

W6b

AGENDA COVER MEMO

DATE: December 8, 2004 Board Meeting Date
TO: BOARD OF COUNTY COMMISSIONERS
FROM : KENT HOWE, PLANNING DIRECTOR
STEPHEN VORHES, COUNTY COUNSEL

AGENDA ITEM TITLE: Report – Periodic Review of Goal 5 Riparian Inventory
Inside Eugene Urban Growth Area (Site No. E76).

I. MOTION:

No motion necessary. This is a report back to the Board on the Eugene Urban Growth Area Goal 5 Riparian Inventory Site No. E76.

II. ISSUE OR PROBLEM

On November 3, 2004, the Board asked staff to review the validity of Eugene Inventory Site No. E76 (a portion of which includes the Jefferies' pond) that has been included as a riparian corridor in the Eugene inventory of significant sites adopted by Lane County. On November 30, 2004, County Staff (Kent Howe and Stephen Vorhes), City Staff (Neil Bjorkland) and property owner Deborah Jefferies met and viewed the site.

This item is the basis of an appeal of the Department of Land Conservation and Development's approval of Lane County's periodic review Work Task 7 significance criteria and inventory action (Attachments 1, 2 and 3). Task 7 is part of the Eugene-Springfield Metropolitan Area General Plan (Metro Plan) periodic review work plan for Eugene, Springfield and metropolitan Lane County. The submittal includes inventories of riparian corridors and upland wildlife habitat. Subsequent steps of the Goal 5 process will be completed during later subtasks.

III. DISCUSSION

A. BACKGROUND

Lane County's periodic review Work Task 7 required county adoption of a natural resources inventory for the area within the urban growth boundary. Criteria for sites to be considered on the inventory were developed and adopted by the City of Eugene on July 28, 2003.

The Lane County Planning Commission held a public hearing on November 18, 2003, and voted unanimously to recommend adoption of the Goal 5 criteria and inventory to the Board of County Commissioners.

On March 17, 2004, at the First Reading of Ordinance No. PA 1198, the Board of County Commissioners conducted a work session on Ordinance No. PA 1198. This work session provided the Board with an opportunity to identify issues and ask questions of staff. On March 31, 2004, the Board of County Commissioners conducted a public hearing and unanimously adopted Ordinance No. PA 1198, which included significance criteria and an updated Goal 5 inventory for the Urban Growth Area of Eugene identical to the Goal 5 inventory adopted by the City of Eugene.

Subsequent steps in the Goal 5 process include determining which resource sites on the inventory should be protected, if any, and adopting programs to protect such resources, and which resource sites should be removed.

The city and county offered opportunities to correct resource site boundaries based on public testimony. In addition, the city and county can provide additional opportunities as it completes Task 7 and implements a program to protect significant natural resources. It is important to note that the pond on the Jefferies' property is just a portion of the larger area identified as Riparian Inventory Site No. E76. Pursuant to the Goal 5 Rule requirements, subsequent Goal 5 ESEE analysis of the entire site is being conducted to determine what portions, if any, should remain as significant resources on the inventory and be protected or not under the Goal 5 Rule.

B. ANALYSIS

Ms. Jefferies suggests that the county erred in including the pond area portion of Site No. E76 in the inventory of significant natural resources and questions inclusion of the entire site because of changes made by development activities. City staff analyzed the site using historical data and the same methodologies utilized throughout the area covered by the Eugene inventory. Staff analysis used the Goal 5 Rule and the significance criteria adopted by the City of Eugene and the Board of County Commissioners, found in Attachment 1. In large part, historical photos and information convinced city staff the entire site was originally part of a natural riparian system that has been altered in various ways but still meets the Goal 5 Rule and significance criteria tests.

The adopted significance criteria establish that a riparian corridor site shall be included in the inventory if it is described in at least one of the Tier One Criteria and if its listing is consistent with both of the Tier Two Criteria.

Site No. E76 was found to meet three of the Tier One Criteria, specifically:

- #3. Undeveloped areas that contain natural vegetation (non-cultivated, including forests, natural prairies, and meadows) and are within sites larger than one acre;*
- #4. Undeveloped natural areas that are contiguous with a water feature; and*
- #8. Native plant communities within the Federal Management Agency (FEMA) floodway and 100-year floodplain.*

and was found to be consistent with both of the Tier Two Criteria, specifically:

- #1. At the time of inventory adoption, areas that have been filled or substantially altered to the degree that they no longer meet any of the Tier 1 criteria shall be removed from the Goal 5 inventory; and*
- #2. Sites with a Wildlife Habitat Assessment (WHA) rating of 17 or greater shall be included on the Goal 5 inventory.*

Site No. E76, at the time of inventory adoption, was not filled or substantially altered to the degree that it did not meet any of the Tier 1 criteria and the site was rated 62 for its WHA.

Ms. Jefferies states that the property does not meet the State's definition of a riparian corridor because, in their own analysis of the site, the pond area is man made and thus should not be included in an inventory of riparian areas.

It is important to remember that the pond is just a portion of Site No. E76. The Goal 5 Rule is clear, in that, at the inventory stage, a single person's property is not to be analyzed to determine where the inventory should begin or end. The pond area is a portion of the larger natural water system that Site No. E76 represents. The City and County Staff looked at past aerial photos and maps that illustrate Site No. E76 is a remnant of a natural water system in the area. Man made changes to that system did not eliminate the basis for consideration of the site under either the Goal 5 rule or the significance criteria adopted by the Board.

The Goal 5 administrative rule does not require a case-by-case or parcel-by-parcel evaluation at the inventory step, but rather broadly defines "resource site" as "a particular area where resources are located." The man made impacts to this site will be reviewed under the subsequent Goal 5 ESEE analysis of the entire site that is being conducted to determine what portions of all the property's included, if any, should remain as significant resources on the inventory and be protected under the Goal 5 Rule.

Staff Conclusion

Staff recommend that the initial City Staff work and Board action properly applied the criteria in identifying the location, quality and quantity of riparian resources included in the inventory under Lane County's portion of Task 7 and that this subtask complies with Statewide Planning Goal 5 and other applicable goals, rules and statutes.

The Board should leave Site No. E76 on the Riparian Corridor Sites Inventory within the Eugene UGB and during the next phase of this periodic review work task take into consideration all of the information in the Goal 5 ESEE analysis to determine whether any or all of the site should be removed from the inventory or protected under the Goal 5 Rule.

IV. ALTERNATIVES / OPTIONS

None recommended because additional process is in place that will give the Board options.

V. ATTACHMENTS:

1. Exhibit A – Goal 5 Significance Criteria for Riparian Corridor Sites and Upland Wildlife Habitat Stream Corridors
2. Exhibit B – Goal 5 Riparian and Upland Habitat Sites Within the Eugene Urban Growth Boundary, July 2003
3. Appeal of DLCD's Approval of Lane County Periodic Review Work Task 7

Exhibit A
Goal 5 Significance Criteria for Riparian Corridor Sites and
Upland Wildlife Habitat Stream Corridors

A riparian corridor site or an upland wildlife habitat stream corridor site shall be included on the list of significant resource sites if (in addition to consideration of the criteria at OAR 660-023-0090(4) for riparian corridor sites and to those at OAR 660-023-0110(3) for upland wildlife habitat stream corridor sites) it is described in at least one of the following Tier One Criteria and if its listing is consistent with both of the following Tier Two Criteria:

Tier One Criteria:

1. Areas mapped as wetland on the State/National Wetland Inventory (S/NWI).
2. Streams and other water bodies identified by the ODF or ODFW as fish-bearing streams.
3. Undeveloped areas that contain natural vegetation (non-cultivated, including forests, natural prairies, and meadows) and are within sites larger than one acre.
4. Undeveloped natural areas that are contiguous with a water feature.
5. Areas that are undeveloped, and which in their natural state are un-vegetated (e.g., rock outcrops, gravel bars).
6. Locations of plants listed as threatened or endangered, or considered official candidates to be listed as threatened or endangered by state or federal government.
7. Documented habitat of animals listed as threatened or endangered, or considered official candidates to be listed as threatened or endangered by state or federal government.
8. Native plant communities within the Federal Emergency Management Agency (FEMA) floodway and 100-year floodplain.
9. Ecologically significant areas identified by local experts in the natural resource sciences, such as wildlife biology, botany, fisheries, hydrology, and landscape architecture.

Tier Two Criteria:

1. At the time of inventory adoption, areas that have been filled or substantially altered to the degree that they no longer meet any of the Tier 1 criteria shall be removed from the Goal 5 inventory.
2. Sites with a Wildlife Habitat Assessment (WHA) rating of 17 or greater shall be included on the Goal 5 inventory.

EXHIBIT B

GOAL 5 RIPARIAN AND UPLAND WILDLIFE HABITAT SITES WITHIN THE EUGENE URBAN GROWTH BOUNDARY July 2003

#	Site No.	Site Name	Type*	Tier 1 Significance Criteria										Tier 2 Criteria		Acreage	
				NW	Fish	Nat > 1 acre	Water Cont	Non-Veg	T&E Plant	T&E Animal	Nat Flood	Eco Signif	Meets Tier 2 #1	WHA Score	Sub-total Acres	Total Acres	
1	E30/31	Amazon Channel Natural/Urban	R	yes	yes	yes	yes	no	yes	no	part	no	yes	50-60		55.7	
2	E35	West Eugene Upland Wildlife Habitat Stream Corridors	U	part	no	yes	yes	no	no	no	no	no	yes	59-61		34.9	
	E35 A	Stream Corridor A	U	no	no	yes	yes	no	no	no	no	no	yes	59-61	7.5		
	E35 B	Stream Corridor B	U	part	no	yes	yes	no	no	no	no	no	yes	59-61	11.3		
	E35 C	Stream Corridor C	U	no	no	yes	yes	no	no	no	no	no	yes	59-61	3.1		
	E35 D	Stream Corridor D	U	no	no	yes	yes	no	no	no	no	no	yes	59-61	2.4		
	E35 E	Stream Corridor E	U	no	no	yes	yes	no	no	no	no	no	yes	59-61	4.7		
	E35 F	Stream Corridor F	U	part	no	yes	yes	no	no	no	no	no	yes	59-61	4.2		
	E35 G	Stream Corridor G	U	no	no	yes	yes	no	no	no	no	no	yes	59-61	1.0		
	E35 H	Stream Corridor H	U	no	no	yes	yes	no	no	no	no	no	yes	59-61	0.4		
	E35 I	Stream Corridor I	U	yes	no	yes	yes	no	no	no	no	no	yes	59-61	0.3		
3	E37	Southwest Hills Upland Wildlife Habitat Stream Corridors	U	part	part	yes	yes	no	no	no	no	no	yes	66-68		113.7	
	E37 A	Stream Corridor A	U	no	part	yes	yes	no	no	no	no	no	yes	66-68	3.2		
	E37 B	Stream Corridor B	U	no	part	yes	yes	no	no	no	no	no	yes	66-68	2.4		
	E37 C	Stream Corridor C	U	no	part	yes	yes	no	no	no	no	no	yes	66-68	3.0		
	E37 D	Stream Corridor D	U	no	part	yes	yes	no	no	no	no	no	yes	66-68	3.0		
	E37 E	Stream Corridor E	U	part	part	yes	yes	no	no	no	no	no	yes	66-68	7.2		
	E37 F	Stream Corridor F	U	no	part	yes	yes	no	no	no	no	no	yes	66-68	0.9		
	E37 G	Stream Corridor G	U	no	part	yes	yes	no	no	no	no	no	yes	66-68	1.9		
	E37 H	Stream Corridor H	U	no	part	yes	yes	no	no	no	no	no	yes	66-68	10.6		
	E37 I	Stream Corridor I	U	no	part	yes	yes	no	no	no	no	no	yes	66-68	2.3		
	E37 J	Stream Corridor J	U	no	part	yes	yes	no	no	no	no	no	yes	66-68	16.2		
	E37 K	Stream Corridor K	U	no	part	yes	yes	no	no	no	no	no	yes	66-68	17.6		
	E37 L	Stream Corridor L	U	no	part	yes	yes	no	no	no	no	no	yes	66-68	15.2		
	E37 M	Stream Corridor M	U	no	part	yes	yes	no	no	no	no	no	yes	66-68	7.7		
	E37 N	Stream Corridor N	U	no	part	yes	yes	no	no	no	no	no	yes	66-68	0.7		
	E37 O	Stream Corridor O	U	no	part	yes	yes	no	no	no	no	no	yes	66-68	1.8		
	E37 P	Stream Corridor P	U	no	part	yes	yes	no	no	no	no	no	yes	66-68	3.7		
	E37 Q	Stream Corridor Q	U	no	part	yes	yes	no	no	no	no	no	yes	66-68	9.3		
	E37 R	Stream Corridor R	U	no	part	yes	yes	no	no	no	no	no	yes	66-68	1.3		
	E37 S	Stream Corridor S	U	no	part	yes	yes	no	no	no	no	no	yes	66-68	5.3		
	E37 T	Stream Corridor T	U	no	part	yes	yes	no	no	no	no	no	yes	66-68	0.5		
4	E38	Laurel Hill Upland Wildlife Habitat Stream Corridors	U	no	no	yes	yes	no	no	no	no	no	yes	59-60		35.9	
	E38 A	Stream Corridor A	U	no	no	yes	yes	no	no	no	no	no	yes	59-60	4.3		
	E38 B	Stream Corridor B	U	no	no	yes	yes	no	no	no	no	no	yes	59-60	2.5		
	E38 C	Stream Corridor C	U	no	no	yes	yes	no	no	no	no	no	yes	59-60	11.7		
	E38 D	Stream Corridor D	U	no	no	yes	yes	no	no	no	no	no	yes	59-60	8.1		
	E38 E	Stream Corridor E	U	no	no	yes	yes	no	no	no	no	no	yes	59-60	5.0		
	E38 F	Stream Corridor F	U	no	no	yes	yes	no	no	no	no	no	yes	59-60	3.0		
	E38 G	Stream Corridor G	U	no	no	yes	yes	no	no	no	no	no	yes	59-60	0.8		
	E38 H	Stream Corridor H	U	no	no	yes	yes	no	no	no	no	no	yes	59-60	0.6		
5	E39	Glenwood Slough	R	yes	no	yes	yes	no	no	no	no	no	yes	46-47		0.7	
6	E40	Riverfront Park	R	part	yes	yes	yes	no	no	no	part	no	yes	42		17.9	
7	E42	Alton Baker (Riparian)	R	yes	yes	yes	yes	no	no	no	part	no	yes	60-61		101.9	
8	E45	Ascot Park	R	yes	no	yes	yes	no	no	no	no	no	yes	22-23		10.0	
9	E48a	Bellline Drainage Channel	R	no	yes	yes	yes	no	no	no	no	no	yes	38		4.5	
10	E48b	Ayres Pond/Dodson Slough	R	yes	yes	yes	yes	no	no	no	part	no	yes	38		39.4	
11	E50	Debrick Slough	R	yes	no	yes	yes	no	no	no	part	no	yes	38		17.2	
12	E56	River Loop No. 1	R	yes	no	yes	yes	no	no	no	yes	no	yes	38		3.4	
13	E57	East Santa Clara Waterway	R	yes	no	yes	yes	no	no	no	part	no	yes	38		27.3	
14	E58	Spring Creek	R	yes	no	yes	yes	no	no	no	part	no	yes	22-23		17.7	
15	E59a	Flat Creek	R	yes	no	yes	yes	no	no	no	part	no	yes	38		18.0	
16	E60	A-1 Channel	R	yes	no	yes	yes	no	no	no	part	no	yes	38		22.7	

17	E61	Middle Flat Creek	R	yes	no	yes	yes	no	no	no	part	no	yes	33		25.9
18	E62	NW Expressway Ponds	R	yes	no	yes	yes	no	no	no	part	no	yes	31-34		18.0
19	E64	Taney Waterway	R	yes	no	yes	yes	no	no	no	no	no	yes	17		2.0
20	E65	Empire Pond	R	yes	no	yes	yes	no	no	no	no	no	yes	32		3.1
21	E66	Golden Gardens (DeSoto Lake)	R	yes	no	yes	yes	no	no	no	no	no	yes	32		5.9
22	E68	Highway 99/McDougal	R	yes	no	yes	yes	no	no	no	no	no	yes	37-38		6.7
23	E69	Emerald Park/South Flat Creek	R	yes	no	yes	yes	no	no	no	no	no	yes	22-23		12.9
24	E70	Belilne/A-2 Channel	R	yes	no	yes	yes	no	no	no	part	no	yes	22-23		1.2
25	E72	Marshall Ditch	R	yes	no	yes	yes	no	no	no	yes	no	yes	22-23		14.6
26	E73	County Farm Road	R	yes	no	yes	yes	no	no	no	part	no	yes	22-23		5.6
27	E75	Goodpasture Island Slough	R	yes	yes	yes	yes	no	no	no	yes	no	yes	38		37.6
28	E76	North Gilham	R	no	no	yes	yes	no	no	no	yes	no	yes	62		18.9
29	E78	Augusta Creek/Laurel Valley Creek	R	yes	no	yes	yes	no	no	no	no	no	yes	42		11.6
30	E81	Lorane Highway Riparian	R	no	no	yes	yes	no	no	no	no	no	yes	37		5.9
31	E83	Elliott Hill/Tugman Upland Wildlife Habitat Stream Corridor	U	no	no	yes	no	no	no	no	no	no	yes	57		1.9
32	E86	Braeburn Riparian	R	no	no	yes	yes	no	no	no	no	no	yes	39		12.5
33	E87	Willow Creek Tributaries	R	yes	no	yes	yes	no	no	no	no	no	yes	51		3.3
34	E88	Bailey Hill Riparian	R	no	no	yes	yes	no	no	no	no	no	yes	20		6.5
35	WA/WB	Willamette River	R	yes	yes	yes	yes	no	no	yes	yes	no	yes	64-74		452.0

*Key: "R" = riparian corridor
"U" = upland wildlife habitat stream corridor

Riparian corridor sites: 980.8
Upland wildlife habitat stream corridor sites: 186.5
Total acres: 1167.3



Oregon

Theodore R. Kulongoski, Governor

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November 17, 2004

TO: Land Conservation and Development Commission

FROM: Ann Beier, Planning Services Division Manager *AB*
Marguerite Nabeta, South Willamette Valley Regional Representative

SUBJECT: Agenda Item 7, December 8-10, 2004 LCDC Meeting



APPEAL OF DLCD'S APPROVAL OF LANE COUNTY PERIODIC REVIEW WORK TASK 7 (EUGENE-SPRINGFIELD METRO WORK PROGRAM)

I. AGENDA ITEM SUMMARY

This item is an appeal of the Department of Land Conservation and Development's (the department's) approval of Lane County's periodic review Task 7 (Attachment A). Task 7 is part of the Eugene-Springfield Metropolitan Area periodic review work plan. The submittal includes inventories of riparian corridors and upland wildlife habitat. Subsequent steps of the Goal 5 process will be completed during later subtasks.

A. Type of Action and Commission Role

This item is before the Land Conservation and Development Commission (the Commission) because of the September 3, 2004 appeal by Bunker LLC (Deborah and Eric Jefferies).

The Commission's role is to address the issues raised on appeal and either (1) uphold the department's decision to approve the work task, or (2) disagree with the department's decision and remand components of the work task.

B. Staff Contact Information

If you have questions about this agenda item, please contact Marguerite Nabeta, DLCD Regional Representative, at (541) 682-3132 or Ann Beier, Planning Services Manager at (503) 373-0050, extension 255.

II. SUMMARY OF RECOMMENDED ACTION

The department has reviewed the appeal and discussed the potential for additional information to be provided to the department by Lane County and recommends that the Commission sustain Order 001654 to approve the county's portion of periodic review Task 7 submittal of local Ordinance No. PA 1198.

III. BACKGROUND

A. History of Action

Lane County's Task 7 is part of a much broader effort to address regional planning issues, including planning related to natural resources. The Eugene-Springfield Lane County Metropolitan Area General Plan (Metro Plan) periodic review work program was approved by the department in May 1995. The work program included tasks for the cities of Eugene, Springfield, and the urban areas of Lane County. Tasks were to be completed by January 2000. The department and the jurisdictions amended the work program to establish a deadline of June 30, 2003 and to divide Task 7 into subtasks to allow for completion of the Goal 5 process in phases. Task 7 included requirements for the individual jurisdictions to comply with the natural resource provisions of Statewide Planning Goal 5. The work program was also amended to reflect the requirements of the Goal 5 administrative rule (Oregon Administrative Rule (OAR) Chapter 660, Division 23) that replaced the previous rule (OAR Chapter 660, Division 16) in 1996, subsequent to approval of the work program. Under the amended work program, Eugene and Springfield were encouraged to independently adopt their Goal 5 inventories in advance of the remaining metropolitan area-wide Goal 5 work.

The Lane County submittal addresses the area between the Eugene city limits and the urban growth boundary. Lane County submitted their portion as a subtask of Task 7, including amendments to the county's comprehensive plan and land use regulations, to adopt inventories of riparian corridors and upland wildlife habitat. This submittal addresses Goal 5 and a part of OAR Chapter 660, Division 23. The county's submittal consists of an ordinance (PA 1198) with exhibits containing inventories of riparian corridors (OAR 660-023-0030(4)(c)); upland wildlife habitat sites (OAR 660-023-0110(4)); other Goal 5 sites as listed in the West Eugene Wetland Plan; and April 12, 1978 working papers for sand and gravel, scenic sites, Willamette River Greenway, archaeological resources, and historic landmarks. Parts of this ordinance, salient to this appeal, were also adopted by the City of Eugene and approved by DLCD (Order 001574) and LCDC (Order 001645).

The topic of the appeal relates only to the riparian corridor and upland wildlife habitat portions of the submitted ordinance. Although the county's adoption of this ordinance is only one subtask under Task 7, county staff provided notice to interested parties as they would for a completed task. DLCD staff had agreed with this approach in earlier work program revisions.

B. Major Legal and Policy Issues

The department received one appeal of the order that approved Lane County's portion of Task 7. The objection to the work task related only to the list and map entitled, "Goal 5 Riparian and Upland Wildlife Habitat Sites within the Eugene Urban Growth Boundary." The following summarizes the major issue raised on appeal:

Did the county properly apply the criteria in OAR 660-023 to include specific properties on the inventory of significant riparian areas or wildlife habitat?

The legal and policy issues raised on appeal relate primarily to interpretation of Goal 5 and the associated administrative rules. Goal 5 (Attachment B) establishes procedures and criteria for inventorying and evaluating Goal 5 resources and for developing land use programs to protect significant Goal 5 resources.

Task 7 required the county's adoption of a natural resources inventory for the area within the urban growth boundary outside of the city of Eugene's city limits. The Goal 5 rule (OAR 660-023-0030) establishes the procedure for conducting an inventory. Later Goal 5 phases will include determining which resources to protect and adopting programs to protect such resources. A copy of the relevant sections of OAR 660-023 is included as Attachment C.

IV. REVIEW CRITERIA AND PROCEDURES

A. Decision-making Criteria

The criteria applicable to this review are:

- Statewide Planning Goal 5 (natural resources) (Attachment B)
- Oregon Administrative Rules (OAR) Chapter 660, Division 23 (relevant sections are provided as Attachment C)

B. Procedural Requirements

OAR 660-025-0150(3) states that the local government, a person who filed a valid objection, or other person who participated orally or in writing at the local level may appeal the department's decision to the Commission.

OAR 660-025-0160(5) states that no oral argument is allowed unless the Commission, by its own motion, allows it. If the Commission chooses to allow oral argument, only the department, the objectors, and Lane County may testify.

OAR 660-025-0160(7) states that, in response to an appeal, the Commission shall issue an order that does *one or more* of the following:

- (a) Approves the work task;
- (b) Remands the work task to the local government, including a date for re-submittal;
- (c) Requires specific plan or land use regulation revisions to be completed by a specific date;

- (d) Amends the work program to add a task authorized under OAR 660-025-0170(1)(b); or
- (e) Modifies the schedule for the approved work program in order to accommodate additional work on a remanded work task.

C. Record For This Proceeding

1. Department of Land Conservation and Development approval, Order 001654 (Attachment A);
2. Lane County submittal (not attached but available upon request)
3. Letters of appeal (Attachment D)
4. This report and any exceptions filed in response to the staff report.

Materials in the record that are not provided as attachments to this report are available upon request from Ann Beier at 503-373-0050, extension 255.

V. ANALYSIS

Issue: The county erred in including parts of the appellant's property on the inventory of significant natural resources.

Letters appealing the department's order are included in Attachment D.

Bunker LLC objected to the county's decision to include the pond area on their property. They suggest that the property does not meet the rule definition of a riparian corridor because, in their own analysis of the site, the pond area is man-made and thus should not be included in an inventory of riparian areas.

Department Response: The department did not sustain this objection and has not received additional information to warrant an amendment based on these appeals. OAR 660-023-0030 establishes the "standard" process requirements for inventorying natural resources. Local governments are required to develop inventories that include adequate information about each potential site including information on the location, quality and quantity of the natural resource (OAR 660-023-0030(3)). In addition to the "standard" process inventory requirements, the administrative rules also contain specific requirements for individual resource types. For example, OAR 660-023-0090(4) establishes the requirements for gathering information for an inventory of riparian corridors, and OAR 660-023-0110(3) establishes requirements for information on wildlife habitat sites. Eugene and Lane County met the inventory requirements in OAR 660-023-0090 and -0110 and provided information on the adequacy of the inventory information as required by OAR 660-023-0030(3).

The appellants suggest that the inventories do not accurately reflect conditions on their property. The Goal 5 administrative rule does not require a parcel-by-parcel evaluation, but rather broadly defines "resource site" as "a particular area where resources are located." Local governments have much discretion in establishing "resource sites" for inclusion in their inventories. Because of this, the level of detail on a resource site may not be as specific as that available on an

individual parcel or portion of a parcel. The administrative rules also acknowledge that the "precise location of the resource for a particular site such as would be required for building permits, is not necessary at this stage in the process" (OAR 660-023-0030(3)(a)). The county has provided sufficient information on the location, quality and quantity of resources at a level of detail sufficient to comply with the administrative rule. The county is currently reviewing, for a second time, the entire area being considered as a check to ensure that the first phase information is correct.

Both the city and county offered opportunities to correct resource site boundaries based on public testimony. In addition, the city and county can provide additional opportunities as they complete Task 7 and implement a program to protect significant natural resources. It is important to note that the appellant's pond site is just a portion of the larger area identified as inventory site no. E76. Further investigation by the city and county is also underway for the entire area of that site to determine what portions of all properties included, if any, should remain as significant resources for the second phase of the Goal 5 process.

VI. COMMISSION OPTIONS

Pursuant to OAR 660-025-0160(7), the Commission may issue an order to:

- (1) Uphold the department's prior decision to partially approve and partially remand the work task; or
- (2) Modify all or part of DLCD's prior decision by sustaining issue(s) raised in the appeals and remanding portions of the city's submittal previously found by DLCD to comply with the goals.
- (3) Modify all or part of DLCD's prior decision by sustaining issue(s) raised in the appeals and approving portions of the city's submittal previously remanded by DLCD because of findings they did not comply with the goals.

VII. DEPARTMENT RECOMMENDATION AND DRAFT MOTIONS

The department recommends that the Commission uphold the August 18, 2004 Order 001654 approving Lane County's Task 7 submittal, based on a finding that the subtask complies with Statewide Planning Goal 5 and applicable rules. In order to accept the department's recommendation, the Commission needs to conclude that the county applied the proper criteria in identifying the location, quality and quantity of natural resources included in the inventory.

A. Proposed Motion

It is moved that the Commission sustain the department's August 18, 2004 Order 001654 approving Lane County's Task 7 submittal regarding Goal 5 inventories and significance criteria.

B. Alternative Motions

It is moved that the Commission modify the Department of Land Conservation and Development's Order 001654 to remand Lane County's portion of Task 7 and direct the county to address [issues affirmed on appeal].

LIST OF ATTACHMENTS

- A. Department of Land Conservation and Development approval Order 001654
- B. Statewide Planning Goal 5
- C. Selected sections of OAR 660-023 (natural resources)
- D. Letters of appeal of Order 001654