe	6B	54.19	23.91%
Camas-Newberg-Evans	f, fc	Severe	23A	14.52	6.41%
Carney clay	b, p	Severe	27B, 27D	0.07	0.03%
Coker clay	p, w	Severe	33A	44.47	19.62%
Cove clay	f, p, w	Severe	35A	8.10	3.57%
Medford silty clay loam	ls, p, ss, w, wt	Severe	127A	3.74	1.65%
Padigan clay	ls, p, ss, w	Severe	139A	1.14	0.50%
Phoenix clay	b, ls, p, ss, w	Severe	141A	1.26	0.56%
Provig very gravelly loam	p, s, ss	Severe	150E	3.84	1.69%
Provig-Agate complex	hp, p, ss	Severe	151C	66.72	29.44%
TOTALS				226.66	100.00%

Jacksonville Sub Area

Sewer lines are mostly contained within the Jacksonville UGB in this sub-area. However, numerous small-acreage residential properties on shallow soils and slopes surround the western edges of Jacksonville.

Six tax lots within this sub-area are within the FEMA 100-Year Flood Plain, shown in Figure 11. Jackson Creek, contaminated with fecal coliform and E. Coli, runs through this sub-area. A few of the tax lots within this sub-area were included within "Potential Health Hazard Area" 12 (see Figure 13), from the *Greater Bear Creek Basin Waste Treatment Master Plan* (see Exhibit E). Seventy six tax lots included in this exception sub-area have a history of at least one major repair (see Figure 14), indicating that a septic system failure has occurred. Tables 7 and 8 provide a summary of the tax lot and soils data in this sub-area.

TABLE 7 – Jacksonville Sub-Area Tax Lot Summary

Comp Plan Designation	Acres	Taxlots		Mean Taxlot Acres	Severely Limited (Septic)
		Vacant	Total		
Aggregate					
Commercial					
Industrial					
Limited Use					
Rural Residential	1016.97	36	271	3.75	243
Urban Residential					
Ag Land (EFU)	14.86		5	2.97	4
WR/OSR	18.20		4	4.55	4
TOTALS	1050.03	36	280	3.75	251

TABLE 8 – Jacksonville Sub-Area Soils Summary

Soil Type	Limitations from map unit descriptions	Septic Limit (per NRCS Table 10)	Soil Symbol	Acres	Percent of Sub-Area
Barron coarse sandy loam	no limitation	Slight	10B	103.72	9.99%
Brader-Debenger loams	b, s	Severe	17C, 17E	167.79	16.17%
Camas-Newberg-Evans	f, fc	Severe	23A	12.14	1.17%
Coleman loam	p, wt	Severe	34B	4.74	0.46%
Manita loam	p, s, ss	Severe	108B, 108D, 108E	13.99	1.35%
Medford silty clay loam	ls, p, ss, w, wt	Severe	127A	5.16	0.50%
Newberg fine sandy loam	f, fc	Severe	133A	0.73	0.07%
Ruch gravelly silt loam	p	Severe	158B, 158D	63.79	6.15%
Shefflein loam	p, s, ss	Severe	164D	130.43	12.57%
Tallowbox gravelly sandy loam	n/a	Severe	188G, 189G	13.64	1.31%
Vannoy silt loam	b, ls, p, s	Severe	195E, 196E	461.19	44.44%
Vannoy-Voorhies	n/a	Severe	197F	60.40	5.82%
TOTALS				1037.72	100.00%

North Ashland Sub Area

This sub-area is notorious for its vertisol clay soils described on page 6. Sewer lines have been extended to a few properties in this sub-area through both the goal exceptions process and determinations of public health hazards. Development in this sub-area consists mostly of rural residential and small (hobby) farm properties.

Ten tax lots within this sub-area are within the FEMA 100-Year Flood Plain, shown in Figure 11. Butler Creek, contaminated with fecal coliform and E. Coli, and Meyer Creek, contaminated with fecal coliform, run through this sub-area. Many of the tax lots within this sub-area were included within "Potential Health Hazard Area" 30 (see Figure 13),

from the *Greater Bear Creek Basin Waste Treatment Master Plan* (see Exhibit E). Thirty three tax lots included in this exception sub-area have a history of at least one major repair (see Figure 14), indicating that a septic system failure has occurred. Tables 9 and 10 provide a summary of the tax lot and soils data in this sub-area.

TABLE 9 – North Ashland Sub-Area Tax Lot Summary

Comp Plan Designation	Acres	Taxlots		Mean Taxlot Acres	Severely Limited (Septic)
		Vacant	Total		
Aggregate					
Commercial					
Industrial					
Limited Use					
Rural Residential	167.25	7	75	2.23	75
Urban Residential					
Ag Land (EFU)	265.10		45	5.89	45
WR/OSR					
TOTALS	432.35	7	120	3.60	120

TABLE 10 – North Ashland Sub-Area Soils Summary

Soil Type	Limitations from map unit descriptions	Septic Limit (per NRCS Table 10)	Soil Symbol	Acres	Percent of Sub-Area
Abin silty clay loam	f, p, w	Severe	2A	11.85	2.73%
Brader-Debenger loams	b, s	Severe	17C, 17E	91.55	21.13%
Camas-Newberg-Evans	f, fc	Severe	23A	3.47	0.80%
Carney clay	b, p	Severe	27B, 27D	38.19	8.81%
Central Point sandy loam	w	Moderate	31A	0.53	0.12%
Coker clay	p, w	Severe	33A	77.18	17.81%
Cove clay	f, p, w	Severe	35A	38.86	8.97%
Darow silty clay loam	b, ls, p, s, ss	Severe	43B, 43D, 43E	15.30	3.53%
Debenger-Brader loams	b, s	Severe	44C, 44E	102.49	23.65%
Manita loam	p, s, ss	Severe	108B, 108D, 108E	16.47	3.80%
Padigan clay	ls, p, ss, w	Severe	139A	37.49	8.65%
TOTALS				433.37	100.00%

North Medford Sub Area

This is a relatively small sub-area with only 11 tax lots. All the properties included in this sub-area are adjacent to areas that have been previously approved for sewer connection. The Coker and Carney clay soils in this area are very poorly suited for septic disposal. Shallow depth to bedrock and slow permeability characterize most of the soils in this sub-area. Nearly 20% of the area contains Agate-Winlo complex soils which are generally regarded as among the worst in the Valley for septic treatment systems.

The history of major repairs (see Figure 14) shows that four of the tax lots included in this exception sub-area have a history of requiring at least one major repair, indicating that a septic system failure has occurred. Tables 11 and 12 provide a summary of the tax lot and soils data in this sub-area.

TABLE 11 – North Medford Sub-Area Tax Lot Summary

Comp Plan Designation	Acres	Taxlots		Mean Taxlot Acres	Severely Limited (Septic)
		Vacant	Total		
Aggregate					
Commercial					
Industrial					
Limited Use					
Rural Residential	19.45		7	2.78	7
Urban Residential					
Ag Land (EFU)	14.14		4	3.54	4
WR/OSR					
TOTALS	33.59	0	11	3.05	11

TABLE 12 – North Medford Sub-Area Soils Summary

Soil Type	Limitations from map unit descriptions	Septic Limit (per NRCS Table 10)	Soil Symbol	Acres	Percent of Sub-Area
Agate-Winlo complex	hp, w	Severe	6B	6.36	18.89%
Carney clay	b, p	Severe	27B, 27D	10.31	30.64%
Carney cobbly clay	b, p, s	Severe	28E	7.27	21.61%
Coker clay	p, w	Severe	33A	5.59	16.63%
Debenger-Brader loams	b, s	Severe	44C, 44E	2.31	6.88%
Phoenix clay	b, ls, p, ss, w	Severe	141A	1.80	5.35%
TOTALS				33.64	100.00%

Phoenix Sub Area

Sewer lines extend west of the Phoenix UGB toward clusters of residentially-zoned properties on the west edge of the Bear Creek Valley adjacent to Coleman Creek. Much of the soil in this sub-area has slow permeability, severe shrink-swell properties or is in high water table areas.

Nine tax lots within this sub-area are within the FEMA 100-Year Flood Plain, shown in Figure 11. Anderson, Coleman and Payne Creeks, all contaminated with fecal coliform, run through this sub-area. Many tax lots within this sub-area are within or adjacent to "Potential Health Hazard Areas" 26, 27 and 28 (see Figure 13), from the *Greater Bear Creek Basin Waste Treatment Master Plan* (see Exhibit E). Thirty five tax lots included in this exception sub-area have a history of at least one major repair (see Figure 14), indicating that a septic system failure has occurred. Tables 13 and 14 provide a summary of the tax lot and soils data in this sub-area.

Fern Valley Road (Phoenix Sub-Area)

Tax lots selected for inclusion in Fern Valley Road portion of this the exception sub-area do not fit the methodology applied to the other sub-areas because they are not adjacent to areas that have already been approved for sewer service. A sewer line would need to be extended approximately 1/3 mile from the Phoenix UGB to reach these tax lots. However, there is substantial evidence to show that this area has a history of septic failures as shown in Exhibit G (Fern Valley Road Environmental Quality Data Supporting Sewer Service). This area requires special consideration and warrants a minor deviation in the methodology used for the remainder of the study area. Tax lots along Fern Valley Road in the Phoenix sub-area are generally within the "black-sticky" vertisol clay soils, described on page 6. These, along with the Agate-Winlo complex soils, are the worst in the Valley for septic treatment purposes.

TABLE 13 – Phoenix Sub-Area Tax Lot Summary

Comp Plan Designation	Acres	Taxlots		Mean Taxlot Acres	Severely Limited (Septic)
		Vacant	Total		
Aggregate					
Commercial					
Industrial					
Limited Use					
Rural Residential	357.71	12	144	2.48	144
Urban Residential					
Ag Land (EFU)	269.49		48	5.61	48
WR/OSR	2.50		1	2.50	1
TOTALS	629.70	12	193	3.26	193

TABLE 14 – Phoenix Sub-Area Soils Summary

Soil Type	Limitations from map unit descriptions	Septic Limit (per NRCS Table 10)	Soil Symbol	Acres	Percent of Sub-Area
Agate-Winlo complex	hp, w	Severe	6B	7.83	1.25%
Brader-Debenger loams	b, s	Severe	17C, 17E	9.95	1.58%
Caris-offenbacher gravelly loams	n/a	Severe	25G	6.28	1.00%
Carney clay	b, p	Severe	27B, 27D	3.59	0.57%
Coker clay	p, w	Severe	33A	2.38	0.38%
Coleman loam	p, wt	Severe	34B	112.83	17.94%
Cove clay	f, p, w	Severe	35A	7.11	1.13%
Darow silty clay loam	b, ls, p, s, ss	Severe	43B, 43D, 43E	35.99	5.72%
Debenger-Brader loams	b, s	Severe	44C, 44E	5.31	0.84%
Evans loam	f	Severe	55A	18.25	2.90%
Foehlin gravelly loam	p	Severe	61A	12.07	1.92%
Gregory silty clay loam	ls, p, ss, w	Severe	76A	16.46	2.62%
Manita loam	p, s, ss	Severe	108B, 108D, 108E	64.49	10.25%
Manita-Vannoy complex	b, p, s, ss	Severe	109E	75.24	11.96%
Medford silty clay loam	ls, p, ss, w, wt	Severe	127A	48.08	7.65%
Padigan clay	ls, p, ss, w	Severe	139A	11.99	1.91%
Ruch gravelly silt loam	p	Severe	158B, 158D	47.10	7.49%
Ruch silt loam	p	Severe	157B	78.18	12.43%
Selmac loam	ls, p, ss, w, wt	Severe	162B, 162D	34.75	5.52%
Vannoy silt loam	b, ls, p, s	Severe	195E, 196E	31.03	4.93%
TOTALS				628.92	100.00%

South Medford Sub Area

Much of this area was previously included in a Goal 11 exception area due to the poor soils, high water table, dense development and other reasons identified in Exhibit H, Staff Report File 2002-2-SWR. Although that goal exception effort did not succeed, the need for sewer service to the properties in this sub-area has been well-established over time. Several tax lots within this sub-area are within the FEMA 100-Year Flood Plain, shown in Figure 11. Many of the tax lots within this sub-area are within or adjacent to "Potential Health Hazard Areas" 19, 23, 24 and 25 (see Figure 13) identified in the *Greater Bear Creek Basin Waste Treatment Master Plan* (see Exhibit E).

Fifty seven tax lots within this sub-area are within the FEMA 100-Year Flood Plain, shown in Figure 11. Griffin Creek, contaminated with fecal coliform and E. Coli, and Crooked Creek, contaminated with fecal coliform, run through this sub-area (see Figure 13). Seventy four tax lots included in this exception sub-area have a history of at least one major repair (see Figure 14), indicating that a septic system failure has occurred. Tables 15 and 16 provide a summary of the tax lot and soils data in this sub-area.

TABLE 15 – South Medford Sub-Area Tax Lot Summary

Comp Plan Designation	Acres	Taxlots		Mean Taxlot Acres	Severely Limited (Septic)
		Vacant	Total		
Aggregate					
Commercial					
Industrial					
Limited Use					
Rural Residential	498.55	21	187	2.67	187
Urban Residential	51.22	13	73	0.70	73
Ag Land (EFU)	78.81		22	3.58	22
WR/OSR	56.87		10	5.69	10
TOTALS	685.45	34	292	2.35	292

TABLE 16 – South Medford Sub-Area Soils Summary

Soil Type	Limitations from map unit descriptions	Septic Limit (per NRCS Table 10)	Soil Symbol	Acres	Percent of Sub-Area
Brader-Debenger loams	b, s	Severe	17C, 17E	61.39	8.95%
Carney clay	b, p	Severe	27B, 27D	9.38	1.37%
Coleman loam	p, wt	Severe	34B	21.84	3.19%
Darow silty clay loam	b, ls, p, s, ss	Severe	43B, 43D, 43E	185.59	27.07%
Debenger-Brader loams	b, s	Severe	44C, 44E	171.20	24.97%
Evans loam	f	Severe	55A	39.58	5.77%
Foehlin gravelly loam	p	Severe	61A	13.62	1.99%
Gregory silty clay loam	ls, p, ss, w	Severe	76A	3.77	0.55%
Manita-Vannoy complex	b, p, s, ss	Severe	109E	72.94	10.64%
Medford silty clay loam	ls, p, ss, w, wt	Severe	127A	19.56	2.85%
Padigan clay	ls, p, ss, w	Severe	139A	0.97	0.14%
Ruch gravelly silt loam	p	Severe	158B, 158D	67.62	9.86%
Ruch silt loam	p	Severe	157B	16.08	2.35%
Vannoy silt loam	b, ls, p, s	Severe	195E, 196E	2.00	0.29%
TOTALS				685.54	100.00%

Talent Sub Area

Sewer lines are well-contained west of Talent's UGB. However, some of the area to the west and south of Talent has been fairly densely developed with residential properties. Much of the soils in this area are characterized by slow permeability, shallow depth to bedrock, severe shrink-swell and high water table.

Four tax lots within this sub-area are within the FEMA 100-Year Flood Plain, shown in Figure 11. Wagner Creek, contaminated with fecal coliform, runs through this sub-area. Twenty one tax lots included in this exception sub-area have a history of at least one major repair (see Figure 14), indicating that a septic system failure has occurred. Tables 17 and 18 provide a summary of the tax lot and soils data in this sub-area.

TABLE 17 – Talent Sub-Area Tax Lot Summary

Comp Plan Designation	Acres	Taxlots		Mean Taxlot Acres	Severely Limited (Septic)
		Vacant	Total		
Aggregate					
Commercial					
Industrial					
Limited Use					
Rural Residential	229.83	3	72	3.19	72
Urban Residential	25.77	1	22	1.17	22
Ag Land (EFU)	159.78		29	5.51	29
WR/OSR	1.20		1	1.20	1
TOTALS	416.58	4	124	3.36	124

TABLE 18 – Talent Sub-Area Soils Summary

Soil Type	Limitations from map unit descriptions	Septic Limit (per NRCS Table 10)	Soil Symbol	Acres	Percent of Sub-Area
Brader-Debenger loams	b, s	Severe	17C, 17E	3.04	0.73%
Camas-Newberg-Evans	f, fc	Severe	23A	9.49	2.29%
Caris-offenbacher gravelly loams	n/a	Severe	25G	11.05	2.67%
Carney clay	b, p	Severe	27B, 27D	1.94	0.47%
Central Point sandy loam	w	Moderate	31A	0.10	0.02%
Coker clay	p, w	Severe	33A	2.85	0.69%
Coleman loam	p, wt	Severe	34B	82.34	19.86%
Darow silty clay loam	b, ls, p, s, ss	Severe	43B, 43D, 43E	118.25	28.52%
Evans loam	f	Severe	55A	2.35	0.57%
Gregory silty clay loam	ls, p, ss, w	Severe	76A	5.58	1.35%
Manita loam	p, s, ss	Severe	108B, 108D, 108E	3.54	0.85%
Manita-Vannoy complex	b, p, s, ss	Severe	109E	68.91	16.62%
Medford silty clay loam	ls, p, ss, w, wt	Severe	127A	17.65	4.26%
Ruch silt loam	p	Severe	157B	58.71	14.16%
Vannoy silt loam	b, ls, p, s	Severe	195E, 196E	10.35	2.50%
Vannoy-Voorhies	n/a	Severe	197F	18.51	4.46%
TOTALS				414.66	100.00%

Tolo Sub Area

Sewer lines extend through the center of this sub-area, mostly serving aggregate and industrial operations. Development in this sub-area includes a diverse mix of uses, including small-lot farm properties, aggregate, industrial and rural residential. Some of the more prevalent soils in this sub-area, such as Agate-Winlo complex and Provig-Agate complex, are among the worst in the Valley for septic treatment purposes. This sub-area is characterized by soils with limitations including high water tables, shallow depth to hardpan, severe shrink-swell, wetness and slow permeability.

Nineteen tax lots within this sub-area are within the FEMA 100-Year Flood Plain, shown in Figure 11. Many of the tax lots within this sub-area are within or adjacent to Area I-7 (“Areas of Suspected Septic Tank Failures”) from Appendix I of the 1978 report from the Rogue Valley Council of Government titled *208 Waste Treatment Master Plan Expansion* (excerpt included as Exhibit I). Area I-7 includes “all subdivided property along both sides of Blackwell Road from Upper River Road to Tolo Road including property along Villa Lane, Merita Terrace and Tolo Road, with exception of scrub oak and pasture land.”

Bear Creek, contaminated with fecal coliform and E. Coli, and Whetstone Creek, contaminated with E. Coli, run through this sub-area. Twenty two tax lots included in this exception sub-area have a history of at least one major repair (see Figure 14), indicating that a septic system failure has occurred. Tables 19 and 20 provide a summary of the tax lot and soils data in this sub-area.

TABLE 19 – Tolo Sub-Area Tax Lot Summary

Comp Plan Designation	Acres	Taxlots		Mean Taxlot Acres	Severely Limited (Septic)
		Vacant	Total		
Aggregate	353.75		12	29.48	12
Commercial					
Industrial	227.40	11	26	8.75	11
Limited Use	170.85	2	2	85.43	2
Rural Residential	198.72	2	74	2.69	68
Urban Residential					
Ag Land (EFU)	100.39		18	5.58	17
WR/OSR	6.91		2	3.46	2
TOTALS	1058.02	15	134	7.90	112

TABLE 20 – Tolo Sub-Area Soils Summary

Soil Type	Limitations from map unit descriptions	Septic Limit (per NRCS Table 10)	Soil Symbol	Acres	Percent of Sub-Area
Abin silty clay loam	f, p, w	Severe	2A	14.04	1.34%
Agate-Winlo complex	hp, w	Severe	6B	275.03	26.23%
Barron coarse sandy loam	no limitation	Slight	10B	61.04	5.82%
Camas sandy loam	f, fc	Severe	21A	2.59	0.25%
Camas-Newberg-Evans	f, fc	Severe	23A	38.89	3.71%
Central Point sandy loam	w	Moderate	31A	46.97	4.48%
Cove clay	f, p, w	Severe	35A	24.34	2.32%
Evans loam	f	Severe	55A	22.16	2.11%
Gregory silty clay loam	ls, p, ss, w	Severe	76A	5.96	0.57%
Kubli loam	ls, p, ss, w, wt	Severe	100A, 100B	53.39	5.09%
Langellain-Brader loams	b, p, ss, w	Severe	102B	41.76	3.98%
Medford clay loam, gravelly substratum	ls, p, ss, w, wt	Severe	128B	30.60	2.92%
Medford silty clay loam	ls, p, ss, w, wt	Severe	127A	30.09	2.87%
Newberg fine sandy loam	f, fc	Severe	133A	6.89	0.66%
Pits, gravel	n/a	n/a	146	6.27	0.60%
Provig very gravelly loam	p, s, ss	Severe	150E	9.52	0.91%
Provig-Agate complex	hp, p, ss	Severe	151C	190.53	18.17%
Riverwash	n/a	n/a	154	4.00	0.38%
Ruch silt loam	p	Severe	157B	26.93	2.57%
Vannoy silt loam	b, ls, p, s	Severe	195E, 196E	111.34	10.62%
Water	n/a	n/a	W	23.37	2.23%
TOTALS				1048.39	100.00%

West Medford Sub Area

Sewer lines extend through most of this sub-area serving clusters of dense residential as well as EFU properties. Particularly problematic in this sub-area are areas with high water tables and severe shrink-swell soils.

Eleven tax lots within this sub-area are within the FEMA 100-Year Flood Plain, shown in Figure 11. Griffin and Jackson Creeks, both contaminated with fecal coliform and E. Coli, run through this sub-area. Sixteen tax lots included in this exception sub-area have a history of at least one major repair (see Figure 14), indicating that a septic system failure has occurred. Tables 21 and 22 provide a summary of the tax lot and soils data in this sub-area.

TABLE 21 – West Medford Sub-Area Tax Lot Summary

Comp Plan Designation	Acres	Taxlots		Mean Taxlot Acres	Severely Limited (Septic)
		Vacant	Total		
Aggregate					
Commercial	0.50		1	0.50	
Industrial					
Limited Use					
Rural Residential	169.07	2	61	2.77	59
Urban Residential	4.94		14	0.35	14
Ag Land (EFU)	290.22		42	6.91	39
WR/OSR	61.45		12	5.12	12
TOTALS	526.18	2	130	4.05	124

TABLE 22 – West Medford Sub-Area Soils Summary

Soil Type	Limitations from map unit descriptions	Septic Limit (per NRCS Table 10)	Soil Symbol	Acres	Percent of Sub-Area
Brader-Debenger loams	b, s	Severe	17C, 17E	12.58	2.37%
Carney clay	b, p	Severe	27B, 27D	1.54	0.29%
Central Point sandy loam	w	Moderate	31A	39.64	7.45%
Coleman loam	p, wt	Severe	34B	50.51	9.50%
Debenger-Brader loams	b, s	Severe	44C, 44E	20.68	3.89%
Evans loam	f	Severe	55A	19.22	3.61%
Foehlin gravelly loam	p	Severe	61A	13.40	2.52%
Gregory silty clay loam	ls, p, ss, w	Severe	76A	36.75	6.91%
Kubli loam	ls, p, ss, w, wt	Severe	100A, 100B	2.03	0.38%
Manita-Vannoy complex	b, p, s, ss	Severe	109E	28.56	5.37%
Medford silty clay loam	ls, p, ss, w, wt	Severe	127A	83.77	15.76%
Newberg fine sandy loam	f, fc	Severe	133A	3.00	0.56%
Ruch gravelly silt loam	p	Severe	158B, 158D	50.24	9.45%
Ruch silt loam	p	Severe	157B	100.35	18.87%
Vannoy silt loam	b, ls, p, s	Severe	195E, 196E	55.60	10.46%
Vannoy-Voorhies	n/a	Severe	197F	13.85	2.61%
TOTALS				531.72	100.00%

IV. FINDINGS DEMONSTRATING COMPLIANCE WITH APPLICABLE CRITERIA

A "reasons" goal exception to Goal 11 (Public Facilities and Services) requires an amendment to the Jackson County Comprehensive Plan and a demonstration of compliance with the following criteria:

- Statewide Planning Goal 2, Part II (Exceptions)
- Other applicable statewide planning goals
- ORS 197.732 (Goal Exceptions)
- OAR 660-004-0018 (Planning and Zoning for Exception Areas)
- OAR 660-004-0020 (Goal 2, Part II(c), Exception Requirements)
- OAR 660-004-0022 (Reasons Necessary to Justify an Exception Under Goal 2, Part II(c))
- Applicable provisions of the Jackson County Comprehensive Plan
- Applicable provisions of the Jackson County Land Development Ordinance

Because this goal exception is a reasons exception, it applies only to specific properties, as depicted in Exhibits A and D. and does not establish a planning or zoning policy of general applicability in Jackson County pursuant to ORS 197.732(8).

Staff's findings of compliance with the applicable criteria begin with the Statewide Planning Goals.

A. Statewide Planning Goals

1. Goal 1 (Citizen Involvement)

OAR 660-015-0000(1): To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

FINDING: Opportunities for citizen involvement will be provided as required by state and local law. All property owners potentially affected by this proposal have been provided with advanced notice and were invited to submit testimony for the record.

2. Goal 2 (Land Use Planning)

OAR 660-015-0000 (2) (PART I - PLANNING): To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

OAR 660-015-0000(2) (PART II - EXCEPTIONS): A local government may adopt an exception to a goal when...

FINDING: By addressing the criteria of OAR 660-004 (see below), the implementing rule for both Goal 2 and ORS 197.732 that both Goal 2 and ORS 197.732 have been satisfied.

3. Goal 3 (Agricultural Lands)

OAR 660-015-0000(3): To preserve and maintain agricultural lands.

FINDING: This proposal will not affect the amount of agricultural land in Jackson County nor will it result in the establishment of uses on agricultural land that are in conflict with the provisions of Goal 3. This is evidenced, in part, in that all resource-designated properties included in this proposal are currently developed according to Jackson County assessment records. Also, a condition of approval (see Section V) will require property owners to sign a restrictive covenant(s) that specifies that the public sewer connection is available only for uses allowable in the existing underlying rural zoning district, and cannot be used to justify further land division or up-zoning while the subject property is located outside an urban growth or urban containment boundary.

The maintenance of agricultural lands will be accomplished by the removal of sources of water contamination on Goal 3-protected properties. In the rare case that the extension of a sewer line must run through a Goal 3 (Exclusive Farm Use) parcel, the disruption to farming practices will be in a narrow linear pattern and be of temporary duration.

4. Goal 4 (Forest Lands)

OAR 660-015-0000(4): To conserve forest lands for forest uses.

FINDING: This proposal will not affect the amount of forest land in Jackson County nor will it result in the establishment of uses on forest land that are in conflict with the provisions of Goal 4. This is evidenced, in part, in that all resource-designated properties included in this proposal are currently developed according to Jackson County assessment records. Also, a condition of approval (see Section V) will require property owners to sign a restrictive covenant(s) that specifies that the public sewer connection is available only for uses allowable in the existing underlying rural zoning district, and cannot be used to justify further land division or up-zoning while the subject property is located outside an urban growth or urban containment boundary. Finally, where Goal 4 land is included in this exception area, it is zoned Open Space Reserve or Woodland Resource and is devoid of commercial timber.

The maintenance of forest lands will be accomplished by the removal of sources of water contamination on Goal 4-protected properties. In the rare case that the extension of a sewer line must run through a Goal 4 parcel, any disruption will be in a narrow linear pattern and be of temporary duration.

5. Goal 5 (Natural Resources, Scenic and Historic Areas)

OAR 660-015-0000(5): To protect natural resources and conserve scenic and historic areas and open spaces.

FINDING: The Goal 5 resources potentially impacted by this proposal include riparian corridors and wetlands due to the installation of sewer lines. This impact is permitted at OAR 660-023-0090(8)(a)(B) for utilities in riparian corridors. Any sewer line extension, including those in wetland areas, must comply with applicable regulations that will be addressed through a separate application process. Potential impacts to aggregate operations would be short-term and related to the installation of sewer lines.

6. Goal 6 (Air, Water and Land Resources Quality)

OAR 660-015-0000(6): To maintain and improve the quality of the air, water and land resources of the state.

FINDING: Substantial evidence has been presented as to why this area-wide Goal 11 exception proposal will result the improvement in water quality in Jackson County ground and surface waters. Connection of properties in the exception area to a sewer system will eliminate sources of water pollution and will thereby improve the quality of water resources in the state. Related findings are also presented under Section IV (D) (Environmental Quality Element) of this document.

7. Goal 11 (Public Facilities and Services)

OAR 660-015-0000(11): To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

FINDING: This proposal seeks an exception to Goal 11. The requirements for this exception are addressed in the criteria of OAR 660-004 (see below).

8. Goal 14 (Urbanization)

OAR 660-015-0000(14): To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

FINDING: The areas proposed for a Goal 11 exception are predominately zoned rural residential and developed to suburban densities. While it may take a Goal 14 exception to establish these zones today, none was required at the time zoning was put in place. Any lands included in this proposal that would be deemed "urban" under the terms of Goal 14 are currently committed to those uses and a committed exception has been approved for such lands. The "up-zoning" of lands included in the proposed exception area will not be justified on the basis of a sewer connection approved through this proposal per the condition of approval described in Section V of this document.

B. Oregon Revised Statutes

1. ORS 197.732 Goal Exceptions

FINDING: By addressing the criteria of OAR 660-004 (see below), the implementing rule for both Goal 2 and ORS 197.732 that both Goal 2 and ORS 197.732 have been satisfied.

C. Oregon Administrative Rules

1. OAR 660-004-0018(4) "Reasons" Exceptions:

(a) When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-

0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception;

(b) When a local government changes the types or intensities of uses or public facilities and services within an area approved as a "Reasons" exception, a new "Reasons" exception is required;

FINDING: Restrictions already imposed by existing zoning, the Rural Residential Rule, and the Map Designations Element will limit the uses, density, public facilities and services and activities to only those that justified by the "reasons" exception, in accordance with OAR 660-004-0018(4)(a) and (b). Each of the 1,603 parcels subject to this review are part of the "reasons" justified Goal 11 Exception Area.

This exception authorizes, but does not require, specific properties to connect to public sewer. This exception does not propose any changes of use to properties included within the exception area and restricts uses to those allowable in the existing underlying zoning district, per the condition of approval described in Section V of this document. Any change in use inconsistent with this goal exception proposal would require a new exception.

2. OAR 660-004-0020 Goal 2, Part II(c), Exception Requirements

(1) If a jurisdiction determines there are reasons consistent with OAR 660-004-0022 to use resource lands for uses not allowed by the applicable Goal or to allow public facilities or services not allowed by the applicable Goal, the justification shall be set forth in the comprehensive plan as an exception.

(2) The four factors in Goal 2 Part II(c) required to be addressed when taking an exception to a Goal are:

(a) "Reasons justify why the state policy embodied in the applicable goals should not apply": The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations including the amount of land for the use being planned and why the use requires a location on resource land;

(b) "Areas which do not require a new exception cannot reasonably accommodate the use":

(A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use, which do not require a new exception. The area for which the exception is taken shall be identified;

(B) To show why the particular site is justified, it is necessary to discuss why other areas which do not require

a new exception cannot reasonably accommodate the proposed use. Economic factors can be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under the alternative factor the following questions shall be addressed:

(i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?

(ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses, not allowed by the applicable Goal, including resource land in existing rural centers, or by increasing the density of uses on committed lands? If not, why not?

(iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?

(iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?

(C) This alternative areas standard can be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception, unless another party to the local proceeding can describe why there are specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described with facts to support the assertion that the sites are more reasonable by another party during the local exceptions proceeding.

(c) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a Goal exception. The exception shall describe the characteristics of each alternative areas considered by the jurisdiction for which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites

is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to, the facts used to determine which resource land is least productive; the ability to sustain resource uses near the proposed use; and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;

(d) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts. The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. Compatible is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

FINDING: The findings and reasons addressing compliance with OAR 660-004-0022 (see below) also address and satisfy compliance with 660-004-0020(1) and OAR 660-004-0020(2)(a).

Regarding OAR 660-004-0020(2)(b), each of the questions outlined in the rule are based on an assumption that new non-resource land uses are proposed for existing resource lands. The proposed "use," in this case, are existing and permitted developments (primarily residential) that pose an imminent and significant public health hazard without connection to a sewer system. No vacant resource lands are included in the exception area.

Sewer extensions are meant to primarily serve development on non-resource land, and would not be available to increase densities or add uses beyond that already existing or permitted by zoning. Although sewer extensions are permitted within urban growth boundaries, unincorporated communities and certain rural residential zoned property that are within 300 feet of an existing sewer line, it is not reasonable to require established neighborhoods to relocate to other areas where service is currently provided, either within or outside an urban growth boundary or community boundary. Notwithstanding that, any other lands also located outside an urban growth or unincorporated community boundary are also restricted from additional sewer connections, so increasing density allowances for those other non-resource areas is similarly impractical.

Since the requirements for a "reasons" exception calls for an analysis of whether "alternative areas...can reasonably accommodate the use," this exception acknowledges

that a site-by-site analysis must be used to determine whether allowed uses (based on zoning) can be reasonably served by use of individual on-site sewage disposal systems. Such an analysis is beyond the scope of this proposal. In general, and based on the information presented in Section III of this document, the soil limitations, existing water contamination issues, and existing development, make the use of on-site systems unreasonable to accommodate the allowed uses. However, there may be instances where an on-site system may be appropriate.

Regarding OAR 660-004-0020(2)(c), This proposal to allow sewer extensions is intended to serve areas under existing acknowledged zoning. The uses to be served by the proposed sewer extension either currently exist or are permitted under current zoning. Sewer connections to other areas would not resolve the situational assumptions set forth in the findings addressing OAR 660-004-0022, below.

The resulting sewer connections would likely reduce the adverse environmental impacts already existing from septic discharges, and would require far less excavation, and thereby erosion, of ground near the riparian corridor than septic system repair activities. The economic benefits would be realized by targeting dollars to a beneficial public system rather than expending them for on-site systems that are prone to failure. Another economic benefit is the assurance that existing dwellings may be replaced, a requirement for most financing programs. Similarly, the social benefits are realized by maintaining a stable housing stock in the area, and by reducing concerns about groundwater pollution affecting local families. Since septic systems often require substantial energy inputs for pumps and other ancillary equipment, and they typically require more maintenance and eventual replacement, the long term energy use will likely be less for a sewer-served area as compared to areas with septic systems.

This exception to Goal 11 is intended to encompass the majority of the area zoned for rural development for which the soil and groundwater conditions result in an imminent and significant public health hazard. Since sewer service can be made available to these areas, there are no reasonable alternatives to septic systems to consider.

Finally, with regard to OAR 660-004-0020(2)(d), sewer lines would generally be provided along existing public road rights-of-way. While in some cases a sewer line may have to cross resource land, the installation of the sewer line would be a temporary disruption of the resource use limited to a linear area on the resource land. Further land division would be limited by the existing zoning and a restrictive covenant(s) will be required as described in Section V of this document. Sewer services will further efforts to achieve compatibility by assuring that a health hazard will not occur through failure of septic systems from overuse or failure caused by soils susceptible to failure.

3. OAR 660-004-0022 Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)

An exception under Goal 2, Part II(c) can be taken for any use not allowed by the applicable goal(s). The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule:

(1) For uses not specifically provided for in subsequent sections of this rule or in OAR 660-012-0070 or chapter 660, division 14, the reasons

shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:

(a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either

(b) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or

(c) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

FINDING: The following summary of facts establishes why the policy in Goal 11 prohibiting connection of sewer service to exception area properties should not apply. These facts are supported by substantial evidence included in Sections II and III of this document.

First, 95% of the properties located in the proposed exception area are situated on soils that are rated as "severe" in terms of septic limitations. The exception area includes soils having very slow permeability, periodic wetness, poor filtering capacity, minimal depth to hardpan, high water tables, and severe shrink-swell characteristics. Several properties are located in floodplains, in proximity to streams and/or on lots under 2 acres. These factors severely limit the adequacy of on-site septic treatment facilities to treat sewage.

Second, much of the exception area is situated along or near riparian corridors identified as DEQ 303d listed limited water quality streams for fecal coliform and/or E. Coli. Although it has not been demonstrated that failing septic systems in the exception area are entirely responsible for these water quality issues, there is substantial evidence that provides this linkage. Historical documentation dating to the mid-1970's has focused on septic contamination issues resulting from the severe soil conditions present in much of the Rogue Valley area. To the degree that septic systems are responsible for the degradation of water quality, this represents a significant public health hazard that can only be adequately remedied through extension of sewer service.

Third, 91% of the properties included in the exception area are developed, with many approaching urban densities. Where existing housing is served by private wells and on-site septic disposal systems, these wells are prone to potential health hazard because failing systems would likely pollute the only potable water source. The existing underlying zoning districts in the exception area establish minimum lot sizes. Approval of this exception shall not be used as a basis for changes in zoning densities and uses. This exception to Statewide Planning Goal 11 is limited to providing the opportunity for extension of sewer lines to the properties within the exception areas.

Fourth, many of the developments included in the exception area were constructed prior to current sanitary siting standards and other health and safety-related planning regulations. Any substantial remodeling or replacement of existing housing units requires that septic systems be brought up to current siting and construction standards. Due to many existing small parcels and setback restrictions (from wells, buildings, streams, and property lines), many residences will not be able to be remodeled or replaced if sewer is not available.

Fifth, a regional sewer system (RVS) is available (located one mile or less from exception area properties) and has the capacity to provide the service to the exception properties. In many cases, adjacent properties outside of UGB/UCBs are already being served by RVS with no resulting urban/rural conflicts and without facilitating "urban sprawl", consistent with the provisions of Goal 11.

Finally, there is a long-standing recognition that the properties included in the proposed exception area are best served by a regional sewer system. Records of failed septic systems, studies produced by local agencies, and the many years of experience by Jackson County Environmental Quality staff, verify the need for sewer service to the proposed exception area.

FINDING AND CONCLUSION OF LAW: For all of the reasons set forth in Section IV(C) above, this proposal is consistent with and satisfies the requirements for taking a "reasons" goal exception to Goal 11 as set out in OAR 660, Division 4.

4. OAR 660-011-0060 Sewer Service to Rural Lands

(9) A local government may allow the establishment of new sewer systems or the extension of sewer lines not otherwise provided for in section (4) of this rule, or allow a use to connect to an existing sewer line not otherwise provided for in section (8) of this rule, provided the standards for an exception to Goal 11 have been met, and provided the local government adopts land use regulations that prohibit the sewer system from serving any uses or areas other than those justified in the exception. Appropriate reasons and facts for an exception to Goal 11 include but are not limited to the following:

(a) The new system, or extension of an existing system, is necessary to avoid an imminent and significant public health hazard that would otherwise result if the sewer service is not provided; and, there is no practicable alternative to the sewer system in order to avoid the imminent public health hazard, or

(b) The extension of an existing sewer system will serve land that, by operation of federal law, is not subject to statewide planning Goal 11 and, if necessary, Goal 14.

FINDING: This proposal seeks an exception to Goal 11 consistent with OAR 660-011-0060(9)(a) above. Based on the evidence presented in this document, staff finds that the extension of an existing sewer system is necessary to avoid an imminent and significant public health hazard that would otherwise result if the sewer service is not provided; and, there is no practicable alternative to the sewer system in order to avoid the imminent public health hazard.

D. Jackson County Comprehensive Plan

1. Environmental Quality Element

POLICY 3: Conserve the water resource of Jackson County and protect, manage and improve the quality of surface and groundwaters, for the propagation of wildlife and for domestic, agricultural, industrial, recreational and other beneficial uses.

POLICY 4: The County shall, to the extent of its legal authority, provide for the protection of municipal watersheds from uses which could impact the quality of the water and increase erosion.

FINDING: This proposal is aimed at reducing an imminent and substantial health hazard that has been brought about by the continued reliance on septic systems to treat sewage. The Environmental Quality Element identifies on-site septic disposal systems as affecting both surface and groundwater quality. Factors such as high water tables, floodplains, proximity to streams, shrink-swell soils, very slow permeability, periodic soil wetness, poor filtering capacity, depth to hardpan, slope and small lot sizes characteristic of the exception area are all septic treatment limiting factors that contribute to water pollution and environmental quality degradation.

If approved, public sewer will be made available to replace existing on-site septic systems in many areas that are already developed to suburban densities. Much of this area has already been identified in the acknowledged Jackson County Comprehensive Plan and other studies to be in a potential health hazard area. It is found that any measure that removes a significant source of potential ground and surface water contaminants would be consistent with the policies cited above.

Public sewer installations result in far less ground disturbance than would otherwise be caused through the installation of septic systems. Certain lateral sewer extensions may be accomplished through boring methods instead of trench and fill. These methods are consistent with the erosion and sedimentation policy stated above because it saves the riparian area of the creek from invasive and detrimental excavation within the actual stream channel. Detailed analysis of any sewer extensions will be reviewed by the County through a subsequent development application to ensure that impacts are consistent with the Land Development Ordinance and other applicable standards or approval criteria.

Jackson County has committed to improving the quality of ODEQ 303d listed limited quality streams, and recognizes that septic systems near such streams are a significant source of ground and surface water contamination. Reducing potential septic discharge to the Bear Creek sub-basin will promote state and county goals to improve recreational opportunities, tourism.

2. Public Facilities and Services Element

POLICY 1: Recognizing the need for various types and levels of sanitation service, Jackson County shall strive to provide for sanitation service at levels appropriate for the needs of urban, urbanizable, suburban, rural, and open space lands.

POLICY 2: Recognizing the urban growth/containment boundary as the dividing line between urban and rural development, the County shall not allow new extensions of sewer projects beyond these boundaries except as allowed in Policy 1 after review by the planning commission and approval by the board of commissioners or as provided for by state law, as discussed in Policy 5 below

POLICY 5: Connections to sewer or water lines in areas located outside acknowledged urban growth boundaries, unincorporated community boundaries or destination resorts may be permitted only pursuant to state law and the Jackson County Land Development Ordinance.

POLICY 6: New sewerage lines shall not pass through lands designated for agricultural use except for land that is the subject of an approved destination resort development plan, or when deemed the most reasonable route after the county has made every effort to minimize development pressure and protect agricultural operations.

POLICY 8: The absence or presence of public facilities should be weighed and evaluated against other development concerns so it does not receive disproportionate emphasis.

FINDING: The Jackson County Comprehensive Plan includes substantial findings and policies recognizing the need to provide for sewer connections outside urban growth boundaries and unincorporated community boundaries due to pre-existing patterns of development, pre-existence of a rural sewer service provider, and the severe site limitations imposed by local topography, soil conditions, natural hazard areas, and limited lot size. Findings 1, 2, and 5 of the Public Facilities and Services Element allow the establishment or extension of a sewer system outside of an urban growth boundary and unincorporated community boundary pursuant to state law and the JCLDO. The exception criteria is addressed above in Section IV (C) and the requirements of the JCLDO area addressed below in Section IV (E).

This exception proposal considered the development impacts on resource lands. In most cases, the extension of service will follow existing rights of way easements. Where new lines must pass through agricultural lands, the lines will be undergrounded so as not to disrupt resource uses or the character of the same. Further, the existence of the line itself will not determine the allowable land use(s), rather zoning will continue to prevail in determining allowable use(s). It is found that the proposed exception to the Statewide Planning Goal 11 does not conflict with the policies outlined in the Public Facilities and Services Element of the Jackson County Comprehensive Plan.

E. Jackson County Land Development Ordinance

1. LDO Section 3.6.3 Sewer Systems and Extensions on Rural Lands - Approval Criteria

The basis for approval of a development permit for a sewer service to rural lands will be OAR 660-011-0060 to mitigate existing public health hazard situations, unless a goal exception is justified for another purpose. Approval of an application for a Statewide Planning Goal 11 Exception Area must ensure that

only rural land uses will be served, unless an exception to Statewide Planning Goal 14 is also justified for urban uses. If a Goal 11 exception is justified, the exception area will be depicted as within ASC 2003-1 on the Jackson County Comprehensive Plan and Zoning Maps, and uses within the area will be restricted to those justified in the exceptions document.

FINDING: "Rural Lands" are defined as: "Those areas outside Urban Growth Boundaries or Urban Unincorporated Communities that are not suitable, necessary or intended for urban use and that are: agricultural, forest or open space lands; or, other lands suitable for sparse settlement, small farms or acreage home sites with no or hardly any public services." Staff finds that properties included in this proposal that do not fit the definition of "rural lands" are not subject to review under LDO 3.6.3.

Upon approval, the exception area proposed here will be depicted as within ASC 2003-1 (Comprehensive Plan and Zoning Map overlay) and uses will be restricted to those allowable in the existing underlying zoning district, per the condition of approval described in Section V of this document.

2. LDO Section 3.7.3(D) Major Comprehensive Plan Map or Zoning Map Amendments (Legislative)

Major map amendments may be made if one or more of the following apply:

- 1) Changes in economic or social conditions, or settlement patterns, require an adjustment in the configuration of land uses allowed in a region or subregion of the County;*
- 2) Development occurs at rates other than that contemplated by the Plan, making a major map amendment necessary; or*
- 3) An error needs to be corrected or the Official Plan and Zoning Map needs to be brought into compliance, or more into compliance, with Statewide Planning Goals and related Oregon Administrative Rules or other relevant law.*

In designated Areas of Special Concern, such amendments will also comply with the relevant provisions of Chapter 7. Such amendments may have widespread and significant impacts. Map amendments outside urban growth boundaries and urban unincorporated communities that will result in a minimum residential lot size smaller than 10 acres require an exception to Statewide Planning Goal 14.

FINDING: Section 3.7.3(D)(3) is found to apply to this proposal because an amendment of the Official Plan and Zoning Map (ASC 2003-1) will be brought into compliance with relevant law consistent with the "reasons" exception approved through this proposal.

3. LDO Section 7.2.3(B) Areas of Special Concern ASC 2003-1, Goal 11 Exception Areas

This Area of Special Concern includes lands justified as "Reasons" Exception Areas to Statewide Planning Goal 11, Public Facilities and

Services, where creation or extension of a public sewer facility has been approved to serve a specified use in the Goal Exception Area. This ASC may also be applied to "Physically Developed" and/or "Irrevocably Committed" Exception Areas where additional use restrictions are found to be merited beyond the base zoning district provisions. Development of properties within this ASC is subject to the restrictions outlined in the adopting ordinance for the Goal 11 Exception Area.[File 2002-3-OA]

FINDING: Approval of this proposal will result in the addition of 1,603 tax lots to the overlay map ASC 2003-1, Goal 11 Exception Areas, consistent with the LDO Section 7.2.3(B).

V. RECOMMENDATION AND CONDITION OF APPROVAL

Staff recommends that the Jackson County Planning Commission approve this "reasons" goal exception to Statewide Planning Goal 11, Public Facilities and Services, to allow the connection of specific rural properties within the boundary of the Rogue Valley Sewer Services District to the sewer services provided by that agency; and an amendment of the Jackson County Land Development Ordinance, Area of Special Concern (ASC) 2003-1 Goal 11 Exception Areas, Section 7.2.3(B), consistent with the above proposal.

Staff further recommends that, as a condition of approval and prior to connection to sewer services allowed through this proposal, the following restrictive covenant(s) be signed by owners of the properties included within this exception area:

An exception to Statewide Planning Goal 11, Public Facilities and Services, has been approved for the subject property to allow extension of sewer service outside of an urban growth or unincorporated community boundary. Public sewer connection is available only for uses allowable in the existing underlying zoning district and cannot be used to justify further land division or up-zoning while the subject property is located outside the urban growth or unincorporated community boundary.

Prepared by: _____
Craig Anderson, Planner III

Date: _____

Attachments:

Exhibits A-L