


<p>REVIEWED</p> <p><i>JL</i></p> <p>LEGAL COUNSEL</p>
<p>REVIEWED</p> <p><i>DRS</i></p> <p>CODE REVIEW COMMITTEE</p>

DESCHUTES COUNTY OFFICIAL RECORDS  
 NANCY BLANKENSHIP, COUNTY CLERK  
 COMMISSIONERS' JOURNAL  
 2003-000915

CJ 2003-915  
 06/02/2003 03:38:57 PM



For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Title 18, the Deschutes \*  
 County Zoning Ordinance, of the Deschutes \*  
 County Code, to Adopt Text to Allow a Specific \*  
 Use in Chapter 18.60, Rural Residential Zone, and \*  
 to Amend the Official Zoning Map by Changing \*  
 the Zone for Certain Property from Forest Use 2 \*  
 (F2) to Rural Residential (RR-10), and Declaring \*  
 an Emergency. \*

ORDINANCE NO. 2003-012

WHEREAS, Oregon Water Wonderland Unit 2 Sewer District and the United States Department of Agriculture, U.S. Forest Service, applied for a plan amendment to change the County Comprehensive Plan Designation from Forest to Rural Residential Exception Area, and change the zoning of the property from Forest Use 2 (F-2) to Rural Residential (RR-10) with a limited use combining zone. The request proposed the County adopt an exception to Goal 4 (Forest Lands) and Goal 11 (Public Facilities and Services); and

WHEREAS, the justification for said Zone Change requires that the subject property be rezoned to Rural Residential (RR-10) with a limited use combining zone; and

WHEREAS, public hearings were held on November 14, 2002 and December 12, 2002, after notice was given in accordance with applicable law, before the County Planning Commission; and

WHEREAS, the Planning Commission recommended approval of the proposed amendment; and

WHEREAS, a de novo public hearing was held on February 25, 2003, after notice was given in accordance with applicable law, before the Board of County Commissioners; and

WHEREAS, the Board of County Commissioners approved the change in zoning from F2 to RR-10 with a limited use combining zone through issuance of an oral decision on March 19, 2003; and

WHEREAS, the approval of a Limited Use Combining Zone to the Rural Residential Zone allows for only the following uses to occur: a sewage treatment facility, effluent ponds, ground application of treated effluent, agricultural use and propagation or harvesting of a forest product. Site plan review for the sewage treatment plant will require the applicant to submit a conservation easement and plan of implementing the conservation easement, that provides standards and implementation methods for managing the conservation easement, along with a recorded road maintenance agreement between the applicant and the Beaver Special Road District, with the site plan review application. The road maintenance agreement between the applicant and the Beaver Special Road District shall include the applicant's pro rata share for the maintenance cost of Foster Road through certain property described in Exhibit "A" and depicted on Exhibit "B"; and

WHEREAS, the Board of County Commissioners approved the change in zoning from F2 to RR-10 with a limited use combining zone through issuance of their Findings and Decision attached as Exhibit "C" now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS as follows:

Section 1. AMENDMENT. The official zoning map for Title 18, the Deschutes County Zoning Ordinance, as amended, is further amended by zoning certain land, as described in Exhibit "A" and depicted on Exhibit "B" as Rural Residential with a Limited Use Combining Zone (RR-10/LU), attached hereto and by this reference incorporated herein.

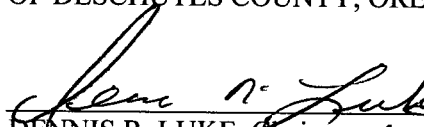
Section 2. AMENDMENT. DCC 18.60 is amended to read as described in Exhibit "D," attached hereto and by this reference incorporated herein, with new language underlined and language to be deleted in ~~strikethrough~~.

Section 3. FINDINGS. In support of this ordinance, the Board adopts its decision for file ZC-02-3 attached hereto as Exhibit "C" and by this reference incorporated herein.

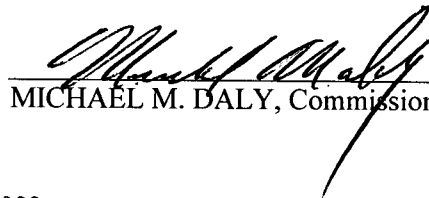
Section 4. EMERGENCY. This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

DATED this 2nd day of June, 2003.

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

  
DENNIS R. LUKE, Chair

  
TOM DEWOLF, Commissioner

  
MICHAEL M. DALY, Commissioner

Date of 1<sup>st</sup> Reading: 2nd day of June, 2003.

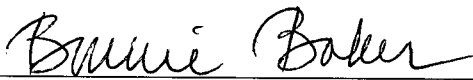
Date of 2<sup>nd</sup> Reading: 2nd day of June, 2003.

Record of Adoption Vote

Commissioner	Yes	No	Abstained	Excused
Dennis R. Luke	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tom DeWolf	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Michael M. Daly	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

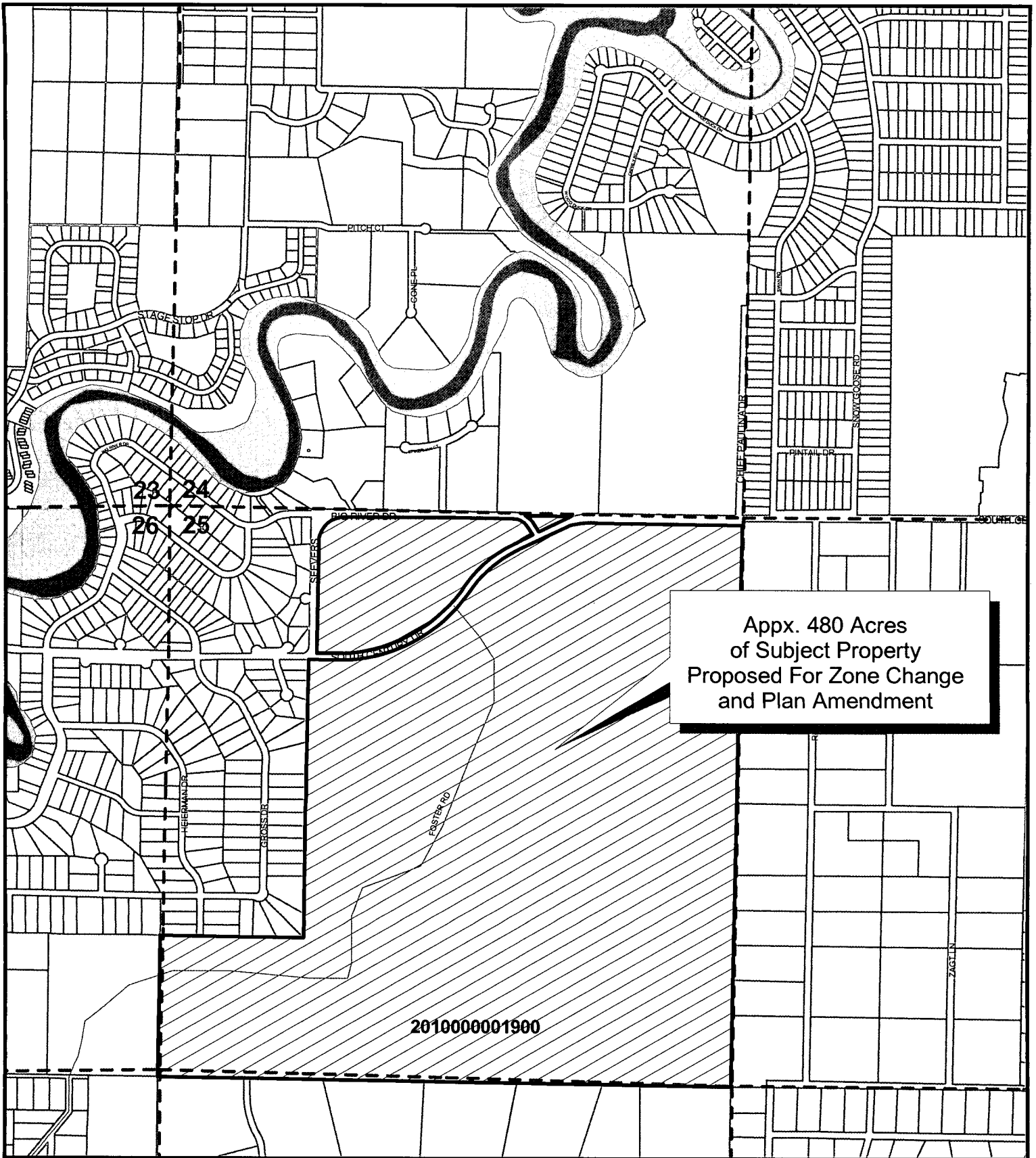
Effective date: 2nd day of June, 2003.

ATTEST:

  
Recording Secretary

**EXHIBIT "A"**









T. 20 S, R. 10 E., W.M.  
Section 25, E 1/2, E1/2NW1/4, E1/2SW1/4.



Appx. 480 Acres  
of Subject Property  
Proposed For Zone Change  
and Plan Amendment

2010000001900

**LAND USE FILE NO'S:  
PA-02-5 AND ZC-02-3**

-  SUBJECT PROPERTY
-  SECTION LINE
-  PARCEL
-  RIVER
-  DESCHUTES COUNTY ZONING
-  FOREST USE 2
-  FLOOD PLAIN
-  RURAL RESIDENTIAL

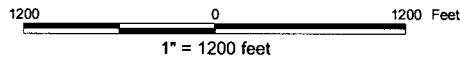


Exhibit B  
Page 1 of 1  
Ordinance 2003-012



Copyright © 2003 by Deschutes County, Oregon.  
All Rights Reserved. Printed in the United States of America.

DATE 05/20/03

**DISCLAIMER:**  
The information on this map was derived from digital databases on Deschutes County's G.I.S. Care was taken in the creation of this map, but it is provided "as is". Deschutes County cannot accept any responsibility for errors, omissions, or positional accuracy in the digital data or the underlying records. There are no warranties, express or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of any errors will be appreciated.

**FINDINGS AND DECISION OF  
THE DESCHUTES COUNTY BOARD OF COMMISSIONERS**

**FILE NUMBERS:** PA-02-5/ZC-02-3

**APPLICANTS:** Oregon Water Wonderland Unit 2 Sewer District  
c/o Erv Rimmel  
N. 3rd Street  
Bend, OR 97701

**APPLICANTS'  
ATTORNEY:** Bryant, Emerson & Fitch  
c/o Edward P. Fitch  
888 West Evergreen Avenue  
P.O. Box 457  
Redmond, OR 97756-0103

**PROPERTY OWNER:** United States Department of Agriculture  
Forest Service  
Bend - Fort Rock Ranger District  
1230 N. 3rd Street  
Bend, OR 97701

**REQUEST:** The applicants request a comprehensive plan amendment from Forest to Rural Residential Exception Area and a zone change from Forest Use 2 (F2) to Rural Residential (RR-10) and apply a Limited Use (LU) Combining Zone. The request also includes exceptions to Statewide Planning Goals 4 (Forest) and 11 (Public Facilities & Services). The purpose of the proposal is to allow for the expansion of Oregon Water Wonderland Unit 2 sewage treatment facility onto the property (Section 25), which will include sewage lagoons and the spraying of effluent onto approximately 100 acres of the subject property.

The applicant proposes 2 alternative projects to be considered if the primary proposal is not approved, which will also require exceptions to Statewide Planning Goals. The first is to make improvements to the existing sewer system, expand the lagoon system and disperse the effluent at an irrigation site on the property. The second alternative is to pump the sewage to the Sunriver wastewater treatment facility via a main force line along South Century Drive.

BOCC Findings and Decision  
File Numbers PA-02-5/ZC-02-3

**HEARINGS BODY:** Deschutes County Board of Commissioners

**STAFF REVIEWER:** Chris Schmoyer, Associate Planner

**HEARING DATE:** February 25, 2003

**RECORD CLOSED:** March 11, 2003

**I. APPLICABLE STANDARDS AND CRITERIA:**

**A. Local Requirements**

Title 18, The Deschutes County Zoning Ordinance.

Chapter 18.04, Title, Purpose and Definitions

Section 18.04.030, Definition — Solid Waste

Section 18.04.030 Definition — Utility Facility

Chapter 18.40, Forest Use — F-2 Zone

Section 18.40.020, Uses Permitted Outright

Section 18.40.030, Conditional Uses Permitted

Chapter 18.136, Amendments

Section 18.136.030, Resolution of Intent to Rezone

Title 22 of the DCC, Deschutes County Development Procedures Ordinance

Chapter 22.12, Legislative Procedures

Title 23, The Deschutes County Comprehensive Plan

Section 23.44 Regional Problem Solving for South Deschutes County

**B. State Requirements**

Oregon Administrative Rules (OAR), Chapter 660

Division 4, Interpretation of Goal 2 Exception Process

OAR 660-04-010, Application of the Goal 2 Exception Process to Certain Goals

OAR 660-04-015, Inclusion as Part of the Plan

OAR 660-04-018, Planning and Zoning for Exception Areas

OAR 660-04-020, Goal 2, Part 11(c), Exception Requirements

OAR 660-04-022, Reasons Necessary to Justify an Exception under Goal 2, Part

11(c)

OAR 660-04-030, Notice and Adoption of An Exception

Division 011, Public Facilities

BOCC Findings and Decision

File Numbers PA-02-5/ZC-02-3

OAR 660-011-0060 Sewer Service to Rural Lands  
Division 12, Transportation Planning Rule  
OAR 660-12-060, Plan and Land Use Regulation Amendments  
Division 15, Statewide Planning Goals and Guidelines:  
Goal 2: Land Use Planning  
Goal 4: Forest Lands  
Goal 11: Public Facilities & Services

**II. FINDINGS OF FACT:**

- A. Location:** The subject property (Section 25) has an assigned address of 16480 South Century Drive, Bend and is approximately 480 acres in size, and is located approximately 18 miles south of Bend and 4 miles southwest of Sunriver and is described on County Assessor's Map 20-10-0000 (index map) as tax lot 1900. South Century Drive and Foster Road go through the property. Private lands surround the parcel, except for the southwest corner, where it adjoins other scattered National Forest land. Oregon Water Wonderland Unit 2 (OWW2) Sewer District is located directly to the northeast and shares a corner with this parcel.
- B. Zoning and Plan Designation:** The subject property is designated Forest on the Deschutes County Comprehensive Plan Map and is zoned Forest Use (F-2).
- C. Site Description:** Section 25 is located adjacent and to the southwest of the OWW2 Sewer District boundary and is separated only by South Century Drive from the Oregon Water Wonderland subdivision. The site is within the Deschutes National Forest. The property is relatively flat and supports a mixture of both young and mature pine trees. Section 25 is isolated from other National Forest land and is nearly completely surrounded by private land and rural housing. Foster Road goes through the property and is used by the public to access homes and other National Forest lands. There are no streams or other surface water on the parcel except for a small wetland area approximately 7 acres in size is located in the northwest portion of the property.
- D. Soils:** Section 25 contains four broad soil mapping units shown on the soil map. Soil A contains wetland soils, included with the applicants' burden of proof statement. They have water to the surface a significant part of the year. On June 20, 2001, water levels were 14-20 inches below the surface. The soils have a black surface horizon with peat layers. These wetlands are old meander scars from the Deschutes River which have filled in with pumice, ash, silts, and peat.

Soil Complex B has soils which have about 40-inches of excessively well drained sand over a buried soil with a texture that ranges from sand to loamy sand to gravelly sand. This unit occurs on a high terrace adjacent to the Deschutes River. The slopes are generally level. At

BOCC Findings and Decision  
File Numbers PA-02-5/ZC-02-3

the edge of the terrace, there are layers at 40-50 inches below the surface of dark pea gravel. The soils in this complex have a similar sequence of horizons and texture. They do, however, vary in this drainage. The complex contains several soil sequences. They differ in the height of the seasonal water table. Depth to spring water levels vary from 30-inches to greater than 5-feet.

Soil Complex C is a terrace that appears to have been modified by the Little Deschutes River. This unit appears to be an area where approximately 20-inches of the pumice from Mt. Mazama have been eroded away. The events which caused the erosion have created small channels. On the high ground, seasonal water levels are less than 30-inches from the surface. In the low areas, water is at the surface on wet years in March and April. The unit contains several soil types. On the higher positions, there are soils with about 24-30 inches of sand over a buried soil with a texture of a loamy sand to a sand. Seasonal water levels come to within 12 inches of the surface in places. During May 2001, water levels were at 7-feet. (This was an exceptionally dry year. Water levels are generally 4-feet lower than normal.)

Another soil occurring in Soil Complex C has about 24-inches of sand over a buried sandy loam soil with a seasonal water table near the surface. This soil occurs in the low areas usually old small channels, This complex also contains a poorly drained silt found in the larger channels. Water is at the surface for periods of March and April. Soil D is an intermediate terrace, It contains sandy soils with a spring water table at about 24-inches.

E. **Surrounding Zoning and Land Use:** Zoning surrounding the Section 25 parcel consists of Rural Residential (RR- 10). To the west of Section 25 is Oregon Water Wonderland Unit 1 subdivision. To the north of Section 25 is Oregon Water Wonderland Unit 2 subdivision. To the east of Section 25 are rural residential lots and to the south is Pinewood Country Estates.

F. **Proposal:** The applicants request a comprehensive plan amendment from Forest to Rural Residential Exception Area and a zone change from Forest Use 2 (F2) to Rural Residential (RR-10) and apply a Limited Use (LU) Combining Zone. The request also includes exceptions to Statewide Planning Goals 4 (Forest) and 11 (Public Facilities & Services). The purpose of the proposal is to allow for the expansion of Oregon Water Wonderland Unit 2 sewage treatment facility onto the property (Section 25) which will include, sewage lagoons and the spraying of effluent onto approximately 100 acres of the subject property.

The applicant proposes 2 alternative projects to be considered if the primary proposal is not approved, which will also require exceptions to Statewide Planning Goals. The first is to make improvements to the existing sewer system, expand the lagoon system and disperse the effluent at an irrigation site on the property. The second alternative is to pump the

sewage to the Sunriver wastewater treatment facility via a main force line along South Century Drive.

**For the purpose of the County's review of these applications, there is actually only 1 alternative to Section 25 and that is the piping of effluent from OWW2's existing facility site to Sunriver. This is because the first alternative and the primary proposal are virtually the same under applicable land use regulations.**

- G. **Background:** Oregon Water Wonderland Unit 2 (OWW2) is a large rural residential subdivision south of Sunriver containing over 1,000 lots. OWW2 has a sewer district currently serving 286 of these lots. The existing sewage facility is in poor condition and does not comply with current Oregon Department of Environmental Quality regulations. Additionally, there are many failing on-site septic systems and numerous lots that cannot support an on-site septic system due to the high water table in the area. Therefore, OWW2 Sewer District must take action to resolve this problem and is proposing to do so through submittal of these land use applications.

The applicants propose a level 1 vacuum sewer system for Section 25 that would include 2 storage lagoons, one 10 acres in size and the other 5 acres in size. Additionally, effluent would be sprayed onto future orchard grass fields consisting of approximately 100 acres via a pump station. The Sunriver Sewer system is a Level 3 that is upgrading to a Level 4. According to the Wastewater Facilities Plan Addendum by Tye Engineering:

*The system would include one pit for every two lots that are outside of the existing gravity collection system. This amounts to 352 new vacuum pits (or septic tanks), which are directed into a (vacuum) main line and to the vacuum (or pump) station. From the vacuum (pump) station, raw sewage is sent through a force main to the existing facultative lagoon.*

Ultimately, there will be a total of approximately 500 vacuum pits or septic tanks. The vacuum pits are septic tanks that would be placed within but at the edge of the right-of-way of the public roads within OWW2. Based on data from the County's GIS department (May 2002 data), there are 1,036 platted lots within OWW2 subdivision. Some of these lots have been consolidated into a single homesite. 483 of these lots contain dwellings, 168 of these lots are currently connected to the existing sewer system and 315 currently have onsite septic systems. Of the 1,036 platted lots, 249 are red lots, which are lots identified as having a water table of 2 feet or less below grade. Of the 249 red lots, 73 currently contain a dwelling and 176 do not.

It is evident that there are many failing on-site septic systems and numerous lots that cannot support an on-site septic system due to the high water table in the area. Therefore, OWW2 Sewer District must take action to resolve this problem and is proposing to do so through submittal of these land use applications.

The Regional Problem Solving (RPS) Section of the Deschutes County Comprehensive Plan, Chapter 23.44, identifies OWW2 as an area of focus for resolving the ground water issues in South Deschutes County. The County Board of Commissioners entered into separate memorandum of understanding (MOU's) with OWW2 Sanitary District and the Forest Service. The MOU's are agreements between the parties that establish standards of cooperation for implementing solutions of the County's RPS project. In the MOU between the County and OWW2, Deschutes County agreed to provide support for expansion of the OWW2 Sewer District facility by assisting the District in:

- 1) Determining whether any suitable private lands are available for expansion
- 1) Acquiring suitable National Forest land for expansion, if there are no reasonable alternatives on private land.
- 3) Identifying and obtaining funding sources for expansion of the sanitary facility.

Item 1 In the MOU between the County and the Forest Service, both parties agreed to ...”support and assist in efforts to identify suitable National Forest land for expansion of the Oregon Water Wonderland II sewer system, if there are no suitable alternatives on private land”. The Forest Service has issued a decision approving the transfer of the subject property in Section 25 to OWW2.

The Planning Commission issued their recommendation to the Board of Commissioners on the matter at their January 9, 2003 Meeting. At the January 9<sup>th</sup> meeting, Commissioner Brenda Pace provided the following motion regarding this matter: *“I move that we accept Section 25 with the condition that the County require a condition that the County require a conservation easement over the property to co-holders consisting of the County and a local non-profit organization. That the conservation easement will include the requirement to manage the excess land as habitat for deer, elk, raptors and associated species, fire control and timber and for the control of invasive exotic species and dumping. That if the appraised value as conducted by the Forest Service with the conservation easement requirements is less than the budgeted amount of 672,000 [dollars], then the difference be transferred to the conservation organization as a permitted endowment for the property.”* Commissioner Peter Gramlich seconded Commissioner Pace's motion. Following discussion with Community Development Director George Read, Commissioner Pace added: *“or 150,000 dollars be provided under a schedule by Oregon Water Wonderland to the non-profit as an endowment.”* The remaining Commission members all stated aye in support of the motion stated by Commissioner Pace and seconded by Commissioner Gramlich.

- H. **Public/Private Agency Comments:** The Planning Division mailed notice of the applicants' proposal and the scheduled public hearings to a number of public and private agencies and received responses from the following:

BOCC Findings and Decision  
File Numbers PA-02-5/ZC-02-3

- 1) Property Address Coordinator: The address for this property is: 16480 South Century Drive. This is subject to change. The applicant shall submit a plot plan showing the access location to property address coordinator so that the address can be verified for accuracy.
- 2) County Environmental Health Division: Sewage Treatment facility will require approval from DEQ in the form of a WPCF permit. Contact person is Dick Nichols @ 541-388-6146 ext. 251
- 3) The following agencies either had no comment or did not respond to the notices: the Deschutes County Assessor, Department of Environmental Quality, County Building Safety Division, Deschutes County Road Department, County Senior Transportation Planner; the Oregon Department of Land Conservation and Development (DLCD); La Pine Rural Fire Protection District and the Oregon Department of Water Resources, Watermaster-District 11.

**I. Public Notice and Comments:** The Planning Division mailed individual written notice of the applicants' proposal and the public hearing to the owners of record of all property located within 750 feet of the subject property. In addition, notice of the public hearing was published in the "Bend Bulletin" newspaper and the County received letters regarding this proposal. Additionally, notification of these public hearings was posted in the Deschutes County Board of Commissioners Lobby, the Deschutes County Community Development Department (CDD) Lobby and the CDD Satellite Office in La Pine. The letters received express concerns regarding establishment of the sewage facility on Section 25 that include: Odors from Lagoons and spraying of effluent, decrease in property values of lots adjacent or near the site, negative impact to wildlife in the area, ground water contamination from sewage lagoons and removal of trees, highest impact to Oregon Water Wonderland Unit 1 without any benefits to OWWI. A letter from Jim Sollenberger, President Board of Directors of Oregon Water Wonderland Unit 2 Sewer District includes a petition signed by over 400 residents and property owners of OWW2. These petitions express OWW2 residents' interest in the Section 25 option and their disinterest in pumping sewage to Sunriver due to the fear of not being able to control current and future costs, higher total costs and service fees exceeding the affordability of OWW2 residents.

Letters received from the public express concerns regarding the pumping of effluent to Sunriver include the environmental effects and costs of piping to Sunriver. The District indicated that the Sunriver option would require additional engineering, environmental review and public process that could jeopardize the RUS funding and that the piping would require the sewage to be chemically treated before being sent to Sunriver to prevent corrosion of the piping that would cost an estimated \$40,000 per year. A letter submitted to the Board from the President and General Manager of the Sunriver Owners Association indicates that the SROA Board of Directors voted unanimously to oppose use of the

Sunriver Sewage treatment plan for the processing of the OWW2 Subdivision sewage due to plant capacity and the potential for increased odors from Sunriver sewage plant due to the inability to meet treatment standards.

### III. CONCLUSIONS OF LAW:

#### LOCAL REQUIREMENTS

#### A. Title 18 of the Deschutes County Code, the Deschutes County Zoning Ordinance

##### 1. Chapter 18.40, Forest Use – F2 Zone

###### a. Section 18.40.020, Uses Permitted Outright

*G. The following uses and their accessory uses are permitted outright, subject to applicable siting criteria set forth in this chapter and any other applicable provisions of this title.*

. . .

*A. Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.*

###### b. Section 18.40.030, Conditional Uses Permitted

*The following uses and their accessory uses may be allowed in the Forest Zone, subject to applicable provisions of the Comprehensive Plan, Section 18.36.040 of this title and other applicable provisions of this section.*

. . .

*Disposal site for solid waste for which the Department of Environmental Quality has granted a permit under Oregon Revised Statutes 459.245, together with equipment, facilities or buildings necessary for its operation.*

**FINDING:** The subject property is zoned F2. The proposed wastewater treatment facility is not a use permitted outright or conditionally in the F2 Zone. Section 18.04.030 defines “solid waste” as garbage. Therefore, the use listed in subsection (F) is a landfill or similar facility. Section 18.04.030 defines “utility facility” to include “any major structures . . . owned or operated by a public . . . sewage or water company . . . for the disposal of . . . waste . . . and including . . . sewage lagoons . . . and similar facilities.” Based upon this definition, the proposed wastewater treatment facility is a “utility facility.” The only “utility facility” permitted conditionally in the F2 Zone is a utility facility “for the purpose of generating power.” For these reasons, the wastewater treatment facility is not a permitted use in the F2 Zone and the applicants must demonstrate the proposal qualifies for a plan amendment, zone change and goal exception.

##### 2. Chapter 18.136, Amendments

BOCC Findings and Decision  
File Numbers PA-02-5/ZC-02-3

**A. 18.136.010. Amendments.**

DCC Title 18 may be amended as set forth in DCC 18.136. The procedures for text or legislative map changes shall be as set forth in DCC 22.12. A request by a property owner for a quasi-judicial map amendment shall be accomplished by filing an application on forms provided by the Planning Department and shall be subject to applicable procedures of DCC Title 22.

**B. 18.136.020. Rezoning standards.**

The applicant for a quasi-judicial rezoning must establish that the public interest is best served by rezoning the property. Factors to be demonstrated by the applicant are...

- a. That the change conforms with the Comprehensive Plan, and the change is consistent with the plan's introductory statement and goals.
- b. That the change in classification for the subject property is consistent with the purpose and intent of the proposed zone classification.

**FINDING:** This matter is being processed in accordance with section 22.12 as required in subsection (A) above. Regarding subsection (B) above a question could exist as to the rezoning of one lot for the sewage treatment facility could be considered a quasi-judicial action. Therefore, the quasi-judicial rezoning standards of this section have been followed and are applicable to this request.

- c. That changing the zoning will presently serve the public health, safety and welfare considering the following factors:
  - 1. The availability and efficiency of providing necessary public services and facilities.
  - 2. The impacts on surrounding land use will be consistent with the specific goals and policies contained within the Comprehensive Plan.
- d. That there has been a change in circumstances since the property was last zoned, or a mistake was made in the zoning of the property in questions. (Ord. 95-050 § 4, 1995; Ord. 91-020 § 1, 1991; Ord. 86-032 § 1, 1986 Ord. 83-065 § 1, 1983).

**FINDING:** The Board finds that the public interest is best served by rezoning the property. The reasons for rezoning this property in contrast to requiring OWW to connect to Sunriver are set forth in this Decision in the Findings regarding alternatives set forth under DCC Sections 23.92.030 (4) and (5) and OAR 660-004-0020 (2) (b). The Board further finds that the rezoning is consistent with the Comprehensive Plan because it enables the County and District to meet the objectives of Section 23.44.010 regarding the regional problem solving project for the south Deschutes County.

Further, this change in zoning will serve the public health, safety and welfare by providing necessary public services to alleviate the impact of nitrates from septic systems in the south Deschutes County area where the sewage system is approved by the Department of Environmental Quality. The Board

BOCC Findings and Decision  
File Numbers PA-02-5/ZC-02-3

finds that the impact of this project on the surrounding land uses will be consistent with the policies contained within the comprehensive plan. The Board further incorporates the findings set forth on pages 12-13 and pages 33-35 regarding the improvements on the subject property and the design characteristics which will mitigate any adverse impact on surrounding properties.

Finally, the Board finds that there has been a change in circumstances since this property was last zoned because of (1) the result of the regional problem solving project for the South County encouraged the acquisition of USFS land for expansion of municipal or quasi-municipal sewage systems; (2) the urgent need to address the sewage requirements of OWW; and (3) the lack of any plausible alternatives to accommodate the expansion of that sewage system.

## **B. TITLE 23, DESCHUTES COUNTY COMPREHENSIVE PLAN**

Excerpts of the pertinent chapters of the Title 23 are referenced below:

### **1. Chapter 23.44, Regional Problem Solving for South Deschutes County**

#### **A) 23.44.020. Goals.**

- 1. To preserve water and air quality, reduce wildfire hazards and protect wildlife habitat.**
- 2. To ensure that domestic water derived from groundwater meets safe drinking water standards.**

#### **B) 23.44.030. Strategies.**

- 1. The County shall continue to work with landowners, citizens, community organizations and governmental agencies at the local, state and federal level to:
  - a. Continue collaborative work on the Regional Problem Solving project.****
- 3 The County shall continue to evaluate means to reduce nitrate loading from on-site sewage disposal systems by exploring innovative on-site sewage treatment and disposal technology, retrofitting of existing substandard or inappropriately located disposal systems, expansion of sewer systems, development of standards such as an effective lot area or variable lot area requirements, or other measures that will accomplish the goals.**

**FINDING:** The Regional Problem Solving Project (RPS) identifies OWW2 subdivision as a portion of "Study Area 1" on the project area map in the comprehensive plan, which identifies areas in the County that have significant ground water issues. OWW2 is identified as an area of the County that has increasing levels of nitrates in the groundwater that is caused by a combination of a high water table and usage of failing septic systems. The proposal for Section 25 would be in conformance with the above sections of the Chapter 23.44.

BOCC Findings and Decision  
File Numbers PA-02-5/ZC-02-3

2. **Chapter 23.68, PUBLIC FACILITIES AND SERVICES**

23.68.020. Policies.

1. **General.**

a. **Public facilities and services shall be provided at levels and in areas appropriate for such uses based upon the carrying capacity of the land, air and water, as well as the important distinction that must be made between urban and rural services. In this way public services may guide development while remaining in concert with the public's needs.**

2. **Utilities.**

a. **Utility companies shall be offered an opportunity to comment on their ability to serve proposed developments.**

c. **When feasible all utility lines and facilities shall be located on or adjacent to existing public or private rights-of-way so as to avoid dividing existing farm units, and transmission lines should be located within existing corridors as much as possible.**

g. **Mutual agreements between the County and the cities shall assure sewer and water systems are extended in a planned manner.**

h. **Sewage treatment plants offer both problems and opportunities. To decrease the impact of noise and odor a large buffer area shall be required. The treated sewage (both septic tank sludge and municipal water) should be used as a resource and drill hole disposal discouraged.**

**FINDING:** Section 25 is in conformance with above sections. The County Board of Commissioners entered into separate memorandum of understanding (MOU's) with OWW2 Sanitary District and the Forest Service. The MOU's are agreements between the parties that establish standards of cooperation for implementing solutions of the County's RPS project. In the MOU between the County and OWW2, Deschutes County agreed to provide support for expansion of the OWW2 Sewer District facility by assisting the District in:

- 1) Determining whether any suitable private lands are available for expansion
- 2) Acquiring suitable National Forest land for expansion, if there are no reasonable alternatives on private land.
- 3) Identifying and obtaining funding sources for expansion of the sanitary facility.

Item 1 In the MOU between the County and the Forest Service, both parties agreed to ...”support and assist in efforts to identify suitable National Forest land for expansion of the Oregon Water Wonderland II sewer system, if there are no suitable alternatives on private land”. The applicant’s burden of proof statement indicates that the Forest Service has issued a decision approving the transfer of the subject property to OWW2.

BOCC Findings and Decision  
File Numbers PA-02-5/ZC-02-3

Regarding 2 (h) above, the applicant's have indicated on the maps presented at the hearing (See Attachment A) that the ponds and spraying of effluent on the Section 25 site will be setback from surrounding lands at least 500 feet. Negative impacts on surrounding residential lots while an appropriate concern will be mitigated by the requirements imposed on this project by the Department of Environmental Quality. The holding ponds or lagoons will be appropriately lined so that there will not be leakage into the subsurface. The system is designed to provide for nitrates to be taken up by the growing crops. Effluent will not be utilized for irrigation purposes except during the growing season. Furthermore, monitoring wells will be installed to ensure that there is no degradation of the ground water from the effluent system to be constructed on Section 25. Finally, since the sewage will be initially treated at the waste water treatment facility at Oregon Water Wonderland, odors shall not be a factor in the area surrounding Section 25 based upon the removal of solids at the waste water treatment facility and the setbacks from the effluent pump to Section 25. Many of the details of this design can be adequately addressed in the site and design approval process.

3. **Chapter 23.92, FOREST LANDS**

A) **23.92.020. Goal.**

**Because of the local importance of forest lands the following goal has been set:  
To conserve forest lands for forest uses.**

B) **23.92.030. Policies.**

1. **In order to conserve and maintain impacted forest lands for forest use the County shall identify and zone as F-2 those lands which have the following characteristics:**
  - a. **Consist predominantly of ownerships developed for residential or other non-forest uses;**
  - b. **Consist predominantly of ownerships less than 160 acres in size;**
  - c. **Consist of ownerships generally contiguous to tracts containing less than 160 acres and residences, or adjacent to acknowledged exception areas;**
2. **Except as identified in this plan non-forest uses shall be discouraged in existing forested areas.**

**FINDING:** The Sunriver option would not require a goal exception to Goal 4 (Forest Lands). However, for the reasons stated herein, the Board finds the Sunriver option is not a viable option either financially or politically. This section does apply to the Section 25 option since it is zoned Forest Use (F2). Regarding (B) (4) above, although Section 25 does not appear to possess the characteristics listed, it is zoned F2. Regarding (B) (5) above, because this policy discourages non-forest uses on land designated forest, as is Section 25, the Board is required to take a close look at options. That is, the proposed use can only occur on Section 25 if the Sunriver option is found not to be reasonably feasible. Since the Board does find the Sunriver option is not reasonably feasible, then for the reasons

stated in the decision there is no other choice for the OWW2 Sewer District other than to expand the Sewer District's facility onto Section 25, requiring the plan amendment and zone change.

**OTHER OPTIONS, SUNRIVER ANALYSIS:** The Board notes that the applicant must establish that there are no viable alternatives which would not require a Goal exception before approving a plan amendment and zone change for Section 25 as well as the exception requested by the applicant to Goals 4 and 11 of the statewide planning goals. A number of private properties that were not zoned within a reasonable proximity to Section 25 were reviewed by the applicant and by the U.S. Forest Service. None of these lands met the appropriate criteria for the effluent system. The parcels were not sufficiently large enough nor removed geographically from the Little Deschutes River by a sufficient distance to warrant the installation of the effluent system necessary to meet the requirements for Oregon Water Wonderland. The most substantial alternative reviewed in connection with this application was a general proposal by Sunriver Environmental LLC to receive raw sewage from Oregon Water Wonderland and have that sewage treated at the Sunriver Sewage Plant. This option received considerable attention and analysis. That option would entail the pumping of the sewage approximately 5 miles from the Oregon Water Wonderland site to Sunriver. The pipe would cross the Little Deschutes River and adjacent wetlands area and then generally follow the road right-of-way for South Century Drive north to Sunriver.

The Board acknowledges that the financial analysis of the two alternatives of Section 25 and Sunriver is difficult because it is comparing two substantially different types of operations. However, based upon the testimony received and the documents submitted, particularly the information from Oregon Water Wonderland and the Rural Utility Services, the Board makes the following findings:

1. The capital cost differential between the two options is slight. It is even unclear whether or not the Sunriver option is actually "cheaper" than the Section 25 alternative because Sunriver has indicated in its written proposal that the District would have to pay an additional \$526,000 for a flow equalization basin (FEB) tank at some point in the future. This cost, although unclear when it would be imposed, actually makes the Sunriver capital cost significantly more than the Section 25 option. This cost was identified in the applicant's economic analysis as being assessed in 2007. Although it is not certain when this cost will be incurred, the Board finds this cost should be factored into an economic analysis. The Board also finds that even if Sunriver was slightly less on its cost, there would be little economic benefit to the District as Rural Utility Service would merely reduce the amount of grant money available.
2. The Sunriver option would require a monthly fee for the residents of Oregon Water Wonderland that would be substantially higher than the \$38.00 monthly fee authorized by the voters of Oregon Water Wonderland at the Bond Election in November, 2000. The monthly fee that would be required by Sunriver is also substantially in excess of the amount that the residents of Oregon Water Wonderland could afford based upon statistical information provided by the State of Oregon. That information is consistent with the \$38.00

BOCC Findings and Decision  
File Numbers PA-02-5/ZC-02-3

per month authorized by the voters.

3. There is a distinct possibility the Sunriver option will create a negative cash flow for the Oregon Water Wonderland for a number of years into the future. At best, the Sunriver option may at some point provide a break even cash flow analysis for the District. Prudence, however, would indicate that a local government should not base a multi-million dollar project on a negative cash flow or in a best case scenario a break even analysis. Based on tables submitted by David Givans (County Internal Auditor), OWW2 and review by W & H Pacific, these finances would not allow for any negative variables in the operation and in the infrastructure for the sewage improvements. For the reasons (paragraphs 1, 2, and 3) stated above, the Board finds that the economic analysis presented by the District is more plausible than all other analysis submitted.
4. As noted before, the Board finds that there is a significant need to have this project go forward. Doing nothing is not an acceptable alternative and could lead to further degradation of the ground water in the southern Deschutes County area as well as have a negative impact on the Deschutes River and/or Little Deschutes River. The Board finds that the Sunriver option is not financially feasible and is also politically unfeasible. The Board notes that there is documentation in the record and testimony from the Sunriver Homeowners Association that the Association is opposed to any connection of the Oregon Water Wonderland system to the Sunriver sewage system. The Board finds that the Sunriver Homeowners Association will have substantial influence on any ultimate decision regarding that connection and could effectively block that decision even if the Board would approve it.
5. The Boards further finds that the financial package that would allow this project to move forward is one that is not permanent in nature. The funding for Phase I from Rural Utility Services was made possible by a special allocation in the 2002 Farm Bill passed by the United States Congress. That money may not be available if this project does not move forward within this fiscal year. The Board finds that there is substantial certainty with the financial success of the Section 25 alternative. Politically it has already been approved by the voters of Oregon Water Wonderland and the transfer has been approved by the U.S. Forest Service. This raises the prospect for these improvements to be implemented within the reasonable near future and that the financing that is now in place to be successfully utilized by the District. Any other alternative would put in jeopardy the funds available for these improvements and therefore put the project in jeopardy as well.

### **STATE REQUIREMENTS**

Statewide Planning Goals are Laws regulating development. These Goals are also implemented by Administrative rules (OAR's). The Goals and Rules, most specifically relating to the OWW2 Sewer District's proposal are provided below.

BOCC Findings and Decision  
File Numbers PA-02-5/ZC-02-3

**C. EXCERPT FROM DLCD's OREGON STATEWIDE PLANNING GOALS & GUIDELINES**

**1. 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.**

**Counties shall develop and adopt community public facility plans regulating facilities and services for certain unincorporated communities outside urban growth boundaries as specified by Commission rules.**

**Local Governments shall not allow the establishment or extension of sewer systems outside urban growth boundaries or unincorporated community boundaries, or allow new extensions of sewer lines from within urban growth boundaries or unincorporated community boundaries to land outside those boundaries, except where the new or extended system is the only practicable alternative to mitigate a public health hazard and will not adversely affect farm or forest land.**

**FINDING:** The above indicates a new or expanded sewer system is not allowed in a rural area except as allowed under Goal 2 or when an area is declared a Public Health Hazard as determined below.

*Extension of a sewer or water system* means the extension of a pipe, conduit, pipeline, main, or other physical component from or to an existing sewer or water system in order to provide service to a use that was not served by the system on the applicable date of this rule, regardless of whether the use is inside the service boundaries of the public or private service provider.

**FINDING:** The above says existing houses served by sewer can be served by a new or upgraded system, but, even adding pipes is not allowed except as allowed under Goal 2 or when an area is declared a Public Health Hazard as determined below.

**B. IMPLEMENTATION**

- 5. Additional methods and devices for achieving desired types and levels of public facilities and services should include but not be limited to the following: (1) tax incentives and disincentives; (2) land use controls and ordinances; (3) multiple use and joint development practices; (4) fee and less-than-fee acquisition techniques; and (5) enforcement of local health and safety codes.**
- 6. Plans should provide for a detailed management program to assign**

BOCC Findings and Decision  
File Numbers PA-02-5/ZC-02-3

respective implementation roles and responsibilities to those governmental bodies operating in the planning area and having interests in carrying out the goal.

**FINDING:** The above requires coordinated planning efforts by the County and Special Districts. These are required to be considered when planning new or expanded Sewer facilities.

**2. Sewer Service to Rural Lands**

**OAR 660-011-0060**

- (1) As used in this rule, unless the context requires otherwise:
- (a) "Establishment of a sewer system" means the creation of a new sewage system, including systems provided by public or private entities;
  - (b) "Extension of a Sewer System" shall have the same meaning as stated in Goal 11; Extension of a sewer or water system means the extension of a pipe, conduit, pipeline, main, or other physical component from or to an existing sewer or water system in order to provide service to a use that was not served by the system on the applicable date of this rule, regardless of whether the use is inside the service boundaries of the public or private service provider.
  - (c) "No practicable alternative to a sewer system" means a determination by DEQ or the Oregon Health Division, pursuant to criteria in OAR 340, Division 071, and other applicable rules and laws, that an existing public health hazard cannot be adequately abated by the repair or maintenance of existing sewer systems or on-site systems or by the installation of new on-site systems as defined in OAR 340-071-0100;
  - (d) "Public health hazard" means a condition whereby it is probable that the public is exposed to disease-caused physical suffering or illness due to the presence of inadequately treated sewage;
  - (e) "Sewage" means the water-carried human, animal, vegetable, or industrial waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present;
  - (f) "Sewer system" means a system that serves more than one lot or parcel, or more than one condominium unit or more than one unit within a planned unit development, and includes pipelines or conduits, pump stations, force mains, and all other structures, devices, appurtenances and facilities used for treating or

disposing of sewage or for collecting or conducting sewage to an ultimate point for treatment and disposal. The following are not considered a "sewer system" for purposes of this rule:

- (A) A system provided solely for the collection, transfer and/or disposal of storm water runoff;
- (B) A system provided solely for the collection, transfer and/or disposal of animal waste from a farm use as defined in ORS 215 <<http://landru.leg.state.or.us/ors/215.html>>.303.
  - (2) Except as provided in sections (3) and (4) of this rule, and consistent with Goal 11, a local government shall not allow:
    - (a) The establishment of new sewer systems outside urban growth boundaries or unincorporated community boundaries;
    - (b) The extension of sewer lines from within urban growth boundaries or unincorporated community boundaries in order to serve uses on land outside those boundaries;
    - (c) The extension of sewer systems that currently serve land outside urban growth boundaries and unincorporated community boundaries in order to serve uses that are outside such boundaries and are not served by the system on the date of this rule.

**FINDING:** The above defines and implements the Goal 11 requirements and restates that the subject sewer system is not allowed (except as allowed under Goal 2 below or when an area is declared a Public Health Hazard as determined below).

- (3) Components of a sewer system that serve lands inside an urban growth boundary (UGB) may be placed on lands outside the boundary provided that the conditions in subsections (a) and (b) of this section are met, as follows:

- (b) The local government.

- (A) Adopts land use regulations to ensure the sewer system shall not serve land outside urban growth boundaries or unincorporated community boundaries, except as authorized under section (4) of this rule; and
    - (B) Determines that the system satisfies ORS 215.296(1) or (2) to protect farm and forest practices, except for systems located in the subsurface of public roads and highways along the public right of way.

**(4) A local government may allow the establishment of a new sewer system, or the extension of an existing sewer system, to serve land outside urban growth boundaries and unincorporated community boundaries in order to mitigate a public health hazard, provided that the conditions in subsections (a) and (b) of this section are met, as follows:**

**(a) The Oregon Department of Environmental Quality (DEQ) or the Oregon Health Division initially:**

- (A) Determines that a public health hazard exists in the area;**
- (B) Determines that the health hazard is caused by sewage from development that existed in the area on the date of this rule;**
- (C) Describes the physical location of the identified sources of the sewage contributing to the health hazard; and**
- (D) Determines that there is no practicable alternative to a sewer system in order to abate the public health hazard; and**

**(b) The local government, in response to the determination in subsection (a) of this section, and based on recommendations by DEQ and the Oregon Health Division where appropriate:**

- (A) Determines the type of sewer system and service to be provided, pursuant to section (5) of this rule;**
- (B) Determines the boundaries of the sewer system service area, pursuant to section (6) of this rule;**
- (C) Adopts land use regulations that ensure the sewer system is designed and constructed so that its capacity does not exceed the minimum necessary to serve the area within the boundaries described under paragraph (B) of this subsection, except for urban reserve areas as provided under OAR 660-021-0040(6);**
- (D) Adopts land use regulations to prohibit the sewer system from serving any uses other than those existing or allowed in the identified service area on the date the sewer system is approved;**
- (E) Adopts plan and zone amendments to ensure that only rural land uses are allowed on rural lands in the area to be served by the sewer system, consistent with Goal 14 and OAR 660-004-0018, unless a Goal 14 exception has been acknowledged;**
- (F) Ensures that land use regulations do not authorize a higher density of**

residential development than would be authorized without the presence of the sewer system; and

(G) Determines that the system satisfies ORS 215.296(1) or (2) to protect farm and forest practices, except for systems located in the subsurface of public roads and highways along the public right of way.

- (5) Where the Department of Environmental Quality (DEQ) determines that there is no practicable alternative to a sewer system, the local government, based on recommendations from DEQ, shall determine the most practicable sewer system to abate the health hazard considering the following:
- (a) The system must be sufficient to abate the public health hazard pursuant to DEQ requirements applicable to such systems; and
  - (b) New or expanded sewer systems serving only the health hazard area shall be generally preferred over the extension of a sewer system from an urban growth boundary. However, if the health hazard area is within the service area of a sanitary authority or district, the sewer system operated by the authority or district, if available and sufficient, shall be preferred over other sewer system options.
- (6) The local government, based on recommendations from DEQ and, where appropriate, the Oregon Health Division, shall determine the area to be served by a sewer system necessary to abate a health hazard. The area shall include only the following:
- (a) Lots and parcels that contain the identified sources of the sewage contributing to the health hazard;
  - (b) Lots and parcels that are surrounded by or abut the parcels described in subsection (a) of this section, provided the local government demonstrates that, due to soils, insufficient lot size, or other conditions, there is a reasonably clear probability that onsite systems installed to serve uses on such lots or parcels will fail and further contribute to the health hazard.
- (7) The local government or agency responsible for the determinations pursuant to sections (4) through (6) of this rule shall provide notice to all affected local governments and special districts regarding opportunities to participate in such determinations.
- (8) Applicable provisions of this rule, rather than conflicting provisions of local acknowledged zoning ordinances, shall immediately apply to local land use decisions filed subsequent to the effective date of this rule.

**FINDING:** The area has not been declared a health hazard as defined above. Section 25 option must

BOCC Findings and Decision  
File Numbers PA-02-5/ZC-02-3

qualify for an exception to Statewide Planning Goal 11.

### **3. Oregon's Statewide Planning Goals & Guidelines, Goal 2 Land Use Planning**

#### **PART II -- EXCEPTIONS**

**A local government may adopt an exception to a goal when:**

**(a) The following standards are met:**

- (1) Reasons justify why the state policy embodied in the applicable goals should not apply;**
- (2) Areas which do not require a new exception cannot reasonably accommodate the use;**
- (3) The long-term environmental, economic, social and energy consequences resulting from the use of 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 areas requiring a goal exception other than the proposed site; and**
- (4) The proposed uses are compatible with other adjacent uses or well be so rendered through measures designed to reduce adverse impacts.**

***Compatible*, as used in subparagraph (4) is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.**

**A local government approving or denying a proposed exception shall set forth findings of fact and a statement of reasons which demonstrate that the standards for an exception have or have not been met.**

**Each notice of a public hearing on a proposed exception shall specifically note that a goal exception is proposed and shall summarize the issues in an understandable manner. Upon review of a decision approving or denying an exception:**

- (a) The commission shall be bound by any finding of fact for which there is substantial evidence in the record of the local government proceedings resulting in approval or denial of the exception;**
- (b) The commission shall determine whether the local government's findings and reasons demonstrate that the standards for an exception have or have not been met; and**
- (c) The commission shall adopt a clear statement of reasons which sets forth the basis for the determination that the standards for an exception have or have not been met.**

***Exception* means a comprehensive plan provision, including an amendment to an**

**acknowledged comprehensive plan, that;**

- (a) Is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability;**
- (b) Does not comply with some or all goal requirements applicable to the subject properties or situations; and**
- (c) Complies with standards for an exception.**

**FINDING:** The above indicates that exceptions must be based upon facts and are subject to the review of the County and the Land Conservation and Development Commission. The Board hereby adopts by reference the findings regarding the alternatives set forth above under sections DCC Section 23.92.030 (4) and (5) and OAR 660-004-0020 (2) (b). The Board also makes the following findings:

1. As noted above, the Board does not find that there is any other appropriate nonresource site within sufficient proximity to Oregon Water Wonderland that could accommodate the effluent irrigation system required by the District. (Sunriver is not an option for the transmission of effluent only. It is only an option for the transmission of raw sewage.)
2. The Sunriver option is neither financially nor politically feasible for the reasons stated above.
3. The Section 25 option is the most reasonable alternative because of the close proximity of this acreage to Oregon Water Wonderland. Further, the Board finds that this parcel does not retain its character as forest land and has become unmanageable for forest cultivation. (*See U.S. Forest Service Environmental Assessment included as Exhibit "A" to this Decision*).
4. The Section 25 site has been subjected to considerable degradation of its resource character through prior logging, and lack of proper forest management and repeated trespasses which has resulted in the dumping of considerable refuse on the subject site. The Board finds that the proposal by Oregon Water Wonderland will, in fact, enhance the site for wildlife habitat by removing the refuse, clearing brush that could create a fire danger and fencing the property with wildlife compatible fencing that would reduce the amount of trespass on the subject property. Further, the Board finds that under the control of Oregon Water Wonderland hunting will be prohibited from this property. The implementation of a conservation easement together with these capital investments by Oregon Water Wonderland will make the property compatible with wildlife and halt the further degradation of the site as a result of trespass and dumping.
5. The Board finds that the design characteristics of the effluent system should be sufficient to mitigate any adverse impact on adjoining properties. Those adverse impacts could include odor from ground water contamination. However, the Board finds that the treatment of the sewage at the Oregon Water Wonderland site and the transmission of effluent only will mitigate significantly any potential adverse impact by odors. Further, there is a considerable setback between the proposed lagoons and adjoining properties. The Board further finds

BOCC Findings and Decision  
File Numbers PA-02-5/ZC-02-3

that the design characteristic of the system which would have to be approved by the Department of Environmental Quality will mitigate against any contamination of ground water by nitrates. The system is designed to allow nitrates to be taken up by the crops to be grown on the subject property. The system also provides that the lagoons shall be sufficient in line to mitigate against any leakage into the ground water system. Finally, the Board finds that the implementation of appropriate monitoring wells on the subject property and continued regulation by the Department of Environmental Quality will also mitigate any potential contamination of groundwater from this system.

6. Finally, as noted in this decision elsewhere, the Board is faced with three alternative options. They are:
  - a. Doing nothing.
  - b. Section 25.
  - c. Sunriver Option.

The Board does find that there are no other viable options to these three. The Forest Service has selected Section 25 over Section 17 for the reason stated in the Environmental Assessment. The Board finds those reasons to be supported by substantial evidence which evidence is set forth in the Environmental Assessment, a copy of which has been submitted into the record.

7. The Board further finds that there is substantial evidence in the record which reflects that the use of U.S. Forest Service land had been contemplated for some time. In fact, negotiations leading up to and the execution of the Memorandum of Understanding approximately three years ago indicate that even at that time there was strong evidence that there was insufficient land near Oregon Water Wonderland to accommodate an expansion of the sewer system so that the effluent could be utilized in an irrigation system. These memoranda and also the findings that resulted from the regional problem solving project which identified this area as having significant ground water issues provides substantial evidence of a significant need to have improvements in the sewage system at Oregon Water Wonderland to address this critical issue.

**SUMMARY:** Based upon the findings set forth above and those set forth in this decision including but not limited to those under DCC Section 23.92.030 (4) and (5) and OAR 660-004-0020 (2) (b), the Board finds that there are substantial reasons why the state policy set forth in Goals 4 and 11 cannot be met without an exception. These findings also illustrate that there is substantial evidence to support a conclusion that the expansion of the sewer system cannot reasonably accommodate any area which is not required of an exception.

Further, the Board finds that the system proposed by the District and particularly those elements of the system designed for Section 25, that the long term environmental economic social energy

BOCC Findings and Decision  
File Numbers PA-02-5/ZC-02-3

consequences resulting from the system employed at Section 25 have sufficient measured designed to reduce adverse impacts vis-à-vis, adjoining properties and the wildlife habitat on Section 25 and that the impacts from the use proposed for Section 25 would not be more adverse than would typically result from the same proposal being located in any other area (e.g., Section 17 requiring a goal exception other than the proposed site).

The Board also concludes that the proposed improvements from the District to and including the improvements on Section 25 have been designed so that they will be compatible with other adjacent uses particularly because of the mitigation measures through the conservation easement proposed by the District and the requirements of the Department of Environmental Quality regarding ground water monitoring and construction measures to ensure that there is no contamination of ground water from the nitrates in the effluent water.

## **GUIDELINES**

**B. REGIONAL, STATE AND FEDERAL PLAN CONFORMANCE.** It is expected that regional, state and federal agency plans will conform to the comprehensive plans of cities and counties. Cities and counties are expected to take into account the regional, state and national needs. Regional, state and federal agencies are expected to make their needs known during the preparation and revision of city and county comprehensive plans. During the preparation of their plans, federal, state and regional agencies are expected to create opportunities for review and comment by cities and counties. In the event existing plans are in conflict or an agreement cannot be reached during the plan preparation process, then the Land Conservation and Development Commission expects the affected government units to take steps to resolve the issues. If an agreement cannot be reached, the appeals procedures in ORS Chapter 197 may be used.

**2. Minor Changes**

Minor changes, i.e., those which do not have significant effect beyond the immediate area of the change, should be based on special studies or other information, which will serve as the factual basis to support the change. The public need and justification for the particular change should be established. Minor changes should not be made more frequently than once a year, if at all possible.

**F. IMPLEMENTATION MEASURES**

The following types of measure should be considered for carrying out plans:

**1. Management Implementation Measures**

- (a) Ordinances controlling the use and construction on the land, such as building codes, sign ordinances, subdivision and zoning

ordinances. ORS Chapter 197 requires that the provisions of the zoning and subdivision ordinances conform to the comprehensive plan.

- (b) Plans for public facilities that are more specific than those included in the comprehensive plan. They show the size, location, and capacity serving each property but are not as detailed as construction drawings.
- (c) Capital improvement budgets, which set out the projects to be constructed during the budget period.
- (d) State and federal regulations affecting land use.
- (e) Annexations, consolidations, mergers and other reorganization measures.

**2. Site and Area Specific implementation Measures**

- (a) Building permits, septic tank permits, driveway permits, etc; the review of subdivisions and land partitioning applications; the changing of zones and granting of conditional uses, etc.
- (b) The construction of public facilities (schools, roads, water lines, etc.).
- (c) The provision of land-related public services such as fire and police.
- (d) The awarding of state and federal grants to local governments to provide these facilities and services.

**FINDING:** The sections above describe Federal cooperation and compliance, the Planning Process and Minor Plan Amendments, as proposed, requires these matters be subject to the Planning process. There has been a significant coordination and public process leading to this decision documented by the Regional Problem Solving and USFS processes noted above, the application and the record.

**4. OAR 660-004-0000 Exceptions**

**A) Purpose**

- (1) The purpose of this rule is to explain the three types of exceptions set forth in Goal 2 "Land Use Planning, Part II, Exceptions." Except as provided for in OAR chapter 660, division 14, "Application of the Statewide Planning Goals to the Incorporation of New Cities" this Division interprets the exception process as it applies to statewide Goals 3 to 19.
- (2) An exception is a decision to exclude certain land from the requirements of one or more applicable statewide goals in accordance with the process specified in Goal 2, Part II, Exceptions. The documentation for an exception must be set forth in a local government's comprehensive plan. Such documentation must support a conclusion that the standards for an exception

have been met. The conclusion shall be based on findings of fact supported by substantial evidence in the record of the local proceeding and by a statement of reasons, which explain why the proposed use not allowed by the applicable goal should be provided for. The exceptions process is not to be used to indicate that a jurisdiction disagrees with a goal.

- (3) The intent of the exceptions process is to permit necessary flexibility in the application of the Statewide Planning Goals. The procedural and substantive objectives of the exceptions process are to:
  - (a) Assure that citizens and governmental units have an opportunity to participate in resolving plan conflicts while the exception is being developed and reviewed; and
  - (b) Assure that findings of fact and a statement of reasons supported by substantial evidence justify an exception to a statewide Goal.
- (4) When taking an exception, a local government may rely on information and documentation prepared by other groups or agencies for the purpose of the exception or for other purposes, as substantial evidence to support its findings of fact. Such information must be either included or properly incorporated by reference into the record of the local exceptions proceeding. Information included by reference must be made available to interested persons for their review prior to the last evidentiary hearing on the exception.

**B) 660-004-0005, Definitions**

For the purpose of this Division, the definitions in ORS 197.015 and the Statewide Planning Goals shall apply. In addition the following definitions shall apply:

- (1) An "Exception" is a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that:
  - (a) Is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability;
  - (b) Does not comply with some or all goal requirements applicable to the subject properties or situations; and
  - (c) Complies with the provisions of this Division.
- (2) "Resource Land" is land subject to the statewide Goals listed in OAR 660-004-0010(1)(a) through (f) except subsection (c).

(3) "Nonresource Land" is land not subject to the statewide Goals listed in OAR 660-004-0010(1)(a) through (f) except subsection (c). Nothing in these definitions is meant to imply that other goals, particularly Goal 5, do not apply to nonresource land.

C) 660-004-0010, Application of the Goal 2 Exception Process to Certain Goals

(1) The exceptions process is not applicable to Statewide Goal 1 "Citizen Involvement" and Goal 2 "Land Use Planning." The exceptions process is generally applicable to all or part of those statewide goals, which prescribe or restrict certain uses of resource land. These statewide goals include but are not limited to:

- (a) Goal 3 "Agricultural Lands," however, an exception to Goal 3 "Agricultural Lands" is not required for any of the farm or nonfarm uses permitted in an exclusive farm use (EFU) zone under ORS Chapter 215;
- (b) Goal 4 "Forest Lands";
- (c) Goal 14, "Urbanization" except as provided for in paragraphs (1)(c)(A) and (B) of this rule, and OAR 660-14-000 through 660-14-040:

...

(B) When a local government changes an established urban growth boundary it shall follow the procedures and requirements set forth in Goal 2, "Land Use Planning," Part II, Exceptions. An established urban growth boundary is one which has been acknowledged by the [Land Conservation and Development] Commission under ORS 197.251. Revised findings and reasons in support of an amendment to an established urban growth boundary shall demonstrate compliance with the seven factors of Goal 14 and demonstrate that the following standards are met:

- (i) Reasons justify why the state policy embodied in the applicable goals should not apply (This factor can be satisfied by compliance with the seven factors of Goal 14.);
- (ii) Areas which do not require a new exception cannot reasonably accommodate the use;
- (iii) 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 areas requiring a goal exception other than the proposed site; and

- (iv) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

**FINDING:** Section 25 requires that an exception be taken to Goal 11. An exception to Goal 11 is required because the request is for the expansion of an existing sewer system and the extension of sewer lines. Criterion i through iv above are addressed in the body of this decision. Additionally, Section 25 needs an exception to Goal 4 because it is Forest Land as defined by Goal 4 and zoned "Forest Land". Sewer Systems are not allowed on Forest Land therefore part of the subject proposal is to rezone Section 25 so that the use can be permitted. The Board hereby adopts by reference the findings regarding the alternatives set forth under DCC Section 23.92.030 (4) and (5), OAR 660-015-0000(2), OAR 660-004-0020 (2) (b).

- (2) The exceptions process is generally not applicable to those statewide goals which establish planning procedures and standards which do not prescribe or restrict certain uses of resource land because these goals contain general planning guidance or their own procedures for resolving conflicts between competing uses. However, exceptions to these goals, although not required, are possible and exceptions taken to these goals will be reviewed when submitted by a local jurisdiction.

These statewide goals are:

- (g) Goal 11 "Public Facilities and Services," except as provided for in OAR 660, Division 14 for the provision of urban facilities and services to the incorporation of new cities or new urban development;

**FINDING:** The above says an exception to Goal 11 is possible through the exceptions process.

- (3) An exception to one goal or goal requirement does not assure compliance with any other applicable goals or goal requirements for the proposed uses at the exception site. Therefore, an exception to exclude certain lands from the requirements of one or more statewide goals or goal requirements does not exempt a local government from the requirements of any other goal(s) for which an exception was not taken.

**Inclusion as Part of the Plan**

BOCC Findings and Decision  
File Numbers PA-02-5/ZC-02-3

(1) A local government approving a proposed exception shall adopt as part of its comprehensive plan findings of fact and a statement of reasons, which demonstrate that the standards for an exception have been met. The applicable standards are those in Goal 2, Part II(c), OAR 660-004-0020(2), and 660-004-0022. The reasons and facts shall be supported by substantial evidence that the standard has been met.

(2) A local government denying a proposed exception shall adopt findings of fact and a statement of reasons, which demonstrate that the standards for an exception have not been met. However, the findings need not be incorporated into the local comprehensive plan.

**FINDING:** Above is the process and findings the County must make to allow a Goal Exception. The Board hereby adopts by reference the findings regarding the alternatives set forth under DCC Section 23.92.030 (4) and (5), OAR 660-015-0000(2), OAR 660-004-0020 (2) (b). Below are the specific criteria that must be satisfied in order to approve a goal exception:

**7. OAR 660-004-0015 Inclusion as Part of the Plan.**

A local government approving the proposed exception shall adopt as part of its comprehensive plan findings of fact in a statement of reasons which demonstrate that the standards for an exception have been met. The applicable standards are those in Goal 11, Part 2(c), OAR 660-004-0020(2) and 660-004-0022. The reasons and facts shall be supported by substantial evidence that this standard has been met.

**FINDING:** The Board hereby adopts by reference the findings regarding the alternatives set forth above on pages under DCC Section 23.92.030 (4) and (5), OAR 660-015-0000(2), OAR 660-004-0020 (2) (b).

**6. OAR 660-004-020, Goal 2 Part 11(c) Exception Requirements.**

7. If the jurisdiction determines there are reasons consistent with OAR 660-004-0022 to use resource lands for uses not allowed by the applicable goal, the justification shall be set forth in the comprehensive plan as an exception.

**FINDING:** OAR 660-004-0022 is addressed in the findings under Goals 4 and 11 below.

8. The four factors in Goal 2 Part 11(c) required to be addressed when taking an exception to the 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;**

**FINDING:** The proposed expansion of the wastewater treatment facility is not a use allowed outright or conditionally in the F-2 Zone. The Board hereby adopts by reference the findings regarding the alternatives set forth under DCC Section 23.92.030 (4) and (5), OAR 660-015-0000(2), OAR 660-004-0020 (2) (b).

Goal 4 is:

**To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.**

Goal 11 is:

**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.**

The proposed wastewater treatment facility is an urban use proposed for expansion onto property that is currently zoned Forest Use (F2) (Section 25). The proposal includes as an alternative for expanding the sewer facility through the piping of sewer lines to the existing treatment plant in Sunriver. The Sunriver option does not require an exception to Goal 4. Therefore, the applicants' proposed change to the County's zoning and comprehensive plan maps require findings for the exception criteria in Goals 2 and 11. The Board hereby adopts by reference the findings regarding the alternatives set forth under DCC Section 23.92.030 (4) and (5), OAR 660-015-0000(2), OAR 660-004-0020 (2) (b).

The state policy embodied in Goal 4 is to conserve forest lands for forest use as well as to protect soil, air and water quality, fish and wildlife resources and recreational opportunities. Consequently, while the applicants' proposal would not conserve that portion of Section 25 utilized for forest use, the proposed wastewater treatment facility certainly would protect soil and water quality consistent with the goal.

A number of management problems for the Forest Service has resulted from the isolated nature of this parcel, including encroachment, trespassing from adjoining private lands, illegal woodcutting, unauthorized roads and trails and the dumping of household garbage. Additionally, the Forest Service

BOCC Findings and Decision  
File Numbers PA-02-5/ZC-02-3

has considered this parcel to have lost its National Forest character and is difficult to be effectively managed. The remainder of Section 25 would be available for forest and recreational use and for wildlife habitat if the proposal is approved.

The state policy of conserving the site for forest use should not apply to the proposed site for the following reasons: 1) there is a documented need for expansion of the sewer system to protect the health of south Deschutes County residents and visitors; and 2) the site is a suitable and appropriate location for the wastewater treatment facility. The need for replacement and expansion of the existing sewer system is well documented in DCC Chapter 22.44, Regional Problem Solving and related background documents, as well as the applicant's burden of proof statement and exhibits. As previously mentioned, the County has entered into a Memorandum of Understanding with both the Sewer District and the USFS in an effort to address the groundwater contamination issues in this area of the County. Section 25 is suitable for the proposed use and Goal 4 should no longer apply to Section 25. The Board hereby adopts by reference the findings regarding the alternatives under DCC Section 23.92.030 (4) and (5), OAR 660-015-0000(2), and OAR 660-004-0020 (2) (b).

**(ii) Areas which do not require a new exception cannot reasonably accommodate the use.**

**FINDING:** This criterion requires an alternative site analysis to determine whether there is land not requiring a goal exception that reasonably could accommodate the development of a wastewater treatment facility. The analysis must include nonresource land -- i.e., exception areas -outside of a UGB. The phrase "cannot reasonably accommodate the use" requires a determination of whether the alternative sites are suitable for a wastewater treatment facility considering: 1) the typical operating characteristics and locational requirements for such a facility; and 2) the location of potential conflicting uses. The record indicates the typical operating characteristics and locational requirements for a wastewater treatment facility include at least 40 acres of land for the treatment facility and a total of 100 acres near the treatment facility for potential ground application of treated effluent.

The following analysis of alternative sites is adopted by the Board:

- “1. Property within the OWW2 Sanitary District boundary — No additional land is available; no other land has suitable soils and depth to groundwater; existing treatment area is too small for expansion and has high groundwater.
2. Quail Run Golf Course (6 miles south) — Would require a pipeline at least 6 miles in length; the size of the ponds would be too large for the golf course to accommodate.
3. Crosswater Golf Course (1 1/4 miles north) — Not interested in storing and utilizing the effluent for irrigation.
4. Thousand Trails (adjacent to the southeast portion of OWW2) — Not interested in selling the area that has potentially suitable soils; size of acreage is not adequate.

BOCC Findings and Decision  
File Numbers PA-02-5/ZC-02-3

5. Vandever Ranch (1/4 mile east of OWW2) — It is developed with homes and does not have any interest in encumbering their land; they cannot sell land.
6. Mildred West Trust Land (adjacent to the north end of OWW2) — Owners declined to become involved. Size of parcel insufficient.
7. Donald Harris Land (adjacent to the southwest portion of OWW2) — Owners declined to become involved. Size of parcel insufficient.
8. 40 acres of National Forest land within the OWW2 development — This is designated as part of the Upper Deschutes Wild and Scenic River and has high groundwater.
9. Pipe all the raw sewage from OWW2 to Sunriver Resort — All sewage and effluent would be transported approximately 4 ½ miles by pipeline, possibly along a similar route as proposed in Alternative B (Vandever Parcel considered by USFS in their Environmental Assessment) and would involve crossing the Little Deschutes River. The sewage would be treated at the existing sewage treatment plant in the Sunriver community, and the treated effluent would be disposed of by irrigation of the Sunriver golf courses or adjacent land. This potential option had been proposed in July 2000, and has been discussed between OWW2 and Sunriver Resort since that time. Several state and county agencies became more actively involved in the discussions in August 2001, as they thought this could be a favorable option. While technically feasible, it is not economically feasible or viable for either OWW2 or Sunriver Resort. OWW2 has a fixed and limited budget available to them, based on a voter approved bond measure, projected grants and loans, and commitments made to the residents. State and county agencies evaluated public funding sources, but could not provide additional funds or support to make this economically possible. Much higher initial costs, monthly rates, and potential future costs would be needed in order to fund a Sunriver option. These increased costs would be too great and would be an adverse impact on the low-income OWW2 community.

The alternative site analysis did not identify any nonresource land in or near the District that meets the requirements for the proposed expansion of the wastewater treatment and effluent discharge facility.

- (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.**

BOCC Findings and Decision  
File Numbers PA-02-5/ZC-02-3

**FINDING:** The criteria above allow economic factors to be used in determining whether Sunriver cannot reasonably accommodate the sewer system. The Board hereby adopts by reference the findings herein regarding the alternatives provided under Section 23.92.030 (4) and (5), OAR 660-015-0000(2), and OAR 660-004-0020 (2) (b), which demonstrate compliance with items (A) and (B) above.

Under the (above) 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 no, why not?**

**FINDING:** Sunriver is an existing rural center exempted from Goals 3 and 4 under the Deschutes County Comprehensive Plan. The effluent disposal option at Sunriver is "resource land in an existing rural center" but cannot reasonably accommodate the use for the reasons stated above. Regarding item (iii) above, the use cannot be sited within the nearest UGB because it is situated approximately 18 miles to the northeast, making it an impractical option.

**(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.**

**FINDING:** The Board hereby adopts by reference the findings regarding the alternatives set forth under DCC Section 23.92.030 (4) and (5), OAR 660-015-0000(2), and OAR 660-004-0020 (2) (b).

- (c) **The long-term 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**

BOCC Findings and Decision  
File Numbers PA-02-5/ZC-02-3

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;

**FINDING:** The Board hereby includes by reference the findings set forth under DCC Section 23.92.030 (4) and (5), OAR 660-015-000 (2), and OAR 660-004-0020 (2) (b).

(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.

(3) If the exception involves more than one area for which the reasons and circumstances are the same, the areas may be considered as a group. Each of the areas shall be identified on a map, or their location otherwise described, and keyed to the appropriate findings.

**FINDING:** As discussed under Section II (G), Background, under Findings of Fact above, based on data from the County's GIS department (May 2002 data), there are 1,036 platted lots within OWW2 subdivision, some of which have been consolidated. 483 of these lots contain dwellings, 168 of these lots are currently connected to the existing sewer system and 315 currently have onsite septic systems. Based on these figures 868 platted lots are not connected to the existing sewer system. Of the 1,036 platted lots, 249 are red lots, which are lots identified as having a water table of 2 feet or less below grade. Of the 249 red lots, 73 currently contain a dwelling and 176 do not.

BOCC Findings and Decision  
File Numbers PA-02-5/ZC-02-3

There are many failing on-site septic systems and numerous lots that cannot support an on-site septic system due to the high water table in the area. Therefore, OWW2 Sewer District must take action to resolve this problem and is proposing to do so through submittal of these land use applications. Ultimately, there may be a total of approximately 500 vacuum pits (septic tanks) that would be placed within but at the edge of the right-of-way of the public roads within OWW2. The applicant's have indicated on the maps presented at the hearing that the ponds and spraying of effluent on the Section 25 site will be setback from surrounding lands at least 500 feet. Negative impacts on surrounding residential lots while an appropriate concern will be mitigated by the requirements imposed on this project by the Department of Environmental Quality. The holding ponds or lagoons will be appropriately lined so that there will not be leakage into the subsurface. The system is designed to provide for nitrates to be taken up by the growing crops. Effluent will not be utilized for irrigation purposes except during the growing season. Furthermore, monitoring wells will be installed to ensure that there is no degradation of the ground water from the effluent system to be constructed on Section 25. Finally, since the sewage will be initially treated at the waste water treatment facility at Oregon Water Wonderland, odors shall not be a factor in the area surrounding Section 25 based upon the removal of solids at the waste water treatment facility and the setbacks from the effluent pump to Section 25. Many of the details of this design can be adequately addressed in the site and design approval process.

To address this criterion regarding compatibility issues, the Planning Commission recommended that the Board of Commissioners include a condition of approval requiring the recordation of a conservation easement by the applicants, the County and a local non-profit organization to protect Section 25. At the January 9<sup>th</sup> meeting, Commissioner Brenda Pace provided the following motion regarding this matter:

*"I move that we accept Section 25 with the condition that the County require a condition that the County require a conservation easement over the property to co-holders consisting of the County and a local non-profit organization. That the conservation easement will include the requirement to manage the excess land as habitat for deer, elk, raptors and associated species, fire control and timber and for the control of invasive exotic species and dumping. That if the appraised value as conducted by the Forest Service with the conservation easement requirements is less than the budgeted amount of 672,000 [dollars], then the difference be transferred to the conservation organization as a permitted endowment for the property." Commissioner Peter Gramlich seconded Commissioner Pace's motion. Following discussion with Community Development Director George Read, Commissioner Pace added: "or 150,000 dollars be provided under a schedule by Oregon Water Wonderland to the non-profit as an endowment."*

The Planning Commission unanimously voted in support of the motion stated by Commissioner Pace and seconded by Commissioner Gramlich.

The Board agrees with Planning Commissioners, that a conservation easement, similar to that described above, would reduce adverse impacts on surrounding lands. The purpose of the endowment is to provide for maintenance and management of the conservation easement in perpetuity. Therefore,

BOCC Findings and Decision  
File Numbers PA-02-5/ZC-02-3

a condition of this approval will require recordation of conservation easement as a condition of this approval. The conservation easement and plan shall be submitted with the site plan application at which time the applicants shall provide an acceptable conservation easement for Section 25, together with a plan of implementing the conservation easement, that provides standards and implementation methods for managing the conservation easement, and establishment of a fund in the amount of \$150,000 (\$100,000 committed the first year and \$5,000 per year for the next ten years) for the purposes of implementing a conservation easement. Unexpended funds shall be placed in an endowment fund to be used in perpetuity for the maintenance of the property. The Board hereby includes by reference the findings under DCC Section 23.92.030 (4) and (5), OAR 660-015-0000 (2), and OAR 660-004-0020 (2) (b) in support of this section.

7. **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 OAR 660, division 014, 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 Statewide 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 "reasons" criteria above create a need to explain why the sewer system is needed and why it must be located on non-urban land. It is also necessary to explain why it is reasonable to locate it on "Resource" land zoned Forest (section 25). No other areas have been identified that could reasonably accommodate the sewer facility. A detailed analysis for subsections (1)(a) and (b) above has been addressed under DCC Section 23.92.030 (4) and (5), OAR 660-015-000 (2), and OAR 660-004-0020 (2) (b). Regarding item (c) above, locating the proposed sewage facility on Section 25 fits

BOCC Findings and Decision  
File Numbers PA-02-5/ZC-02-3

within the voter approved funding and affordability requirements of the area while the Sunriver option does not. The Board hereby includes by reference the findings under DCC Section 23.92.030 (4) and (5), OAR 660-015-000 (2), and OAR 660-004-0020 (2) (b).

8. **OAR 660-012, Transportation Planning Rule**

**A. OAR 660-12-060, Plan and Land Use Regulation Amendments**

**FINDING:** This administrative rule is applicable because the applicant proposes a plan amendment from Forest to Rural Residential and a zone change from F-1 to RR-10. However, the sewer system will not allow any more lots to be created than already exist and therefore will not impact traffic.

(1) **Amendments to functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and level of service of the facility. This shall be accomplished by either:**

(a) **Limiting allowed land uses to be consistent with the planned function, capacity and level of service of the transportation facility;**

(b) **Amending the TSP [Transportation System Plan] to provide transportation facilities adequate to support the proposed land uses consistent with the requirements of this division; or**

(c) **Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.**

(2) **A plan or land use regulation amendment significantly affects a transportation facility if it:**

(a) ***Changes the functional classification of an existing or planned Transportation facility;***

(b) **Changes standards implementing a functional classification system;**

**FINDING:** The proposed plan amendment and zone change, in and of themselves, will not affect transportation facilities. However, if approved they would allow the development of a wastewater treatment facility on the subject property that will generate minimal traffic on South Century Drive from the few employee vehicles that will travel to the facility on a daily basis. Nevertheless, the applicants' proposal will not change either the functional classification or standards implementing the functional classification of this street.

(c) **Allows types or levels of land uses which would result in levels of**

**travel or access which are inconsistent with the functional classification of a transportation facility; or**

**(d) Would reduce the level of service of the facility below the minimum acceptable level identified in the TSP.**

**FINDING:** These two standards focus on the impact of the proposed plan amendment and zone change on the *function* of South Century Drive. The minimal traffic that will be generated by the proposed wastewater treatment facility will not result in levels of travel inconsistent with the functional classification of these two streets. For the foregoing reasons, the applicants' proposal conforms with the TPR.

**(3) Determinations under section (1) and (2) of this rule shall be coordinated with affected transportation facility and service providers and other affected local governments.**

**FINDING:** Both the County's Transportation Planner and the Road Department submitted transmittal responses of no comment regarding this proposal.

9. OAR Chapter 660, Division 15, STATEWIDE PLANNING GOALS

**FINDING:** The applicants propose an amendment to the comprehensive plan. The applicants must demonstrate the proposal is consistent with applicable statewide planning goals. The following findings concern compliance with the goals.

**1. Goal 1, Citizen Involvement**

**FINDING:** The applicants' proposal is consistent with this goal because the District has provided opportunities for public comment and involvement in the proposed sewer system. As discussed above, District voters approved a bond measure to fund a portion of the cost of the proposed wastewater treatment facility. In addition, a public hearing has been held before the County Planning Commission and the County Board of Commissioners on the subject applications. Owners of record of property located within 750 feet of the subject property have been mailed individual written notice of the proposal and the public hearing, and the public hearing was also noticed through publication in the "Bend Bulletin" newspaper.

**2. Goal 2, Land Use Planning**

BOCC Findings and Decision  
File Numbers PA-02-5/ZC-02-3

**FINDING:** The applicants' proposal is consistent with this goal because it has been reviewed under the Deschutes County comprehensive plan and zoning ordinance and public hearings will be conducted in accordance with the county's procedures ordinance.

**3. Goal 3, Agricultural Lands**

**FINDING:** This goal is not applicable because Section 25 is designated and zoned forest and the Sunriver option does not involve the rezoning of property.

**4. Goal 4, Forest Lands**

**FINDING:** The applicants have requested approval of an exception to Goal 4 to remove the F2-zoning from the subject property (Section 25). The Board hereby adopts by reference the findings regarding the alternatives set forth under DCC Section 23.92.030 (4) and (5), OAR 660-015-0000(2), OAR 660-004-0020 (2) (b).

**5. Goal 5, Open Spaces, Scenic and Historic Area and Natural Resources**

**FINDING:** This goal requires the county to inventory and protect significant scenic, historic and natural resources. According to the County's Geographic Information System, based on National Wetland Inventory (NWI) mapping, Section 25 contains a wetland in the northwest corner of the property. However, staff's comparison of the map submitted with the application and NWI mapping, the development proposed for Section 25, is outside of the wetland area.

**6. Goal 6, Air, Water and Land Resources Quality**

**FINDING:** Goal 6 requires the county and city to protect air and water quality. The applicants' proposal is consistent with this goal because it would permit the expansion of OWW2 Sewer District's wastewater treatment facility. These facilities will address a health hazard and potential source of groundwater contamination.

**7. Goal 7, Areas Subject to Natural Disasters and Hazards**

**FINDING:** There are no identified areas subject to natural disasters or hazards on the site.

BOCC Findings and Decision  
File Numbers PA-02-5/ZC-02-3

## **8. Goal 8, Recreational Needs**

**FINDING:** The applicants do not propose to use the subject property for a destination resort. However, the applicants indicate that they propose to retain the remainder of Section 25 in forest use which will allow continued use of the property for recreation.

## **9. Goal 9, Economic Development**

**FINDING:** The upgrading of the sewer disposal facilities for OWW2 will aid in the efficient development pattern of this rural development which has already been excepted from the State goals. This will also help ensure an adequate supply of affordable housing in the south Deschutes County area.

## **10. Goal 10, Housing**

**FINDING:** This goal requires the county to provide adequate housing to meet identified needs. OWW2 does meet a significant need for the provision of affordable housing particularly for retirees. OWW2 residents generally are within a low income category and the ability to pay monthly sewer fees greatly effects the costs that the District can afford. The Section 25 alternative meets those requirements.

## **11. Goal 11, Public Facilities and Services**

**FINDING:** This goal requires the county to plan and develop an orderly arrangement of public facilities and services for rural development. The Board hereby adopts by reference the findings regarding the alternatives set forth under DCC Section 23.92.030 (4) and (5), OAR 660-015-0000(2), OAR 660-004-0020 (2) (b).

## **12. Goal 12, Transportation**

**FINDING:** This goal is implemented through the TPR as discussed in detail in the findings above. For the reasons set forth in those findings, incorporated by reference herein, proposal is consistent with the rule and therefore satisfies Goal 12.

BOCC Findings and Decision  
File Numbers PA-02-5/ZC-02-3

### **13. Goal 13, Energy Conservation**

**FINDING:** This goal requires the city and county to give priority to land use planning to the efficient utilization of energy. The proposal is consistent with this goal because it would allow the site to be developed with a wastewater treatment facility in close proximity to the OWW site, facilitating energy conservation in the connection of the facility to the planned sewer system.

### **14. Goal 14, Urbanization**

**FINDING:** Goal 14 is not applicable to this request because the proposal does not include the creation of new lots that would be served by the new system (see citation from goal 14 below). Rather, the expansion of the sewer district's facility would serve lots that are currently lawfully created lots that are currently within the OWW2 Sewer District boundaries.

Goal 14 states: "Notwithstanding the other provisions of this goal, the commission may by rule provide that this goal does not prohibit the development and use of one single-family dwelling on a lot or parcel that:

- (a) was lawfully created;
- (b) lies outside any acknowledged urban growth boundary or unincorporated community boundary;
- (c) is within an area for which an exception to Statewide Planning Goal 3 or 4 has been acknowledged; and
- (d) is planned and zoned primarily for residential use."

### **15. Goals 15 through 19**

**FINDINGS:** These goals are not applicable to this proposal because they address river, ocean and marine resources not located near the subject property.

## **IV. DECISION AND CONDITIONS OF APPROVAL**

Based on the findings set forth herein, the Board **APPROVES** the exceptions to Goal 4 and Goal 11, the plan amendment from Forest to Rural Residential Exception Area, and zone change from F2 to RR-10 with a limited use combining zone, subject to the following conditions of approval:

1. Prior to the commencement of construction, or the issuance of a building permit for any structure on the property, the applicants shall obtain approval of a site plan application under DCC Chapter 18.124 from the County Planning Division and:

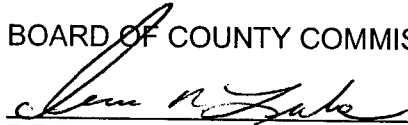
BOCC Findings and Decision  
File Numbers PA-02-5/ZC-02-3

- a. Provide an acceptable conservation easement for Section 25, together with a plan of implementing the conservation easement, that provides standards and implementation methods for managing the conservation easement, and establishment of a fund in the amount of \$150,000 (\$100,000 committed the first year and \$5,000 per year for the next ten years) for the purposes of implementing a conservation easement. Unexpended funds shall be placed in an endowment fund to be used in perpetuity for the maintenance of the property. The purpose of the endowment is to provide for maintenance and management of the conservation easement in perpetuity. The conservation easement and plan shall be submitted with the site plan application.
  - b. Provide the County Planning Division with a copy of a recorded road maintenance agreement between the Beaver Special Road District and the Sewer District, whereby the District agrees to pay its pro rata share for the maintenance cost of Foster Road through Section 25.
2. Uses of the property are limited to sewage treatment facility, effluent ponds, ground application of treated effluent, agricultural use and propagation or harvesting of a forest product.


**This approval expires in two (2) years from the date of signing unless this decision is appealed, then two (2) years from the completion of all appeals in the applicant's favor.**

Dated this 2<sup>nd</sup> of June 2003

BOARD OF COUNTY COMMISSIONERS



DENNIS R. LUKE, CHAIR



TOM DEWOLF, COMMISSIONER

ATTEST:



Recording Secretary



MICHAEL M. DALY, COMMISSIONER

BOCC Findings and Decision  
File Numbers PA-02-5/ZC-02-3

USDA Forest Service, Pacific Northwest Region  
Deschutes National Forest  
Bend-Fort Rock Ranger District  
Deschutes County, Oregon

Decision Notice  
and  
Finding of No Significant Impact

Oregon Water Wonderland Unit II Sanitary District  
Townsite Act Application Environmental Assessment

**INTRODUCTION**

This Decision Notice and the Environmental Assessment for the Oregon Water Wonderland Unit II Sanitary District Townsite Act Application are available for review from the Deschutes National Forest. The Environmental Assessment (EA) was prepared by an interdisciplinary team and documents the environmental analysis evaluating the proposed sale of National Forest System land to Oregon Water Wonderland Unit II Sanitary District. The two parcels of land considered for conveyance are located on the Bend-Fort Rock Ranger District, approximately 16 to 18 miles south of Bend, and 2 to 4 miles south of Sunriver, Oregon.

Oregon Water Wonderland Unit II (OWW2) is a 1,000-lot rural community in southern Deschutes County, established in 1975. OWW2 is situated between the Deschutes and Little Deschutes Rivers, in an area with very shallow groundwater (depths of 2 feet or less). Existing on-site septic systems are sited in areas with shallow groundwater, existing facilities are aging and failing, and the wastewater storage and irrigation site is too small and inadequate. All of these factors are contributing to water quality degradation and contamination of the groundwater and possibly of nearby rivers. The Oregon Water Wonderland Sanitary District (District) is currently in non-compliance with the Oregon Department of Environmental Quality (DEQ) regulations for wastewater storage and disposal. Land use and environmental rules and regulations have changed since the community was originally platted and approved by the County and the State, and what was approved for sewage and effluent facilities in the early 1970's is not acceptable today.

Acquisition of nearby National Forest System land for a new, larger, and suitable area for treated wastewater storage and disposal would resolve the environmental violation, eliminate the groundwater contamination that is presently occurring, and help improve overall regional water quality in southern Deschutes County. The District would use the property for storage ponds and cultivated grass fields. A circle pivot system would sprinkler irrigate a grass hay crop, using treated effluent. There would be a buffer area of at least 300-feet between any facilities and adjoining lands or roads. In conjunction with this use of acquired land, OWW2's existing sewage treatment plant and collection system would be upgraded and remain on District property.

**PURPOSE AND NEED**

The primary purpose and need for the land sale is to provide a viable means for OWW2 to resolve their wastewater storage and disposal situation and their environmental violation with DEQ. The District has a need to implement a feasible and economic solution in order to continue to serve the

community, meet environmental regulations and requirements of DEQ, and help protect the groundwater quality in southern Deschutes County. In order to accomplish this, the District has an urgent need to acquire adequate property for storage and disposal of treated wastewater.

Because of the lack of storage capacity, the District often has to irrigate in the winter, over frozen ground, or before the growing season when soils are saturated and the water table is highest. Treated effluent is currently being applied at a rate much greater than what DEQ allows because there is not enough land to accommodate irrigation at the proper agronomic rate. In addition, the existing sewer and septic systems are leaking and failing. The current system was approved, designed, and constructed 30 years ago and is not able to meet today's needs for the community or for protection of the environment.

In the LaPine Basin in southern Deschutes County, contamination of groundwater and surface water from septic tanks and drainfields is a widespread and serious concern. In December 1998, Deschutes County Commissioners signed Ordinance No. 98-085 recognizing that groundwater quality is diminishing due to the cumulative impact from existing on-site septic systems in areas of high groundwater tables and rapidly draining soils. The Commissioners declared this an emergency and signed the ordinance for the immediate preservation of public peace, health, and safety.

The Oregon State Legislature recognized the severity of this type of problem in southern Deschutes County when it authorized a Regional Problem Solving (RPS) Project for that area, and assigned the Oregon Department of Land Conservation and Development to administer the program. The RPS Project addresses the fact that inadequate siting of individual on-site septic tank and drainfield systems are likely to result in polluted groundwater, and that there is a need to find a proactive solution. Deschutes County and the RPS Project identified OWW2 as a promising candidate to help solve groundwater issues, and recognized that they may need National Forest land to go forward with sewer improvement and expansion.

The Forest Service recognizes the local public need for a solution to the OWW2 community's wastewater problem. The Forest Service also recognizes the broader regional public need to reduce groundwater contamination, improve water quality, and protect the long-term health of the watershed. There is an urgent need to resolve the contamination and environmental problems.

## DECISION

I have reviewed the issues, alternatives, and effects documented in the Environmental Assessment and project file. I have considered the public comments submitted during the public review period. I have also considered my responsibilities and authorities pertaining to applicable laws, regulations, and policies. Sufficient information has been reviewed and disclosed in the analysis to make a reasoned choice among the alternatives. Based on this information, I have decided to implement Alternative C, sale of the Section 25 Parcel, with modifications. The following describes my decision:

1. Use the sale authority granted under the terms of Public Law 106-526, the Bend Pine Nursery Land Conveyance Act (BPNLCA) for conveying land to Oregon Water Wonderland Unit II Sanitary District. Subsequent to the District's application to purchase National Forest land under the authority of the Townsite Act, the BPNLCA became law, providing an alternate avenue for conveyance. BPNLCA is the preferred authority because it allows the Forest

Page 2

OWW2 Sanitary District Decision Notice

Service to retain the proceeds of the sale for use in acquiring local administrative offices. The property would be conveyed at market value, under the terms of a Purchase and Sale Agreement.

2. Sell to the District only 480 acres of the 520-acre parcel considered in Alternative C. The Forest Service would retain the remaining 40-acre parcel in federal ownership until it can be considered and analyzed for sale later with the remainder of the Tract C lands identified in the BPNLCA. The 40-acre parcel is attached to the southwest corner of the 480-acre block and is not needed by OWW2. The combination of these two properties in the original 520-acre configuration would not benefit the intended use by OWW2, and selling them separately would very likely provide a greater financial return to the Forest Service. This smaller parcel would have a different zoning designation and could potentially be used for rural residential homesites, not unlike other nearby private lands. Removal of this portion of the parcel would not significantly change the effects analysis.

The conveyance deed will include a restrictive covenant to prevent development and ensure protection of the 7-acre wetland area.

3. Issue a short-term temporary special use permit to the District for initial site preparation and construction of the new facilities on the land to be acquired. The special use permit would be issued for the purpose of expediting the planning and installation of the proposed facilities. This would allow resolution of the serious groundwater contamination problems to move forward without further administrative delays associated with consummating a land sale and conveyance of title. It would help ensure that the District would be able to resolve their environmental violation with DEQ by November 2003, as required by DEQ. Furthermore, it would help ensure that available grants and loans are used and not lost or forfeited due to delays in implementation. A special use permit would not be issued until a binding Purchase and Sale Agreement, describing the terms of a sale, is in place.
4. Allow the District up to three years to consummate the purchase of the property. This will give the District the opportunity to continue to resolve any remaining funding or other issues that they may encounter which could prevent the District from purchasing the property with a single transaction in a timely manner. Any outstanding local requirements for siting or approval with the County or State could also be resolved during this period.

### **PUBLIC BENEFIT DETERMINATION**

I have concluded that this sale of federal land is in the public interest. There are immediate benefits to OWW2 residents by providing this identified low-income community the opportunity to implement an affordable long-term solution for proper waste management. This will allow the District to develop an environmentally sound wastewater storage and disposal system, in conjunction with needed upgrades and improvements to the existing sewage treatment plant and collection system. This will also allow the District to comply with DEQ environmental regulations.

There are immediate benefits to residents and property owners in neighboring areas by eliminating the existing surface and groundwater contamination. There are also regional benefits that extend into the general southern Deschutes County area, in that this decision implements a solution that

contributes to resolving the widespread water quality problem that County and State agencies have been trying to remedy.

This decision to convey the parcel outweighs any benefits of keeping it in federal ownership. This parcel is an isolated National Forest property, nearly surrounded by private land. It is difficult and not cost effective to manage as part of the National Forest system, given its small size and increasing encroachments and unauthorized uses. This land has been identified as being available for disposal under the 2000 BPNLCA. This decision conveys unneeded National Forest land for critical and beneficial community purposes.

## OTHER ALTERNATIVES CONSIDERED

### 1. Comparison with Alternative B.

Environmentally, either Alternative B (Vandevort parcel) or Alternative C (Section 25 parcel) would be acceptable and suitable for sale to OWW2 for the proposed use. The Section 25 parcel is directly adjacent to the OWW2 community and has the advantage of requiring a much shorter pipeline and no river crossing. Its closer proximity would logically help ensure that frequent observation and proper monitoring and maintenance of the facilities take place. This conveyance would allow the land to remain open and undeveloped, and continue to maintain or improve its value as wildlife habitat. This should also help to improve an area that has a number of problems including encroachments, dumping of household garbage, illegal woodcutting, and development of unauthorized roads and trails.

Selling the 240-acre Vandevort parcel would break up the 910-acre parcel that is identified for disposal under the BPNLCA, and splitting it into several smaller parcels may not be beneficial. Since our intent is to later analyze this area again for disposal under the BPNLCA, the Forest Service does not want to potentially devalue this property by removing a 240-acre portion at this time.

### 2. Potential Sunriver Resort Option.

The major issue regarding other alternatives considered revolved around whether or not an option exists for OWW2's sewage to be piped to Sunriver Resort, treated at Sunriver's sewage treatment plant, and the effluent stored and disposed of by irrigation of the golf course or adjacent land. As noted in the EA and Response to Comments documents, a Sunriver option is not economically possible. While the initial construction costs may be comparable, it is the high monthly service fees and the uncertainty of future cost increases that are beyond the ability of the OWW2 residents to afford.

This alternative is not economically feasible, and therefore not viable, so it was eliminated from a detailed analysis in the EA. If it had been demonstrated to the Forest Service that Sunriver Resort Limited Partnership (SRLP) could have provided OWW2 with a viable private land option, then the Forest Service's environmental assessment process would have terminated or the No Action alternative would have been selected. No federal lands would be involved.

OWW2 has been involved in discussions with SRLP for two years. OWW2 has always been concerned about the projected costs that Sunriver would require, and has asked SRLP to consider a reduction in the connection fee and limitations on future costs in order to make this financially feasible. Subsequent discussions between OWW2 and SRLP only resulted in

higher cost estimates. The latest information indicates that Sunriver Resort revised their estimated costs and it would now cost OWW2 1.7 million dollars more to utilize the Sunriver facilities than it would to use the selected National Forest parcel.

OWW2 continued to work with Sunriver Resort and discuss if there were any over looked opportunities to make a Sunriver option viable. State and County representatives were also involved, yet efforts to either lower the costs or provide additional public funds were unsuccessful. USDA Rural Utilities Service (RUS), the primary funding agency for the project, supports the Forest Service's conclusion that a Sunriver option is not possible, and has agreed to go forward with RUS funding for OWW2 for acquisition and use of National Forest land. RUS helps fund improvement projects for low-income communities, and they used the Oregon Economic and Community Development Department's benchmark criteria to help determine what fees the low-income OWW2 residents can afford. 1.75% of the monthly gross income is the recommended amount the residents should pay for monthly sewer fees, which is equivalent to \$32.80 per month. A facility that is on OWW2 property and using acquired National Forest lands in Section 25 for effluent disposal would have monthly costs of about \$38 per month, which is within reason, according to RUS. This amount was also approved by the voters with the passage of a recent bond measure. On the other hand, the initial monthly service fee for the sewage to be treated at Sunriver would initially be approximately \$52 per month, well above the benchmark guideline of \$32.80. RUS also supports the conveyance of the Section 25 parcel because monthly fees in the future would tend to remain stable or possibly decrease as more users are added to the system, whereas SRLP would raise their fees in the future. Based on these findings, RUS indicates that they would not be able to support an option that is not affordable to the residents. Consequently, RUS could not provide any funds for a Sunriver alternative based on the estimated costs involved. Without RUS funding, a Sunriver option is even more impossible. This confirms that a Sunriver option is not affordable, and therefore, not a reasonable or viable alternative.

### 3. Comparison with the No Action Alternative.

In short, I did not select the No Action alternative because it would not meet the purpose and need as stated in the EA; it would not remedy the groundwater contamination situation or OWW2's violation with DEQ; and it would adversely affect the residents at OWW2 by not allowing them to pursue an affordable solution to their community's sanitation needs. The current water quality degradation is a documented regulatory and environmental problem. The groundwater contamination problem is a serious issue that needs to be resolved. If it is to be resolved, it will be with the purchase and use of National Forest land.

## ISSUES

A number of issues were identified during scoping and addressed during the environmental analysis process. Comments received during the public comment period for the EA did not reveal any significant new issues or effects that would require additional analysis, and did not provide any factual supporting information that was contrary to the analysis. The issues most pertinent to my decision are described below.

### Groundwater and Surface Water Quality

This is the driving resource issue and the basis of the need for conveyance of the parcel of National Forest land. Comments expressing concern about groundwater effects suggest that many in the public are not fully aware of groundwater contamination problems. They seem unaware that

contamination is presently occurring at OWW2. It is important to understand that this project would improve ground and surface water quality.

The proposal to purchase National Forest land for effluent storage and disposal would allow OWW2 to eliminate their existing sources of surface and groundwater contamination. It would allow OWW2 to abandon their 4-acre irrigation field for a much larger and suitable site that will properly accommodate the wastewater irrigation needs. It would allow the removal of a large number of on-site septic tank and drainfield systems, which produce high concentrations of nitrate and which are currently contaminating groundwater. This will also ensure that contaminated groundwater no longer has the potential to enter the rivers or degrade the values of the Upper Deschutes Wild and Scenic River corridor.

There would be no degradation of groundwater quality due to spray irrigation. This project would help protect and improve the aquifer. Treated effluent would be put to a beneficial use for irrigation of a grass hay crop. Irrigation would be managed so that the rate of irrigation would be less than or equal to the rate of nitrate uptake by the crops. During the winter months, effluent would be contained in lined ponds until it could be used for irrigation during the summer months.

#### Effects on Private Property

Many commenters expressed a perception that the sale of the property for the proposed use would adversely affect other private lands, both close and at a greater distance away. It is common for us to receive "not in my backyard" comments from individuals who would otherwise not be interested in a particular project if it were proposed for another location. Commenters in this case were no exception, as it appeared that people with interests in properties closer to the Vandeventer parcel opposed its sale and use by OWW2, yet seemed to support the selection of the Section 25 parcel, and vice versa. As noted in the Response to Comments, the environmental analysis did not show that there would be any adverse effects to private properties.

Contrary to opinions expressed in many of the comments, it is more likely that the conveyance would have a beneficial effect on nearby private lands, particularly because of the improvement in groundwater quality. A sale would produce a change in ownership and a change from the current management, but there would be no significant adverse effects to the environment or nearby properties. There would be a great beneficial effect of improving groundwater quality and reducing the contamination, which is to everyone's benefit.

Based on comments and concerns from the public, OWW2 volunteered to modify their proposed site plan so that all facilities would be located more in the interior of the parcel. (Refer to the revised site plan). This effort demonstrates that OWW2 is interested in working with neighbors to help alleviate their concerns. This will ensure that facilities are at least 300 feet from major roads and private lands, and further assure that there would be no significant effects to neighboring properties or to traffic on South Century Drive, Big River Drive, or Foster Road.

#### Proposed Facilities

Although the EA explained that the raw sewage and solid matter would continue to be collected and treated on OWW2 property, many commenters apparently think that a "sewage treatment plant" is planned for the acquired National Forest land. All raw sewage and solid material will remain at the facilities on the District's private property, and only treated wastewater will be piped to the new parcel. The facilities proposed are similar to others nearby, including those located in

Sunriver and LaPine. These are facilities that have been operated successfully, and that provide a needed public purpose. The Sunriver facility is located on land that was recently acquired from the Forest Service, and the LaPine facility is on land that was acquired in the 1980's from the Bureau of Land Management.

#### Treatment Levels

Another issue of interest to many of the commenters is the level of treatment that the effluent will receive. In general, the levels of required treatment are based on the intended use and location of use of the effluent. For example, if treated effluent is to be used to irrigate forest land or a grass hay crop, Level I is all that is needed. If the effluent is used to irrigate a golf course, then a higher level is required, as higher levels have fewer restrictions on public access and less restrictive setback requirements. OWW2's proposed facilities, including effluent storage and irrigation, will be under the jurisdiction of DEQ and will meet all regulatory requirements. The environmental analysis has shown that there would be no significant adverse effects from OWW2's intended level of treatment, and that it is appropriate for this location and use. There is no regulatory or environmental need for DEQ to require a higher level of treatment.

#### Odor

Concerns about possible odor are understandable. Most odors, however, are associated with raw sewage and solids, and not with properly treated effluent. As described in the EA, as long as the ponds are operated and maintained to keep them sufficiently aerated, the treated effluent will be odor free. Proper processing allows any organic materials to be converted to biological material and settle out. With the removal of organic material, there would be no odors from the effluent, and irrigation with the treated effluent will not create odors. By locating all facilities at least 300 feet from the parcel boundary and roads, there is further assurance that neighbors or the public would not be affected by odors. It would be more logical to be concerned that existing facilities at OWW2 have a greater potential to produce offensive odors because they do not properly treat, store, or irrigate with the effluent at the current time.

#### Wildlife

Many commenters noted that Section 25 provides habitat for wildlife, especially deer and elk. The environmental analysis shows that there would be no significant adverse effects to any species, and that habitat would actually be improved. Some hiding cover would be lost, but approximately 100 acres of high quality forage would be created by the conversion to an irrigated grass field. Restricted public access and an overall decrease in human activity and potential harassment, in addition to the improved forage conditions, would provide a more desirable site for wildlife and would tend to increase wildlife use.

Section 25 is within a high priority deer migration corridor, as identified by ODFW. Minimal disruption of existing migration routes and displacement of animals are expected from the facilities. Existing migration patterns would continue, as a large portion of the parcel conveyed would remain open or undeveloped. The parcel would continue to provide open space but would have an added benefit of improving forage habitat. Further development of nearby private lands would make Section 25 more critical for migration of deer and elk in the future. The value and integrity of the property as open space and for migration habitat would be maintained or improved. Hunting would not be allowed, which would also make the site more desirable for the animals.

The irrigated grass and storage ponds would improve habitat for other wildlife as well, including waterfowl and birds. This could provide wildlife viewing opportunities to neighboring residents or those traveling through the area on Foster Road. Habitat for a variety of species could improve further with some management of the property. Any perimeter fencing would be to ODFW and County specifications and designed and sited to not interfere with wildlife migration or movement.

#### Visual Quality

The proposed siting of the facilities would exceed all setbacks required by local ordinances or regulations. The scenic resource analysis in the EA has shown that there would be little visual impact from the facilities. Buildings and other structures would be kept to a minimum, as only a small maintenance building is planned. The ponds and irrigated grass fields would change the site to a more agricultural setting but retain its sense of open space and rural landscape. The remainder of the property would remain essentially as it is. OWW2 has offered to use a different type of fencing around the ponds instead of chain link, in an effort to make the facilities more visually appealing yet still meet regulations, even though they would be more than 300 feet from roads or adjacent lands. Landscaping and existing vegetation would be used to further screen and buffer the facilities.

#### Environmental Justice or Social Disparity

Executive Order 12898 directs each federal agency to make achieving Environmental Justice part of its mission by addressing effects of its activities on minority and low-income populations. A presidential memorandum emphasizes the need to consider and disclose these effects during an environmental analysis. The memorandum clarifies that the order is also intended to promote nondiscrimination in federal programs substantially affecting human health and the environment.

The purpose of my decision to sell land to OWW2 is to provide for proper waste disposal facilities for OWW2 residents and to improve water quality by helping to resolve existing groundwater contamination problems. This would help promote and provide for the health and safety of the residents of OWW2, as well as other residents and resources in the vicinity and in the larger Deschutes Basin area. In 1997, USDA Rural Utilities Service identified Oregon Water Wonderland Unit II as being a low-income community. My decision to implement Alternative C would help the community and benefit this low-income population. It allows the needed facilities to be constructed and operated within the budget approved by the voters, and at rates that residents can afford. As described previously, this is supported by USDA Rural Utility Service and is within their ability to fund.

Alternative A, the No Action alternative, would disproportionately and adversely affect this low-income community by denying a viable and affordable solution to their sanitation and environmental needs. Their ability to use their own property would be adversely affected, and the value could decline due to the lack of acceptable sewage disposal facilities.

With no other option available to OWW2, selection of the No Action Alternative would mean that OWW2 would continue to be in violation with DEQ and subject to fines and civil penalties. Sunriver would still not be an option, unless the low-income residents relinquished or sold their property to others who could afford the higher sewer rates that would be imposed by SRLP. In that case, the No Action alternative would also have the adverse effect of driving these low-income residents from their homes and land.

EXHIBIT "A" OF THE BOARD DECISION FOR FILE NO'S. PA-02-5/ZC-02-3, PAGE 8 OF 54

Page 8

### Agency Support for the Project

Both the State of Oregon and Deschutes County encourage the use of reclaimed treated wastewater for beneficial purposes and have rules and regulations to help make the use possible. With competing water uses and increasing demands for groundwater, the ability to reuse wastewater should continue to be encouraged and expanded.

DEQ agrees that the proposed improvements and upgrades to the OWW2 system are imperative to protecting surface water and groundwater in the vicinity. Water quality protection is the underlying purpose for the project. The need to meet DEQ standards is what prompted the need for the project several years ago. DEQ has given OWW2 until November 2003 to remedy their environmental violation. Although DEQ sees the benefit of a regional system for the area and would support OWW2's use of the Sunriver system, they are aware it has not been shown to be feasible. DEQ has expressed their support of Section 25 as the best implementable option. The proposed modifications to the site plan and relocation of ponds and irrigated grass fields have received DEQ's support.

Deschutes County demonstrated its support to OWW2 and for the potential use of National Forest land early in the process in a 1999 Memorandum of Understanding between the Board of County Commissioners and the Deschutes National Forest, related to continued cooperation to implement the goals of the Regional Problem Solving (RPS) Project for Deschutes County. The Memorandum of Understanding (MOU) establishes actions and processes by which the participants are to implement agreed upon solutions to the County's RPS goals and solutions, in accordance with Oregon's RPS statute. The RPS Project required the collaboration of local, state, and federal agencies to identify and resolve significant land use problems. The MOU notes that inadequate sites for individual septic systems in this area have the potential to affect groundwater and surface water and can potentially threaten the Upper Deschutes Wild and Scenic River and State Scenic Waterway. The RPS Project identified a variety of possible solutions for this and other issues.

The County and Forest Service mutually agreed to support the expansion of existing developed sewer systems or installation of new systems to help manage waste collection and disposal in an environmentally acceptable manner in order to protect the quality of the groundwater and the Deschutes River. The County and the RPS Project stakeholders identified OWW2 as a promising candidate to help solve groundwater issues. Furthermore, it was recognized that OWW2 is a suitable candidate to go forward with a proposal for sewer improvement and expansion, but they may need National Forest lands to help accomplish this. A sale of land or issuance of a special use permit are two of the possible methods identified for consideration to enable the use of National Forest land. Deschutes County and the Forest Service agreed to support and assist in efforts to identify suitable National Forest lands for expansion of the OWW2 sewer system, if there are no reasonable alternatives on private land.

OWW2 has spent a great deal of time and effort in pursuing potential private land options, most notably, a Sunriver option. Even with the help of various State agencies and Deschutes County, it could not be demonstrated that a Sunriver option is possible to implement. The costs of going to this privately owned sewer system are well beyond what the low-income OWW2 residents can afford. This has been substantiated by the Rural Utilities Service, based on income and expense guidelines. Sunriver Resort is a for-profit corporation, whose goal of profit making appear to be at odds with providing and affordable solution to OWW2's environmental problems. Neither



136 days in length, and comments continued to be accepted beyond the July 20th date. As a result of these extended scoping efforts, comments from 95 letters, faxes, emails, or personal contacts were received and used to help define issues and guide the environmental analysis.

On November 9, 2001, copies of the Environmental Assessment were sent to those who requested one, or otherwise made available for public review. A Notice of Public Comment Period was mailed to more than 1,200 addresses, published in the Bend Bulletin newspaper, and posted to the website for the Deschutes National Forest. Forty-six individuals, groups, or agencies provided comments, which were categorized and responded to in the Forest Service's Response to Comments documents prepared in April 2002.

### **FINDING OF NO SIGNIFICANT IMPACT**

I have determined that implementing this decision and conveying 480 acres of National Forest land out of federal ownership for the described community need is not a major Federal action that would significantly affect the quality of the human environment; therefore an Environmental Impact Statement will not be prepared. This determination is based on the site-specific environmental analysis documented in the Environmental Assessment and supporting documents which describe direct, indirect, and cumulative impacts of this decision. This determination is also made with consideration of past, present, and reasonably foreseeable future actions on National Forest System land and other ownership's within potentially affected areas that could have a cumulatively significant effect on the quality of the human environment.

I have found the context of the environmental effects of this decision is limited to the local area and is not significant. I have also determined the severity of these impacts is not significant, considering the following ten factors of intensity.

1. The analysis considered both beneficial and adverse effects. (EA Environmental Effects Section IV, pages 14-37).
2. There are no known adverse impacts to public health and safety. There will be a beneficial effect of improving regional water quality and sanitation for the OWW2 community. (EA, Water Resources effects, pages 31-32).
3. There will be no significant adverse impacts to unique characteristics of the geographic area such as proximity to historic or cultural resources, wetlands, wild and scenic rivers, floodplains, prime farm lands, old growth forests, range and forest land, or ecologically critical areas. A restrictive deed covenant will ensure protection of the small wetland area. The decision will help ensure that the features and water quality of the Upper Deschutes Wild and Scenic River are maintained or improved. (EA pages 35-37).
4. The effects of implementation of this decision are not likely to rise to the level of scientific controversy as defined by the Council of Environmental Quality. There has been no scientific dispute or controversy concerning the existing water quality and sanitation problems or the remedy that conveyance of the Section 25 property would help provide. The EA provides factual information to support the decision.
5. Based on previous similar actions in the area the probable effects of this decision on the human environment are well known and do not involve unique or unknown risks. Recent land



The conveyance complies with Executive Orders 11988 and 11990 which address floodplains and wetlands. The parcel is not within a floodplain and does not meet the criteria for Executive Order 11988. The 7-acre wetland area within the parcel would not be affected by the conveyance. A protective covenant will be included in the conveyance deed, and OWW2 has no future plans to develop the wetland and is planning to keep the wetland as a natural area. The existing trespass violation by the neighboring property owner will be resolved by the Forest Service and the area will be restored prior to conveyance of the property.

Irreversible and irretrievable commitments of resources are minimal and do not include impacts to timber production, wildlife habitats, or soil production. The decision is consistent with the interim Inland Native Fish Strategy because conveyance would help improve regional water quality which would have a beneficial effect on aquatic species.

An investigation has been made, and there are no known hazardous waste locations on the parcel.

Other than the protective covenant for the 7-acre wetland site, it has been determined that no other restrictions are needed to protect public resources.

### ADMINISTRATIVE REVIEW AND APPEAL PROCEDURES

This decision is subject to administrative review (appeal) pursuant to 36 CFR 215.7. Any written notice of appeal of this decision must be fully consistent with 36 CFR 215.14 and must include the reasons for the appeal. A written notice of appeal must be filed with the Regional Forester within 45 days of the date legal notice of this decision appears in The Bulletin newspaper (Bend, Oregon). File a notice of appeal with:

Linda Goodman, Acting Regional Forester  
 ATTN: Appeals  
 USDA Forest Service, Pacific Northwest Region  
 P.O. Box 3623  
 Portland, Oregon 97208-3623

Further information about this decision can be obtained from Alice Doremus at the Deschutes National Forest Headquarters, 1645 Highway 20 East, Bend, OR 97701, telephone 541-383-5580.

### IMPLEMENTATION

If no appeal is received, implementation of this decision may occur on, but not before, 5 business days following the close of the appeal filing period. If an appeal is received, implementation may not occur for 15 days following the date of appeal disposition.

/s/ Leslie A. C. Weldon

LESLIE A. C. WELDON  
 Forest Supervisor  
 Deschutes National Forest

June 17, 2002

Date

USDA Forest Service  
Deschutes National Forest, Bend-Fort Rock Ranger District  
Deschutes County, Oregon

**OREGON WATER WONDERLAND UNIT II SANITARY DISTRICT  
TOWNSITE ACT APPLICATION**

**ENVIRONMENTAL ASSESSMENT**

INTRODUCTION

This Environmental Assessment (EA) evaluates an application submitted by the Oregon Water Wonderland Unit II Sanitary District to purchase National Forest System lands for treated wastewater storage and irrigation facilities. The application was submitted under authority of the National Forest Townsite Act of July 31, 1958. This EA analyzes the issues and effects associated with a sale of land by the USDA Forest Service to Oregon Water Wonderland Unit II Sanitary District (District).

Oregon Water Wonderland Unit II (OWW2) is a 1000-lot rural community in southern Deschutes County, established in 1975. The District is authorized by Deschutes County and the State of Oregon, and provides and manages sewer facilities for the community. County and state land use and environmental rules and regulations have changed since the community was originally platted and approved, and what was approved for sewage and effluent facilities in the early 1970's is not acceptable today.

OWW2 is located between the Deschutes and Little Deschutes Rivers, in an area with very high groundwater (depths of 2 feet or less). In addition to being sited in a high groundwater area, existing facilities are aging and failing, and the wastewater disposal site is inadequate. All of these factors are contributing to water quality degradation of the groundwater and possibly of the nearby rivers. The District is currently in non-compliance with the Oregon Department of Environmental Quality (DEQ) regulations for wastewater storage and disposal. Acquisition of a new, larger, and suitable area for wastewater storage and disposal, in conjunction with rebuilding and expanding the sewer infrastructure at OWW2, will resolve the situation and help improve regional water quality in southern Deschutes County.

A proposed sale would involve either 240 or 520 acres of National Forest land to be purchased by the District for a treated wastewater storage and disposal site. The sewage treatment plant would remain on District property; only the treated wastewater (effluent) would be stored and disposed on the proposed site.

This EA is composed of five Sections: I) Purpose and Need for Action, II) Description of Alternatives, III) Description of the Proposed Use, IV) Environmental Effects, and V) List of Preparers and Consultation with Others. The project file is located at the Bend-Fort Rock Ranger District Office.

**SECTION I. PURPOSE AND NEED FOR ACTION**

This Section contains eight parts: Proposed Action; Purpose and Need for Action; History and Background Information; Decision to be Made; Additional Reviews, Permits, and Authorities; Scoping Process Used; Identification of Issues; and Items Incorporated by Reference.

PROPOSED ACTION

In response to the District's Townsite Act application, the Forest Service is proposing to sell 240 acres of National Forest land to Oregon Water Wonderland Unit II Sanitary District to help them meet the community's wastewater disposal needs and to help improve groundwater quality. The District would use the site for wastewater storage and an irrigation area to sprinkler irrigate and reuse the treated effluent. Access roads and ancillary facilities would be included. There would be a buffer area between the facilities and adjoining lands.

The land applied for under the Townsite Act is only for storage and disposal of the treated effluent. The raw sewage and solid material would continue to be treated on the District property.

The parcel of National Forest land being considered as the Proposed Action (Alternative B) is located approximately 16 miles south of Bend and 2 miles south of Sunriver, Oregon, in Sections 16 and 17, T. 20 S., R. 11 E., W.M. Vandevent Road is on the southern boundary, and the Burlington Northern Railroad forms the eastern boundary. There is National Forest land on the west and north sides with a portion of the northwest corner adjoining undeveloped private land. (Refer to Area Map).

### PURPOSE AND NEED FOR ACTION

The primary purpose and need for the land sale is to provide a viable means for OWW2 to resolve their wastewater storage and disposal situation and their environmental violation with DEQ. The District has a need to implement a feasible and economic solution to continue to serve the community, meet environmental regulations and requirements of DEQ, and help protect the groundwater quality in southern Deschutes County. In order to accomplish this, the District has an urgent need to acquire adequate property for storage and disposal of treated wastewater.

In the LaPine Basin in southern Deschutes County, contamination of groundwater and surface water from septic tanks and drainfields is a widespread and serious concern. In December 1998, Deschutes County Commissioners signed Ordinance No. 98-085 recognizing that groundwater quality is diminishing due to the cumulative impact from existing on-site septic systems in areas of high groundwater tables and rapidly draining soils. The Commissioners declared this an emergency and signed the ordinance for the immediate preservation of public peace, health, and safety. As with other communities in the area, high groundwater, unfavorable soil conditions, and close proximity to the Deschutes and Little Deschutes Rivers are major factors in the inability of the existing wastewater disposal site at OWW2 to accommodate the wastewater. The existing wastewater storage facilities do not have enough capacity, and the irrigation area is too small and inadequate. Treated effluent is currently being applied at a rate much greater than what is allowed because there is not enough land to accommodate irrigation at the proper agronomic rates. In addition, the existing sewer and septic systems are leaking and failing. The current system was approved, designed, and constructed 30 years ago and is not able to meet today's needs for the community or for protection of the environment.

The Oregon State Legislature recognized the severity of this type of problem in southern Deschutes County when it authorized a Regional Problem Solving (RPS) Project for that area, and assigned the Oregon Department of Land Conservation and Development to administer the program. The RPS Project is aware that inadequate sites for individual septic systems are likely to result in polluted groundwater, and that there is a need to find a proactive solution. Deschutes County and the RPS Project identified OWW2 as a promising candidate to help solve groundwater issues, and recognized that they may need National Forest land to go forward with sewer improvement and expansion.

The Forest Service recognizes the local public need for a solution to the OWW2 community's wastewater problem. The Forest Service also recognizes the broader regional public need to reduce groundwater contamination, improve water quality, and protect the long-term health of the watershed. The Forest Service has a need and responsibility under the Townsite Act to respond to the District's proposal.

### HISTORY AND BACKGROUND INFORMATION

When Oregon Water Wonderland Unit II was originally platted and approved by Deschutes County in the early 1970's, only about one-fourth of the lots were planned to be served by a sewer collection and treatment system, and the remainder were to have standard on-site septic tanks and drainfields. County and state environmental rules and regulations have changed since that time, and what was approved then would not be acceptable today. OWW2 has been taking steps to resolve their wastewater storage and disposal situation for the past several years. The existing sewage treatment facilities are all currently located on District property and within the OWW2 boundary. The District plans to upgrade and repair their existing on-site sewage treatment facilities but needs additional area for a wastewater disposal site. Currently the total area for all their facilities is 11 acres, with just 4 acres available for irrigation and disposal of the treated wastewater.

The District and the Forest Service have been working with Deschutes County to help OWW2 resolve their situation. The county has long recognized that there is a serious water quality problem in many areas of southern Deschutes County. The county has recognized that OWW2's situation could be resolved by acquiring National Forest land, and has entered into separate Memorandums of Understanding (MOU's) with both OWW2 and the Forest Service to demonstrate their support for OWW2's efforts.

High groundwater and adjacent rivers severely limit on-site disposal of treated wastewater. OWW2 has been working with the Forest Service for more than three years to explore options for potentially suitable sites to help resolve their situation. Research indicates that there are no suitable and feasible private land options available, but that the identified National Forest land is well suited to meet their needs. As a result, the District applied under the authority of the Townsite Act to purchase 240 acres of nearby National Forest land to be used for wastewater facilities. The application was submitted September 22, 2000, and accepted by the Regional Forester on October 31, 2000 for further evaluation. The Townsite Act of 1958 gives the Forest Service the authority to sell land to a community for the purpose of meeting essential community needs and objectives. The land would be sold at fair market value as determined by a real estate appraisal. Funds received from a Townsite Act land sale go to the national treasury.

On November 22, 2000, President Clinton signed into law the Bend Pine Nursery Land Conveyance Act (BPNLCA), which provides a new legal authority for the Forest Service to sell this specific parcel of land, as well as others identified in the legislation. The intent of the BPNLCA is to convey certain properties out of federal ownership and retain the proceeds of the sale of these lands for purchasing local Forest Service administrative facilities. Late in 1999, while the BPNLCA was being drafted, the Deschutes National Forest offered to include several scattered parcels of land in the proposed legislation that were identified as having lost their National Forest character or that were difficult to manage. "Tract C", which includes the OWW2 proposed site, was among those added to the legislation. (Refer to Area Map). The intent was to provide a potentially more efficient and timely process for land disposal and conveyance to OWW2, which would in turn help improve water quality in a more timely manner. The Deschutes National Forest would also benefit, because unlike a Townsite Act sale, funds from a BPNLCA sale would be retained for use locally. When the legislative process was prolonged, OWW2 could not wait indefinitely to proceed under a future BPNLCA legislation, and needed to take action to resolve their environmental violation. With the support of Senator Ron Wyden's office in July 2000, the District began the process to submit a Townsite Act application. The Forest Service and DEQ shared the concern that further delay would contribute to increased contamination of the groundwater and possibly of the Little Deschutes River and of the Deschutes River, which is a designated wild and scenic river. Furthermore, legislative and administrative delays could cause OWW2 to forfeit a portion of their grants and loans for this project. OWW2 could also be liable for fines and penalties from their environmental violations.

In recent years, similar proposals for conveyance of National Forest lands to meet similar needs for central Oregon communities have been submitted, analyzed, and approved by the Forest Service. In each of these cases, the communities also had a need to expand or improve their waste facilities to prevent future contamination of water resources and to stay in compliance with state regulations. In each case, the Forest Service gave high priority to completing the environmental and administrative processes to respond to those community and environmental needs. In each case, county and state agencies also supported the process and conveyance. These similar projects include:

1997: The Deschutes National Forest approved a proposal by Sunriver Resort to use approximately 150 acres of nearby National Forest land under a Special Use Permit for construction of a wastewater storage pond and disposal site.

1999: The Forest Service finalized a sale of 160 acres of National Forest lands to the City of Sisters for a sewage treatment plant and related facilities, under the Townsite Act authority.

EXHIBIT "A" OF THE BOARD DECISION FOR FILE NO'S. PA-02-5/ZC-02-3, PAGE 16 OF 54

2000: The Deschutes National Forest finalized a land exchange that gave Sunriver Resort ownership of 375 acres (including the Special Use Permit area) of National Forest land for continued use and expansion of their wastewater treatment facilities and future use for biosolids disposal.

### DECISION TO BE MADE

The decision to be made by the Director of Recreation, Lands, and Minerals for the Pacific Northwest Region, is whether or not to sell the 240-acre parcel applied for under the Townsite Act to the Oregon Water Wonderland Unit II Sanitary District. Other reasonable and feasible federal land options which meet the purpose and need for the project may be considered and selected. The decision will include a public interest determination of whether the community needs and public benefits of selling the land to the District for the proposed use outweigh the public benefits of retaining the land in federal ownership as part of the National Forest System. Any decision to sell property to the District would include whether it is sold using the Townsite Act or BPNLCA authority. A decision may also include an option to issue a short-term, temporary Special Use Permit to allow site preparation and initial phases of construction to begin prior to a deed being issued and a sale consummated. The decision, documented in a Decision Notice, will be based on the findings in this Environmental Assessment and will consider public comments.

### ADDITIONAL REVIEWS, PERMITS, AND AUTHORITIES

The sale of National Forest land would require an appraisal to determine market value, and would be substantiated by a formal appraisal report. The appraisal report would be reviewed and approved for agency use, in conformance with agency and federal appraisal standards and the Uniform Appraisal Standards for Federal Land Acquisition requirements.

The Pacific Northwest Regional Office and the Washington D.C. Office of the Forest Service will review the proposed sale and verify that it complies with Forest Service policy and technical standards prior to the Decision Notice being issued.

Both the State of Oregon and Deschutes County encourage the use of reclaimed wastewater for beneficial purposes and have rules, regulations, and guidelines to help make the use possible. The OWW2 District would be required to follow established local land use procedures and processes to obtain any necessary approvals for siting the planned facilities. OWW2's proposal appears to be consistent with Deschutes County policy and the intent of the Regional Problem Solving Project for improving groundwater quality. Once the property is no longer in federal ownership, county zoning codes under the Deschutes Comprehensive Land Use Plan would apply. The District currently operates their existing facilities under permits and regulations from DEQ and Deschutes County and would continue to do so with new facilities.

Treated effluent is regulated by the State of Oregon under Oregon Administrative Rules (OAR) Chapter 340. DEQ administers the rules and requirements for groundwater protection and ensures that reclaimed water will not be used or applied in a manner that causes contaminants to leach in the groundwater or affect groundwater quality. No reclaimed water may be discharged or released without a Water Pollution Control Facilities permit or a wastewater discharge permit. The State of Oregon is also responsible for authorizing the operation and maintenance of wastewater facilities. Rules and regulations by DEQ have numerous stringent requirements, including monitoring and reporting, to ensure protection of the environment.

### SCOPING PROCESS USED

A "Notice of Public Scoping" was mailed to more than 1,000 addresses on March 7, 2001. These included addresses in Oregon Water Wonderland Unit II, addresses near the proposed site, known interested parties, and others on existing Forest Service mailing lists. The scoping notice presented a brief description of the proposal in order to give the public an opportunity to help identify issues to consider and address in the environmental analysis. News articles about the project were published in The Bulletin and the Sunriver Scene newspapers. The proposal has been listed in the Schedule of Projects published by the Deschutes and Ochoco National Forests and Prineville District BLM.

EXHIBIT "A" OF THE BOARD DECISION FOR FILE NO'S. PA-02-5/ZC-02-3, PAGE 17 OF 54

Based on scoping comments, it was determined that the environmental analysis should also evaluate another National Forest parcel in nearby Section 25 as an alternate site. The Section 25 parcel is located approximately 2 miles southwest of the Vandeventer parcel. On June 4, 2001, a Supplemental Scoping letter was mailed to about 230 addresses within ¼ mile of Section 25 to inform them that this parcel may be considered as an alternative, and to provide these residents an additional opportunity to comment. The Forest decided to extend the comment period until July 20, 2001 in conjunction with scoping efforts occurring concurrently with the proposed sale of the Bend Pine Nursery property in Bend. The total scoping period was 136 days in length, and comments continued to be accepted beyond the July 20th date.

As a result of the extended scoping efforts, comments from 95 letters, faxes, emails, or personal contacts were received. The issues are summarized below, and a summary of the public comments is included in the project file. In general, the comments reflected that residents and landowners within several miles of the proposed sites are concerned about perceived effects that the project could have on their property or their quality of life. Most comments and issues reflected the desire to have the project located somewhere else, farther away from their property. Many people appeared to be expressing initial concerns based on fears and perceptions of what the facilities would be like instead of concerns based on facts about the facilities or the environment. This was due in part to the lack of detailed information provided in the scoping letters and incorrect or misleading information being circulated from other sources in the local area.

### IDENTIFICATION OF ISSUES

The Interdisciplinary Team developed a list of issues from the comments that were received. Issues either considered important to help guide the analysis or for general information and clarification are summarized below. This list reflects the issues identified from public scoping efforts and specialists' input, and is in relative order based on the numbers of comments received.

#### Effects on Private Property

- What would be the effects on private property in the area?
- How far away could effects be noticed?
- Could this affect homes or property in the area?
- Will there be buffer areas around the facilities?

#### Purpose and Need for the Project

- Why does OWW2 need the project?
- What is the purpose of the facilities?
- How would this fit with needs identified in the Regional Problem Solving Project?

#### Other Alternatives Considered

- What other sites or options were considered?
- Would Section 25 of Tract C from the BPNLCA be a viable alternative?
- Could Sunriver Resort treat the OWW2 wastewater at their facility as another option?
- Could OWW2 purchase all of the National Forest lands in Tract C around the proposed site (approximately 920 acres) instead of just 240 acres, to provide a larger buffer area?

#### Groundwater and Surface Water Quality

- What would be the effects on groundwater quality?
- What would be the effects on the water quality of the Deschutes and Little Deschutes Rivers?
- Are existing OWW2 facilities affecting groundwater or surface water quality at the present time?
- What are DEQ's concerns?
- Could domestic wells become contaminated because of the proposed use of the site?

#### Proposed Facilities

- What are the proposed facilities and what will they do?
- Where will the raw sewage be treated?

#### Treatment Levels/Facility Design

- What is the required level of treatment, and how is that determined?
- Should OWW2 be required to treat to a higher level?
- What monitoring, mitigation, and safeguards will there be?
- How will the effluent be transported to the site?
- What facilities will remain at the existing OWW2 property?
- Are there other similar types of facilities in existence, and how do those compare?

#### NEPA and Siting Processes

- What was the Scoping process, and how were people contacted?
- What decisions will be made?
- What state and county permits or approvals would be needed?

#### Wildlife

- What would be the effect on deer and elk?
- How would this affect big game migration and the migration corridor?
- What are the effects on non-game species of wildlife?
- Would this project improve habitat for wildlife?
- Can wildlife use the area after the facilities are in place?

#### Odor

- Would there be odors?
- What safeguards are there to minimize the potential for odors?

#### Visual Quality

- What will the site and facilities look like?
- Would the facilities be seen from a distance?
- How much of the existing forest landscape will be retained?

#### Other Environmental Benefits Or Effects

- What would be the effects on recreation use?
- Would public access be allowed?
- Would this increase the risk of wildfire?

#### Environmental Justice or Social Disparity

- If nearby affluent communities or resorts object, would the sale and proposed use be denied?
- How do regulations and policy for Environmental Justice apply to the analysis and decision?

#### Authority

- Under what legal authority can the Forest Service sell the property?
- What is the Townsite Act, and how is it applied in this situation?
- What is the BPNLCA, and what is its relationship to this proposal?
- Will approval of this set precedence, or have similar projects been approved before?
- Would denial of the Townsite Act application set precedence?

#### Future Use

- Will there be any other uses allowed at the site of the facilities?
- Would any other housing developments use the OWW2 facilities?
- If OWW2 does not acquire the property, will the Forest Service sell it later to someone else under the BPNLCA?
- If the parcel is not sold to OWW2, what would it be used for instead?

#### Isolated Or Unmanageable Parcel

- What is meant by unmanageable or that the National Forest character has been lost?
- What makes the parcel difficult to manage?
- How would the NFS land be managed if it stayed in federal ownership?

#### Site Location And Requirements

- Why was the proposed site selected?
- How would the property be zoned by Deschutes County once it is in private ownership?

#### Agency Support For The Project

- What support is there from other agencies?

#### History and Background

- What are OWW2's needs, and how did these lead to the proposal to the Forest Service?
- Why is this project important at this particular time?

#### Loss of Federal Lands

- Is this sale of National Forest land in the public interest?
- What are the effects of the loss of these lands?
- Would these parcels be sold anyway to another party, if not to OWW2?

#### ITEMS INCORPORATED BY REFERENCE

This Environmental Assessment incorporates by reference the standards, guidelines, and monitoring requirements of the 1990 Deschutes National Forest Land and Resource Management Plan (LRMP), including applicable amendments. The EA also incorporates three environmental assessments prepared by the Forest Service for similar proposals by Sunriver Resort (Special Use Permit and Land Exchange) and the City of Sisters (Townsite Act Sale). Specialists' reports used in the preparation of this EA are included in the project file, located at the Bend-Fort Rock Ranger District office.

## SECTION II. DESCRIPTION OF ALTERNATIVES

This section provides a description of alternatives that are reasonable, viable, within the scope of this analysis, and respond to the "Purpose and Need". Forest Service managers and specialists considered the purpose and need for action, management and administrative issues, and public comments, in developing alternatives. Federal lands which could be conveyed by the Forest Service and used by Oregon Water Wonderland Unit II are being considered in detail. Three alternatives analyzed in this Environmental Assessment are:

- Alternative A, the No Action Alternative,
- Alternative B, the Proposed Action (Vandevert Parcel)
- Alternative C, the Section 25 Parcel

A brief discussion of alternatives considered but eliminated from detailed study is also included.

### ALTERNATIVE A – "NO ACTION" ALTERNATIVE

Under this alternative, there would be no sale of National Forest land to the OWW2 District for a wastewater facility. The Deschutes National Forest would continue to manage the land in accordance with the current management allocation under the direction of the 1990 Land and Resource Management Plan, at least for the very short-term. However, the land is planned to be evaluated for sale under the authority of the BPNLCA and would likely be sold in the near future to another private party. The No Action Alternative would not meet the Purpose and Need, but is described as a basis for comparison with Alternatives B and C.

### ALTERNATIVE B - PROPOSED ACTION (VANDEVERT PARCEL)

With this alternative, the 240 acres of National Forest land identified in the Townsite Act application would be sold to the OWW2 Sanitary District. The District would use the property for wastewater facilities in conjunction with improvements to sewage treatment facilities located on District land. All uses would need to conform to state and local rules, regulations, and zoning. Treated effluent would be piped from the sewage treatment facilities to the Vandevert parcel within existing public rights-of-way along roads and across the Little Deschutes River. The pipeline will be encased and constructed to standards to minimize risk of a break.

The effluent would be treated to the State of Oregon's Level II standards as defined by Oregon Administrative Rules. Lined storage ponds would have the capacity to store at least six months of effluent outside of the growing season.

The following features are proposed by OWW2 for the Vandevert parcel, and are being used as the basis of the analysis (Refer to Alternative B Map):

- Parcel size is 240 acres
- Irrigation system would be a center pivot sprinkler system with a 90-acre circle irrigation area
- Grass hay crop would be irrigated with the reclaimed treated wastewater during the growing season, May through October
- Hay would be harvested and sold for livestock feed
- Treated wastewater would be stored in three ponds, each approximately 3-6 acres in size. Total pond surface area would be about 15 acres
- Small building would house maintenance operations and storage
- Chain link fence would be around the ponds and maintenance building
- Treated effluent would be piped approximately 2½ miles from the OWW2 property to the Vandevert parcel
- Access from Vandevert Road would be at the site of the existing access road
- 40-acre buffer area in the northwest portion of the parcel would remain as forest landscape, with existing forest vegetation retained
- Perimeter fencing would consist of 3-strand smooth wire fencing
- Facilities would be at least 300 feet away from Vandevert Road
- Undisturbed sites not used for facilities would be retained in a forest landscape (approximately 130 acres)

### ALTERNATIVE C – SECTION 25 PARCEL

Under this alternative, 520 acres of National Forest land within Section 25 would be sold to OWW2 for siting wastewater facilities. This location was originally suggested by OWW2, but after preliminary discussions with the Forest Service it was not proposed in the Townsite Act application. It appeared that at least a portion of this parcel had high groundwater, and the Vandever parcel appeared better suited in terms of depth to groundwater. In response to issues raised by the public during Scoping, this site is now being considered. Preliminary soils information determined that Section 25 would be a feasible option. The entire 520-acre block is being considered, because it would not be administratively desirable or manageable for the Forest Service to retain any smaller portions of this already isolated tract.

As with the Vandever parcel, the District would use the property for wastewater facilities in conjunction with improvements to treatment facilities located on District land. All uses would need to conform to state and local rules, regulations, and zoning. Facilities would be similar to those proposed for the Vandever parcel and the use would essentially be the same, except that facilities would be arranged and sited to best fit this parcel.

Treated effluent would be piped from the sewage treatment facilities at OWW2 to Section 25 within the existing public right-of-way along South Century Drive. It would cross under the road, but would not need to cross any water bodies. The effluent would be treated to the State of Oregon's Level II standards, as defined by Oregon Administrative Rules. Lined storage ponds would have the capacity to store at least six months of effluent outside of the growing season.

The following features are proposed by OWW2 for the Section 25 parcel, and are being used as the basis of the analysis (Refer to Alternative C Map):

- Parcel size is 520 acres
- Forest Service would sell the entire parcel to avoid creating a more fragmented isolated tract
- Wetland area (7 acres) in the northwest portion of the property would not be used for facilities
- Facilities would be sited west of Foster Road, based on soils and groundwater information
- Two circle pivot sprinkler irrigation systems would irrigate an area about 95 acres in size
- Grass hay crop would be irrigated with the reclaimed wastewater during the irrigation season, May through October
- Hay will be harvested and sold for livestock feed
- There would be 2 storage ponds, (one 10 acres, and one 5 acres in size). The total pond area would be approximately 15 acres
- Small building would house maintenance operations and storage
- Chain link fence would be around the ponds and maintenance building
- Treated effluent would be piped approximately ¼ mile from the OWW2 property to the Section 25 parcel
- Perimeter fence will consist of 3-strand smooth wire fencing
- Ponds and irrigated fields would be set back 300 feet from South Century Drive and 200 feet from Foster Road.
- Foster Road would continue to be used by the public
- Undisturbed sites not used for facilities would be retained in a forest landscape (approximately 405 acres)

Under either Alternative B or Alternative C, the OWW2 community would be able to have a properly designed sewage collection and treatment facility to serve all lots. This would allow them to be in compliance with all environmental rules and regulations for waste disposal. Under either alternative, the following scenario would occur:

- Sewage treatment and collection facilities would be reconstructed at the current OWW2 location
- The aging and failing treatment plant would be decommissioned and removed
- New effluent storage and irrigation facilities would be constructed on the acquired National Forest parcel
- 200 residences now on the existing sewer system would be connected to the new system
- 70 vacant lots within the area served by the existing sewer would be added to the system when homes are constructed

- 275 homes with failing on-site septic systems or systems on lots in high groundwater would be connected to the new system, abandoning these problem systems
- 50 homes with adequate working on-site sand filter systems would be added within 10 years
- 75 vacant lots in areas of high groundwater could be approved for home construction and would be connected at the time of construction
- 330 vacant lots remaining can be built on over time, allowing the community to build out all legal and approved lots
- Build out and connection of all lots would be expected to occur by 2020

#### ALTERNATIVES CONSIDERED BUT ELIMINATED FROM DETAILED STUDY

As part of the Townsite Act process, the applicant must show that there are no equally suitable private or public lands available to meet their needs. OWW2 had investigated and researched possible options for wastewater storage and disposal sites prior to submitting an application to the Forest Service. The following is a list of options that have been considered:

1. Property within the OWW2 Sanitary District boundary-- No additional land is available; no other land has suitable soils and depth to groundwater; existing treatment area is too small for expansion and has high groundwater.
2. Quail Run Golf Course (6 miles south)-- Would require a pipeline at least 6 miles in length; the size of the ponds would be too large for the golf course to accommodate.
3. Crosswater Golf Course (1 ¼ miles north)-- Not interested in storing and utilizing the effluent for irrigation.
4. Thousand Trails (adjacent to the southeast portion of OWW2)-- Not interested in selling the area that has potentially suitable soils; size of acreage may not be adequate.
5. Vandevent Ranch (¼ mile east of OWW2)-- Does not have any interest in encumbering their land; they cannot sell land.
6. Mildred West Trust Land (adjacent to the north end of OWW2)-- Owners declined to become involved.
7. Donald Harris Land (adjacent to the southwest portion of OWW2)-- Owners declined to become involved.
8. 40 acres of National Forest land within the OWW2 development-- This is designated as part of the Upper Deschutes Wild and Scenic River; has high groundwater.
9. Exchange for National Forest land instead of purchase-- OWW2 has no property to exchange; financial ability to acquire land for trade is very limited; early discussions with Deschutes County did not identify parcels owned by the county or that the county could acquire that could be considered for an exchange; a land exchange tends to take longer time to process and would delay resolving groundwater contamination issues and environmental violations with DEQ.
10. Sell all the National Forest land (920 acres) identified in Tract C that lies north and south of Vandevent Road and use the extra land as a buffer area-- OWW2 would not have the financial capability nor the need to purchase the entire parcel; a buffer area of that size would not be needed.
11. Pipe all the raw sewage from OWW2 to Sunriver Resort-- All sewage and effluent would be transported approximately 4½ miles by pipeline, possibly along a similar route as proposed in Alternative B, and would involve crossing the Little Deschutes River. The sewage would be treated at the existing sewage treatment plant in the Sunriver community, and the treated effluent would be disposed of by irrigation of the Sunriver golf courses or adjacent land. This potential option had been proposed in July 2000, and has been discussed between OWW2 and Sunriver Resort since that time. Several state and county agencies became more actively involved in the discussions in August 2001, as they thought this could be a favorable option. While technically feasible, it does not appear to be economically feasible or viable for either OWW2 or Sunriver Resort. OWW2 has a fixed and limited budget available to them, based on a voter approved bond measure, projected grants and loans, and commitments made to the residents. State and county agencies evaluated public funding sources, but could not provide additional funds or support to make this economically possible. Much higher initial costs, monthly rates, and potential future costs would be needed in order to fund a Sunriver option. These increased costs would be too great and would be an adverse impact on the low-income OWW2 community. If this had been a viable option, OWW2 would not need the Forest Service property and would withdraw their Townsite Act application.

### SECTION III. DESCRIPTION OF THE PROPOSED USE

This section describes the proposed use and includes information about sewage treatment plants and processes in order to provide the public an accurate depiction of what is involved to better understand OWW2's proposal. The purpose of this EA, however, is not to analyze the engineering or technical details of the proposed facility or its intended use, as that is beyond the scope of this analysis. Other regulatory agencies, such as DEQ, have the responsibility and jurisdiction to review and regulate the siting and operation of the facility.

Under the authority of the Townsite Act, the Forest Service must determine that the public benefits from the sale of land outweigh the public benefits of retaining the land in National Forest ownership. In order to identify the benefits, the Forest Service needs to consider the intended use and evaluate the benefits and environmental effects.

The proposed use is the same for either of the two parcels of National Forest land being considered. The layout of the facilities would differ in order to best suit the parcel, but the overall improvements, system, and operation would be the same.

#### OVERVIEW OF THE SEWAGE TREATMENT PROCESS

"Sewage" is the water-borne wastes of a house or community and consists of both solid and liquid material. It is transported by pipe to either a septic tank, for on-site treatment for a home, or to a central sewage treatment plant serving a community. The sewage treatment process is a natural process of cleaning and recycling water, and it is an essential requirement for all communities and households.

**SOLIDS AND SLUDGE**— At the sewage treatment plant, the incoming raw sewage is passed through a series of screens to remove solid objects, such as pieces of wood and plastic, for preliminary treatment. The collected debris is disposed of in a landfill. The sewage then travels through a grit removal system, which allows grit, sand, and smaller solid material to settle out. The remaining sewage flow continues on to sedimentation tanks or ponds which allow the organic solids, or sludge, to settle out. The sludge is pumped into digesters where it is organically decomposed by natural bacteria. The digested sludge may be dehydrated and transported off-site for use as a soil conditioner or fertilizer, as it is rich in organic matter. Sludge often has strong odors. Removing the solid materials finishes the "primary" treatment. The clarified wastewater, or effluent, continues on for further treatment.

**WASTEWATER**— With the solid organic and inorganic material removed, the wastewater or "effluent" next goes to aeration ponds for "secondary" treatment. This is the biological treatment process that uses oxygen and microorganisms to remove dissolved organic matter from the wastewater. Aeration is part of the natural process where microorganisms consume organic matter as their food source and break down the organic content. (Under anaerobic conditions, however, such as those occurring in septic tanks or without oxygen, breakdown of the organic matter is slow, odorous, and incomplete.) The oxygenated wastewater then moves on to another pond for further aeration and microbial action.

"Tertiary" treatment involves the last stage of the process where the effluent is polished by passing through a series of very fine filters. It is also chlorinated for disinfection. Chlorination kills the microorganisms as the final treatment. Treatment systems may add a chlorine-neutralizing chemical to the treated wastewater. The treated effluent is then ready for disposal or reuse.

Unlike anaerobic on-site septic systems, this effluent is very low in nitrates because of the aerobic biological process. In many parts of the country, as well as within the state of Oregon, treated effluent is disposed of by discharging into rivers or waterways. Using reclaimed water for beneficial uses is becoming more popular, particularly as existing treatment facilities are upgraded or new ones are being constructed. Permitted uses of the wastewater depend on the level of treatment of the effluent. Common uses include irrigation of crops, greenhouses, or golf courses. The type of use determines what the required treatment level is for the wastewater. Oregon DEQ Division 54 rules govern land application of treated wastewater in Oregon.

**SEPTIC SYSTEMS**-- Most homes with on-site systems have septic tanks and drainfields. In this process, the sewage flows from the house to an underground tank where solids settle out and are treated under anaerobic conditions. The liquid waste flows into an underground drainfield and is disposed of by seeping into the ground. To be effective, septic systems must be properly sited in suitable soil and adequate groundwater conditions. The wastewater that is discharged from these systems is high in nitrates and odorous.

### WATER TREATMENT LEVELS

Reclaimed water treatment levels (I-IV) are different from the levels of sewage treatment (primary, secondary, and tertiary) described above. Treatment, monitoring requirements, and allowable beneficial uses of treated effluent are based on levels of quality of the reclaimed water, as described in Oregon Administrative Rules for DEQ (OAR 340-55-015). These quality levels are Level I, II, III, and IV, with Level I having the least amount of treatment and the least amount of allowable uses.

Properly treated wastewater does not have objectionable odors. As long as the wastewater is treated in a manner that ensures aerobic bacteria are allowed to thrive, any organic materials will be converted and the resulting treated effluent is clear and odor free. The potential for odors exists when the aerobic system is allowed to become oxygen deficient. Ponds are mechanically aerated to assure that aerobic conditions are maintained. Sampling, monitoring, and DEQ oversight ensure that facilities are properly maintained and operated.

### EXISTING TREATMENT FACILITIES AT OWW2

Presently, the District treats the community's sewage entirely on the OWW2 property using a process similar to that described above. However, the capacity of the ponds and irrigation facilities for wastewater treatment and disposal is too small and inadequate. This is compounded by the fact that there is very shallow groundwater in that area, so the ground may already be saturated and cannot absorb and filter additional water. As a result, the treatment is not acceptable to meet today's environmental rules and regulations and is in violation of DEQ regulations. During disposal, the wastewater is used to irrigate a 4-acre lawn, but is being applied at rates much greater than what the grass can utilize. As a result, not all the nitrates may be taken up. The ponds are too small to adequately store the wastewater outside of the growing season. The District is planning to reconstruct and upgrade the sewage treatment facilities at their existing location on the OWW2 property. However, there is not enough land available to accommodate improved and expanded wastewater facilities or to allow them to function properly.

### PLANNED FACILITIES

The existing sewage treatment plant is at capacity and handles the sewage for approximately 20% of the community, or 200 homes. In conjunction with the new wastewater facilities on the land to be acquired from the Forest Service, the existing facilities at OWW2 would be upgraded and rebuilt to serve these existing homes, plus the homes that are currently on septic systems as well as the lots that cannot receive approval for construction because of high groundwater. It will provide sufficient capacity for build-out of the remaining approved lots. Solid waste matter would continue to be treated on the OWW2 property and only the treated wastewater would go to the newly acquired site for final treatment, storage, and irrigation.

### SIMILAR FACILITIES IN CENTRAL OREGON

**LAPINE COMMUNITY**-- In the 1980's the community of LaPine purchased approximately 200 acres from the Bureau of Land Management under the authority of the June 14, 1926 Recreation and Public Purposes Act and developed the site for effluent storage ponds and irrigation. This facility is comparable to what OWW2 proposes, as it irrigates a hay crop and uses a center pivot sprinkler system, and treats to a similar level. The closest residences are approximately ½ mile away.

**CITY OF SISTERS**-- In 1999, the city of Sisters purchased 160 acres of National Forest land under the Townsite Act authority for construction and operation of sewage treatment and wastewater facilities. This is a new system, which will eliminate individual on-site septic systems and allow for community growth of residential and commercial areas. This case differs from OWW2 in that the Sisters' system serves commercial

businesses, and all sewage treatment facilities will be on the acquired National Forest property, while only the effluent system would be on the land acquired by OWW2. The Sisters facilities may be as close as 100 feet from neighboring residences. The effluent will be used to irrigate forest vegetation. This facility also treats the effluent to a level similar to that proposed by OWW2. The main sewage pipeline crosses Squaw Creek, compared to OWW2's need to cross the Little Deschutes River with just an effluent pipeline in Alternative B. Construction is underway, and the Sisters' facilities are only partly operational at this time.

**SUNRIVER RESORT--** In 2000 the private utility company serving Sunriver Resort completed a land exchange with the Forest Service and acquired 375 acres of National Forest land for storage and disposal of treated effluent. This facility has been operational for more than a year. It is an expansion of the existing sewage treatment facilities which are located within the Sunriver Resort community, and was constructed to increase the capacity for effluent storage and disposal. The resort's facility treats the effluent to a higher quality so that it can be stored in the golf course ponds and used with fewer restrictions to irrigate golf courses. Nearest residences to the effluent facilities are less than 700 feet away, but residences are within approximately 200 feet of the sewage treatment plant facilities.

## SECTION IV. ENVIRONMENTAL EFFECTS

Section IV evaluates the effects of conveying specific parcels of National Forest land to OWW2 and discloses environmental effects expected as a result of each alternative. This section provides the scientific and analytic basis for comparing alternatives. Mitigation measures and monitoring are addressed in this section.

The discussion that follows describes the expected effects from the sale and planned use of the Vandeventer parcel (Alternative B, Proposed Action), and the Section 25 parcel (Alternative C). The effects of the No Action alternative (Alternative A) is described first, and provides information on the existing conditions which can also be used a baseline from which to compare effects.

### EFFECTS OF ALTERNATIVE A: THE NO ACTION ALTERNATIVE

Under this alternative, there would be no sale of National Forest property to the OWW2 Sanitary District and their Townsite Act application would be denied. There would be no development of storage ponds, irrigation field, or other facilities on either site. The two parcels would remain as National Forest System lands, at least for the very short-term. Since both parcels are also included in the Tract C lands of the Bend Pine Nursery Land Conveyance Act, they would be considered for disposal under that authority in the near future. The No Action alternative would not meet the Purpose and Need. Predicted effects of No Action are described below.

Continuing failure of individual on-site septic systems coupled with increasing age of the District's existing treatment facilities would result in a continued and increasing risk of contamination of groundwater in the LaPine Basin. OWW2 would continue to be in non-compliance with DEQ environmental regulations and subject to civil penalties. OWW2 has shown in the Townsite Act application process that there are no other viable options to their proposed purchase of federal land. Therefore, if the No Action alternative is selected, the community's waste disposal and environmental situation will continue to exist and worsen over time. Only lots approved for sand filter systems could be developed, and only if Deschutes County would continue to approve them. All 70 undeveloped lots in the area served by the sewer system may not be able to be built on and connected to the sewer system in its current condition. There could be a decline in property values or marketability for the OWW2 community and nearby areas because of a lack of an acceptable waste disposal system and groundwater contamination.

The selection of the No Action alternative would set precedence in the central Oregon area. Denial of conveyance of suitable land to resolve a community need would be contrary to the intent of the Townsite Act of 1958 and would be a departure from how the Forest Service and other agencies have responded in the past to resolve similar environmental and community needs in Deschutes County. Similar projects that were approved and federal land conveyed for sewer or wastewater purposes in southern Deschutes County include the sale of Bureau of Land Management land to the community of LaPine, and Forest Service land to the City of Sisters and Sunriver. BLM has also sold several hundred acres of land to the cities of Bend and Redmond for sewage treatment and wastewater disposal, and is currently evaluating a request for additional acreage to expand the Redmond facility.

Selection of the No Action alternative would be contrary to the goals in the Forest Service Strategic Plan and contrary to the top priorities for the Pacific Northwest Region, as described in the August 7, 2001 Strategic Plan for Forests and Grassland of Central Oregon. These priorities direct the Forest to do its part to clean up the water, contribute to community vitality, and provide services and benefits for people. The No Action alternative would be counter to these goals and priorities, especially in terms of impacts to the OWW2 community and contamination of the groundwater.

Under the No Action alternative, there would be no opportunity to make the necessary improvements to the existing sewage treatment and effluent facilities. Limited repairs could be made, but these would not be a solution and would not correct existing groundwater and disposal problems. DEQ approved OWW2's facilities plan update which proposes a collection, treatment, and disposal system, with the storage ponds and spray

irrigation using the off-site National Forest location. Upgrades of existing facilities alone would not address the inadequate effluent storage and disposal situations or solve the groundwater contamination problem.

If the decision to select the No Action alternative is made, it may be contrary to the goals and objectives of Deschutes County's Regional Problem Solving (RPS) Project and to the January 5, 2000 Memorandum of Understanding between the Board of County Commissioners and the Deschutes National Forest. In the MOU, the Forest Service and County agree to "Support expansion of existing sewer systems or installation of new systems, to help manage waste collection and disposal in an environmentally acceptable manner in order to protect the quality of the groundwater and the Deschutes River." The MOU also states that OWW2 is "a promising candidate to help solve groundwater issues in one area within the RPS area. It is recognized that they are a suitable candidate to go forward with a proposal for sewer improvement and expansion, but they may need National Forest lands to help accomplish this." The county recognizes that OWW2 is one of the subdivisions in the south county region that has a permitted community sewage collection, treatment, and disposal facility. Deschutes County encourages and supports the upgrading and expansion of the facility.

Selection of the No Action alternative would mean that there would be no improvement to the quality of the groundwater. This opportunity to help reverse the trend of groundwater contamination would not be available. The existing facilities would remain inadequate. There would continue to be insufficient storage capacity during winter months and a risk of the existing pond overflowing. Effluent would continue to be applied above the agronomic rate and outside the irrigation season, and the potential for the effluent to be discharged directly or indirectly into the Deschutes or Little Deschutes Rivers would continue to exist. Contamination of groundwater would increase and worsen over time as the facilities continue to age and deteriorate, and as more septic systems fail.

Deschutes County has concluded that on-site septic systems are the only significant source of nitrates in the LaPine sub-basin. However, the failure of both the existing treatment system and on-site septic systems in the OWW2 development would continue the current trend of increasing nitrate levels in the groundwater. DEQ groundwater quality protection rules require that all groundwaters of the state be protected from pollution. During the winter, raw sewage is stored in the existing pond, and due to the inadequate facilities, DEQ is concerned that this sewage might escape and contaminate groundwater. Under wet or extended winter conditions, it is possible that the storage pond could overflow, or that the effluent, which has not been properly treated, would have to be irrigated over frozen ground. Neither of these options are environmentally acceptable but could be necessary to avoid an uncontrolled overflow.

Deschutes County Public Health Department has stated that the nitrate level in the OWW2 effluent is high enough to indicate a change is needed. DEQ indicates that thus far, monitoring wells located around the existing irrigation site have not confirmed groundwater contamination. Because of the known existing condition of the collection and treatment facilities and the shortcomings of the storage and disposal site, contamination is occurring from sewage leaking and seeping into the ground without being properly treated. The quantities of nitrates in the groundwater may not be detected or known, but if entry can be prevented from occurring, groundwater quality will be improved. Lack of evidence in nearby wells could be because of the rapid movement of the shallow groundwater and dilution into the groundwater resource which reduce it to undetectable levels.

Effects of the No Action alternative specific to each of the two parcels are described below.

### VANDEVERT PARCEL

Effects described are expectations of what would occur during the short-term under the No Action alternative, and assumes the parcel would be in public ownership during that time. The effects described below for the Vandevent parcel would also be the same under Alternative C, if Section 25 is selected.

## LAND USE

The Vandevert parcel is approximately 240 acres in size, and is located 16 miles south of Bend and 2 miles south of Sunriver, in Sections 16 and 17, T. 20 S., R. 11 E., W.M. Vandevert Road forms the southern boundary and the Burlington Northern Railroad is the eastern boundary. There is adjoining National Forest land on the west and north sides, and part of the northwest corner adjoins private land. Oregon Water Wonderland Unit II Sanitary District is located  $\frac{3}{4}$  miles to the west.

The majority of this parcel is within Management Area 9, Scenic Views, with the remainder in Management Area 8, General Forest, as described in the 1990 Land and Resource Management Plan (LRMP) for the Deschutes National Forest. The goal of this designation is to provide Forest visitors with high quality scenery that represents the natural character of central Oregon. The Land Adjustment Plan identifies this parcel in two categories. The portion in Section 17 is within Group 3, Subgroup C1, which is defined as "Areas of mixed private and federal ownership". Rearrangement of ownership is permitted to benefit production goals and for the mutual benefit of landowners. The portion that is in Section 16 is within Group 3, Subgroup A, which is identified as "Consolidated blocks of federal ownership that will normally be retained", although this is not actually part of a consolidated block, according to the depiction on the LRMP Land Adjustment Plan map. These National Forest lands can be used to acquire higher priority lands for National Forest use, and Group 3 lands have been given a "Priority 2" for use for this purpose. In Standard and Guideline LA-5, the LRMP provides for deviations to take advantage of opportunities as they arise. General land adjustment direction for the Deschutes National Forest includes a disposal objective to provide communities with the opportunity to acquire lands needed for expanding community purposes, where such acquisition is consistent with National Forest management objectives.

This parcel is considered as having lost its National Forest character and is difficult to effectively manage for National Forest purposes. Its proximity to housing developments, railroad tracks, a major highway, and private lands limit the effectiveness of vegetation, wildlife, recreation, and other Forest management programs. Highway 97 and the railroad separate this parcel from the large consolidated tract of National Forest land that lies to the east. Evidence of urban civilization, such as powerlines, railroad, unauthorized roads and trails, and piles of household garbage are indications that this land has lost its National Forest character. Tracts such as this become increasingly more difficult to manage as unauthorized and inappropriate use by people increase.

The Bend Pine Nursery Land Conveyance Act of 2000 recognizes the isolated nature of this area and associated management problems and included this parcel as part of the Tract C lands identified for disposal and conveyance into private ownership.

## WATER RESOURCES

This parcel is located approximately  $\frac{1}{2}$  mile east of the Little Deschutes River. There is no surface water on this parcel, and the groundwater table is expected to be 20 to 50 feet below the surface over most of the parcel. In the lower southwest corner, it may be only 6 to 8 feet deep. Groundwater under this parcel flows to the northeast into the fractured and permeable lava flows of Newberry Volcano, away from the Little Deschutes River. There would be no effects to ground or surface waters associated with or adjacent to this parcel if it is not conveyed to OWW2.

There are no wetlands or water rights on this parcel.

## WILDLIFE RESOURCES

Oregon Department of Fish and Wildlife (ODFW) has identified this area as being within a low priority migration corridor, but the area is used by deer and elk during both winter and summer migration. The parcel currently provides medium quality cover habitat but low quality forage habitat for both species. Under the No Action alternative, habitat would be retained as it currently exists, allowing for movement and migration throughout the parcel. Continued development of adjacent private lands and current trends of growth, would make these sites more critical for migration in the future, and for providing limited hiding cover.

This site provides medium quality foraging habitat for northern goshawk, Cooper's hawk, sharp-shinned hawk,

and red-tailed hawk and low to medium foraging habitat for great gray owls. Existing conditions provide medium quality nesting habitat for red-tailed, Cooper's and sharp-shinned hawks, as well as great gray owls. Improvement of red-tailed hawk nesting habitat would not occur until large trees develop. Nesting habitat for goshawk is currently low quality but may develop within the next 20 years when the understory lodgepole grows beneath the ponderosa pine and stand density increases.

The lack of large diameter trees provides no nesting habitat for bald eagles. Eagles have been observed to use the Deschutes and Little Deschutes Rivers during nesting season and summer months. This alternative would have no effect on bald eagles or eagle habitat.

This site contains the only stands of trees large enough to support osprey nests and is within ¼ mile of the Little Deschutes River, however, this parcel has few, if any, large diameter snags which are the preferred habitat for osprey nests. This alternative would retain any existing nesting habitat.

The limited numbers of snags indicate low quality nesting habitat for cavity nesters such as woodpeckers, flickers, sapsuckers, and nuthatches. Current stand conditions provide marginal quality foraging habitat for such species. This alternative would maintain current conditions.

Existing stand conditions favor neotropical migratory and short-distance migratory bird species that forage for food and nest in younger forests. This parcel provides medium quality foraging and nesting habitat. Dense thickets have little or no understory and therefore ground foragers decline or disappear until stand conditions change and understory vegetation becomes re-established. The white-headed woodpecker, pygmy nuthatch, and chipping sparrow are focal species in ponderosa pine, and the black-backed woodpecker in lodgepole pine. This alternative would not change the amount of habitat available to such species although distribution would be expected to change as existing stands mature.

There is no habitat present on or adjacent to the parcel for waterfowl or great blue heron. There would be no effect on these species.

This parcel potentially provides medium quality foraging habitat for bats but low quality roosting habitat due to the lack of large ponderosa pine snags, rock outcrops or caves. The close proximity of the Little Deschutes River and larger insect population in that area increases the probability for the use of the area as bat foraging habitat. This alternative would not affect bat habitat.

#### EFFECTS ON NEARBY PRIVATE PROPERTIES

The nearest housing development, along Blue Eagle Road, is approximately ¼ mile south of the parcel and across Vandevent Road. The nearest development to the west, Vandevent Ranch, is slightly more than ¼ mile from the parcel boundary, and Crosswater Resort is about 1¼ miles northwest. Although private land adjoins the northwest portion of the parcel, no developments currently exist there. If the parcel stays in public ownership, there would be no effect on nearby properties. What, if any, effect or value this parcel may contribute to or diminish from the values of nearby private properties would not change.

Use by nearby residents for walking, wildlife viewing, recreational driving, dumping of household garbage, and other activities would not change. There would be no change in existing visual characteristics of the site.

#### ODORS

Any non-natural existing odors common to this parcel would likely be related to vehicle exhaust from traffic on the nearby highway or roads. The No Action alternative would not create any new odors.

#### RECREATION, ACCESS, AND PUBLIC USE

This parcel contains 2.3 miles of Forest Service roads and 0.3 miles of unclassified roads. The site would remain open to public access and use under the No Action alternative. Existing use is from people living in the general vicinity and people driving on Vandevent Road. Existing roads and trails, both authorized and unauthorized, would continue to provide access for motorized and non-motorized vehicles as well as visitors on

foot. Due to the relatively flat terrain and easy accessibility, additional unauthorized roads and trails would be expected. The value of the site for a recreation experience would be influenced by nearby roads, Highway 97, the railroad, and the powerline, however it may provide a convenient location to visit for some people.

Illegal firewood cutting would continue. Unauthorized roads would likely be created to provide more convenient access to wood.

Based on current trends, rural housing and resort development on private lands in the general vicinity is expected to continue to expand and grow, potentially resulting in more people using the site. This would likely result in an increase in the number of illegal garbage dump sites.

There are four utility right-of-way corridors located within the boundaries of this parcel that require access for periodic maintenance or repair. There is a buried powerline and telephone cable along the north side of Vandever Road, a 115-kv overhead transmission line that runs north-south through the parcel, and a buried fiber optic cable in that same area. Deschutes County was granted an easement for Vandever Road in 1970. There would be no change in the status of these rights-of-way or easements or their access.

### SCENIC RESOURCES

Vandever Road (Forest Road 42) is an access route from Highway 97 to National Forest recreational sites to the west. It also provides access to residents of nearby housing areas, and to the Cascade Lakes National Scenic Byway. According to the Deschutes National Forest LRMP, which guides management of the site as long as it is in federal ownership, lands along Vandever Road are identified as being within the "Slightly Altered Landscape with Medium Level Scenic Integrity (Partial Retention, SV-2)" category. The landscape character goal for this area is to achieve a naturally appearing landscape where management direction, Desired Future Conditions (DFCs) and the social and ecological framework of the management area are met.

Forest stands on this parcel are currently a mixture of second growth ponderosa pine intermingled with thickets of similarly aged lodgepole pine. Sagebrush and grasses dominate understory vegetation. The DFC for these stands in foreground landscapes is to maintain or create a mosaic of stands with essentially continuous tree canopies with scenic diversity provided by natural appearing openings that resemble those found in natural landscapes. On flat terrain similar to that found on this parcel, 300 feet from Vandever Road would be the distance managed for this DFC.

The next major planning effort this area would be in 2003, so there would be no obvious change in the existing forest character of the parcel in the near future. In the longer term and without vegetation management activities, changes would include increased stand densities of lodgepole pine and decreased sizes of openings, resulting in gradual changes in both scenic character and integrity. DFCs for this parcel may not be met, but if vegetation management activities are prescribed and implemented, both scenic character and integrity would be more likely to be maintained.

### HERITAGE RESOURCES

Four historic or archeological sites are located on the parcel, one of which is eligible for the National Historic Register. Date from this site has been recovered and documented. There would be no effect on any National Register eligible historic or archaeological sites by keeping the parcel in federal ownership.

### SOIL RESOURCES

Fractured lava from Newberry Volcano underlies most of this parcel, although the extreme southwest corner appears to have sedimentary materials. Soil depth over the lava averages approximately 3 feet, but this is widely variable across the parcel. These soils are excessively well drained.

Current impacts to soils are primarily displacement and erosion associated with vehicle traffic on the dirt roads. Under the No Action alternative, there would be no change to the soil resources.

## VEGETATION

The current timber stands are a mixed forest of predominately 50-70 year old lodgepole and ponderosa pine with a scattering of larger overstory ponderosa pine. Lodgepole dominates the second growth stand both in numbers and distribution. The lodgepole is primarily found in relatively dense thickets and trees of various diameters and heights. The second growth ponderosa pine is characterized by individuals or small groups of several trees adjacent to lodgepole pine thickets. Stands within this parcel contain a range of tree size classes ranging from seedlings to saw timber sizes, and have a relatively open character. Understory consists of sagebrush, bitterbrush, and native grasses.

Most timber harvest activities on this parcel occurred during the 1920's and 1930's, prior to acquisition by the federal government in 1944. Large diameter ponderosa pine trees were harvested leaving smaller diameter trees and lodgepole which were of little or no value. Since the initial harvest 60-80 years ago, there has been little planned timber harvest activity within the parcel. Forty-six acres along the north boundary of the parcel was harvested in 1992 and 1994 targeting lodgepole pine, and heavy thinning was done around residual ponderosa pine. Timber volumes associated with this parcel are relatively low, and no timber harvest activity is currently planned.

The primary damage agent present is gall rust in the lodgepole pine. Unless vegetation management activities are prescribed and target infected trees, the level of infestation would be expected to slowly increase with gradual reductions in growth rates and subsequently volume losses. The stands in this parcel are currently below the age of susceptibility for mountain pine beetle. Existing stand conditions, particularly high stand densities and the preponderance of lodgepole pine, increase the risk of future bark beetle attack. Without vegetation management activities that reduce stocking levels and favor a change in species composition, these stands would become susceptible to beetle attack within the next several decades. There would be an increase in the risk of wildfire due to the expected fuel buildups.

Potential habitat was found for *Castilleja chlorotica*, a sensitive plant species. A field survey was conducted and no threatened, endangered, or sensitive (TES) plant species were located. No habitat was identified for any other TES plant species. Under the No Action alternative, there would be no impact to these species or their habitats.

No noxious weeds have been identified on or adjacent to this site. This parcel has been rated as a moderate risk in this alternative as it has several potential vectors present in the project area that could transport seeds or weeds. Past timber harvest activity has utilized heavy equipment for skidding, loading, and hauling timber and if future harvest is planned, would do so again. Maintenance and repair of the powerline requires periodic use of large trucks and equipment. There is also evidence (tracks and trails) of use by off-road vehicles. In addition, both Vandevent Road and South Century Drive are likely candidates for future weed infestations due to their heavy use by vehicles that may have traveled from areas of existing noxious weed infestations. There would be no change in the risk level of this parcel under this alternative. A spray program to control existing noxious weed infestations along Forest roads or roads crossing National Forest lands has been used for the past several years, but it does not presently include this portion of Vandevent Road.

## FIRE RISK AND FUELS

Fire suppression and exclusion have resulted in denser stands dominated by lodgepole pine, which is more susceptible to damage when burned. The risk of crown fires has increased because of increased stocking levels and the development of ladder fuels. The lack of vegetation management activity on most of the parcel has retained the moderate to high risk of wildfire and of crown fires by retaining high stand densities and ladder fuels. The lack of harvest activity over the next one to two decades would result in an increased risk of both wildfire and the occurrence of crown fires.

Heavy fuel loadings associated with increased mortality due to normal stand development processes and potentially from insect attack, would be expected to increase the risk of a catastrophic wildfire. Risk to nearby developments, including houses, would increase.

With no conveyance and no change in management, there would be no immediate change in fuel loading or risk of wildfire. The increasing development of nearby private properties could increase the potential loss of structures and personal property, and an increase in public use could increase the risk of a human-caused wildfire occurring. However, the risk of damage or loss to residences is relatively low given that there are none immediately adjacent to the parcel. This parcel would contribute to increasing the overall fire risk of the general area, but other larger tracts of nearby National Forest and private lands would have a greater influence.

### GEOLOGY AND MINERALS

As there are no known mineral, oil, gas, or geothermal resources associated with this parcel, there would be no effect on those resources under any alternative. These would not contribute to the value or use of the parcel.

## SECTION 25 PARCEL

Effects described are estimates of what would occur during the short-term under the No Action alternative, and assumes the parcel would be in public ownership during that time. This parcel was included in the recent Klak Planning Area environmental assessment, and no new management activities were proposed for this parcel. The effects described below for the Section 25 parcel would also be the same under Alternative B, if the Vandeventer parcel is selected.

### LAND USE

The Section 25 parcel is 520 acres in size, and is located approximately 18 miles south of Bend and 4 miles south of Sunriver, and is described as T. 20 S., R. 10 E., Sec. 25, E ½, E ½ W ½, SW ¼ SW ¼. South Century Drive and Foster Road go through the property. Private lands surround the parcel, except for the southwest corner, where it adjoins other scattered National Forest land. Oregon Water Wonderland Unit II Sanitary District is located directly to the northeast, and shares a corner with this parcel.

The National Forest lands in Section 25 are within Management Area 8, General Forest, as described in the 1990 LRMP. The goal for management of these lands is to emphasize timber production while providing other resources and recreational opportunities for public use and enjoyment. The objective is to have managed stands of timber in a variety of age classes. The Land Adjustment Plan identifies the parcel as being in Group 3, Subgroup C1, which are "Areas of mixed private and federal ownership". Rearrangement of ownership will be permitted to benefit production goals and for the mutual benefit of landowners. Group 3 lands have been given a "Priority 2" to be used to acquire higher priority lands. Standard and Guideline LA-5 states that it may be necessary to deviate from this ranking in order to take advantage of opportunities as they arise. General land adjustment direction for the Deschutes National Forest includes a disposal objective to provide communities with the opportunity to acquire lands needed for expanding community purposes, where such acquisition is consistent with National Forest management objectives.

The Section 25 parcel is isolated from other National Forest land and nearly completely surrounded by private lands and rural housing. Foster Road goes through the property and is used by the public to access homes and other National Forest lands. A number of management problems resulting from the isolated nature of the parcel are evident, and include encroachments and trespasses from adjoining private lands, illegal woodcutting, unauthorized roads and trails, and dumping of household garbage. This parcel is considered to have lost its National Forest character, and is difficult to effectively manage for Forest Service purposes. It may not be evident to the casual visitor that this is National Forest land.

The Bend Pine Nursery Land Conveyance Act of 2000 recognizes the isolated nature of this area and associated management problems and included this parcel as part of the Tract C lands identified for disposal and conveyance into private ownership.

This parcel is adjacent to but not within the designated boundary of the Upper Deschutes Wild and Scenic River corridor.

There is a discrepancy in the boundary location for the west side of this property. This discrepancy is tied to a larger landline and survey issue and is currently being investigated. Once this is resolved, the west boundary will be surveyed and re-posted. Estimates indicate the exact boundary location may vary by 10 to 20 feet.

### WATER RESOURCES

This parcel is located between the Deschutes and the Little Deschutes Rivers. The Deschutes River is  $\frac{1}{4}$  to  $\frac{1}{2}$  mile to the north and west of the parcel, and the Little Deschutes River is approximately  $\frac{3}{4}$  miles east. Preliminary soil studies indicate that depth to groundwater varies over the parcel, depending on soil and variations in the terrain. On the east side of the parcel, the water table comes close to the surface in the spring (when the water table is at its highest), but on the west side, the groundwater stays below 30 inches. Studies indicate that over much of the parcel, including the west portion, the depth to water ranges from 30 inches to greater than 5 feet. Over the remaining portion, including the eastern side, the depth to groundwater is 12 to 30 inches, with groundwater being closest to the surface in low spots in the terrain. Groundwater on this parcel flows to the Deschutes or Little Deschutes Rivers.

There are no streams or other surface water on this parcel, but a small wetland area approximately 7 acres in size is located in the northwest portion of the parcel where the water table is at or within inches of the surface a significant portion of the year. This wetland is associated with an old meander of the Deschutes River. Five small ponds, including one approximately 2 acres in size, were illegally dug in the wetland area. The Forest Service is investigating and may require that the site be restored to an acceptable condition.

There would be no effects to ground or surface waters associated with or adjacent to this parcel if it remains in federal ownership. Housing developments in areas of shallow groundwater in southern Deschutes County have created a regional risk and concern about contamination of groundwater and shallow domestic wells from on-site septic systems. If the No Action alternative is selected, then the portion of the contamination problem that could be attributed to OWW2 would continue to occur and worsen. There would be no opportunity for improvement to the groundwater resources.

There are no water rights on this parcel.

### WILDLIFE RESOURCES

This parcel has been identified by ODFW as a high priority deer migration corridor, and provides a migration route for deer and elk through an area that is increasingly becoming more urbanized and developed. It provides a relatively large undeveloped area that the animals can use between residential areas. The area is used by both species during winter and summer migration as they travel to and from the higher National Forest lands. Although the area is fairly open, this parcel provides high quality hiding cover for both deer and elk. It also provides high quality forage habitat for deer but only medium quality forage habitat for elk. Under the No Action alternative, habitat would be retained as it currently exists, allowing dispersing animals to move and use the area for migration. Hiding cover for the animals would be retained where it currently exists. Expanding development of surrounding and nearby private lands, based on recent trends, make this site more critical for deer and elk migration into the future.

Due to the structure and condition of the timber stand, this site provides medium quality foraging habitat for northern goshawk, Cooper's hawk, sharp-shinned hawk, and red-tailed hawk and low to medium quality foraging habitat for great gray owls. Existing conditions provide low quality nesting habitat for Cooper's and sharp-shinned hawks and low to medium quality nesting habitat for great gray owls. Conditions for these species and activities would remain. Nesting habitat for red-tailed hawks is either non-existent or is of low quality. Nesting habitat and improvement in the quality of existing habitat would be limited unless larger diameter trees are present. Due to the lack of large ponderosa pine trees, there is no nesting habitat for northern goshawk. Development of nesting habitat may not ever occur due to the relative lack of ponderosa pine trees.

The young, small diameter lodgepole pine dominating this site provides no nesting habitat for bald eagles. Proximity to both the Little Deschutes and Deschutes River provides suitable foraging habitat and eagles have been observed to use the Deschutes and Little Deschutes during nesting and summer months. This alternative

would have no affect on bald eagles or eagle habitat.

The limited numbers of snags provide low quality nesting habitat for cavity nesters such as woodpeckers, flickers, sapsuckers, and nuthatches. Current stand conditions provide medium quality foraging habitat for such species. This alternative would not affect current conditions.

Existing stand conditions favor neotropical migratory and short-distance migratory bird species that forage for food and nest in younger forests. This parcel currently provides marginal quality nesting habitat and high quality foraging habitat for these species. The black-backed woodpecker is the only focal species of interest in lodgepole pine. This alternative would not change the amount of habitat available although distribution would be expected to change as existing stands continue to develop.

There is no habitat present on or adjacent to the parcel for waterfowl, osprey, or great blue heron.

This parcel potentially provides medium quality foraging habitat but low quality roosting habitat for bats due to the lack of suitable ponderosa pine snags, rock outcrops or caves. The close proximity of the Deschutes and Little Deschutes Rivers increases the probability for the use of the area as bat foraging habitat, because of the larger insect population. This alternative would not change the amount of habitat available or its use.

If this parcel remains in public ownership, there would be no immediate effects or changes to wildlife species or habitat.

#### EFFECTS ON NEARBY PRIVATE PROPERTIES

With the exception of a quarter mile section along the southwest boundary, this parcel is surrounded by private lands and developments. Oregon Water Wonderland Unit I borders on the west, Deschutes River Recreational Home Sites development is to the north, Pinewood Estates is to the south, and other residences are to the east. The southwest corner of OWW2 shares a common corner with the northeast corner of the Section 25 parcel. On the east and west sides, residences are adjacent to the property boundary. If the Section 25 parcel remains in public ownership, there would be no effect on nearby properties. What, if any, value this parcel may contribute to or diminish from the values of nearby private properties would not change.

Use by nearby residents for walking, wildlife viewing, recreational driving, dumping of household garbage, and other activities would not change. There would be no change in existing visual characteristics of the site.

#### ODORS

Any non-natural existing odors common to this parcel would likely be related to adjacent residences and developments, such as wood smoke or vehicle exhaust. Retaining this property in federal ownership would not create new odors.

#### RECREATION, ACCESS, AND PUBLIC USE

This parcel contains 1.7 miles of Forest Service roads and 2.3 miles of closed roads. The site would remain open to public access and use. Existing roads and trails, both authorized and unauthorized, would continue to provide access for motorized and non-motorized vehicles as well as visitors on foot. Roads and trails that have been obliterated, barricaded, and closed by prior management activities would be expected to continue to be used and re-opened by off-road or 4-wheel drive vehicles. New trails or roads may also be created given the flat terrain and ease of access from adjacent properties and existing roads.

Discussions have occurred between the Deschutes National Forest and Deschutes County regarding the transfer of Foster Road to county ownership and maintenance, and it is expected that road jurisdiction will transfer to the county at some point in the future. Whether in county or National Forest ownership, Foster Road would remain open to the public and for access to National Forest lands to the southwest.

Trespass and illegal use, including firewood cutting and dumping of garbage, occurs on the parcel. Some encroachments are found along the boundary with private land. There is a question about the precise location

of the property boundary along the west side due to a discrepancy in the cadastral survey, and this has not yet been resolved. Several small ponds have been dug without authorization on National Forest land in the northwest part of the parcel. If the property remains in public ownership, the Deschutes National Forest would correctly establish and post the boundary, and take action to have any encroachments resolved.

Continuing development around and near the parcel would be expected to result in an increase in the number of people using the site to recreate, watch wildlife, or value the site as open space. An increase in the number of illegal dump sites or other unauthorized uses would also be expected.

There are three utility corridor rights-of-way located on this parcel. One is for an overhead powerline that crosses South Century Drive near the northeast corner of the parcel, the second is for another overhead powerline along Seevers Road in the northwest corner, and the third is for a buried telephone cable also along Seevers Road. Deschutes County currently has easements for County Road 42 (South Century Drive) and for Seevers Road (along the northwest boundary), both granted in 1987. There would be no changes in the status of these rights-of-way or easements, or their access.

### SCENIC RESOURCES

South Century Drive, which goes through the north portion of the parcel, provides access to the Cascade Lakes National Scenic Byway. According to the Deschutes National Forest LRMP, lands along South Century Drive are within the "Slightly Altered Landscape with Medium Level Scenic Integrity (Partial Retention, SV-2)" category. The landscape character goal for this area is to achieve a naturally appearing landscape where management direction, Desired Future Conditions and the social and ecological framework of the management area are met. This allocation is divided into two categories: Immediate Foreground which is 300 feet from South Century Drive on either side; and Foreground, which extends from 300 feet to ½ mile from the road on either side. On flat terrain such as is present on this parcel, practice has been to consider the Immediate Foreground as the applicable viewing distance.

The remainder of this parcel is in the M8, General Forest management allocation. The scenic quality standard for this allocation is "Altered Landscape with low Scenic Integrity." This would allow the application of a range of timber harvest activities including large clearcuts. Current practice favors retention of residual trees providing a less abrupt visual change.

Forest stands on this parcel are currently dominated by second growth lodgepole pine. There are few scattered individual second growth ponderosa pine intermixed in the lodgepole clumps and thickets. Openings created by old skid roads, access roads and unauthorized roads and trails separate and bisect clumps and thickets of trees. Regenerating lodgepole pine, grasses, and to a lesser extent, sagebrush, are invading landings, roads and skid trails.

This parcel was included in the 2001 Klak Planning Area environmental assessment. No activities were identified or planned during that effort, so no vegetation management to help achieve the DFC would be conducted if this parcel remains in National Forest ownership.

Under the No Action alternative, there would be no change in the existing management or forest character of the parcel. Under natural processes, stand densities of lodgepole pine would increase resulting in gradual changes in both scenic character and integrity. DFCs for this parcel may not be met unless vegetation management activities are prescribed and implemented.

### HERITAGE RESOURCES

There are no National Register eligible historic or archeological sites located on this parcel. Two very small lithic sites were identified during survey work for previous timber harvest activities, and neither were determined to be eligible for the National Historic register. cursory surveys of selected areas within the parcel were performed to validate assumptions that no other sites were present. No additional cultural resources were located or identified. There would be no effect on any National Register eligible historic or archaeological sites.

## SOIL RESOURCES

Soils in this parcel are sedimentary associated with the damming of the Deschutes River by lava flows from Newberry Volcano. This parcel contains four broad soil mapping units, including a small area of wetland soils. Most of the parcel has soils that are well drained. The ground is nearly level, stone free, and with no bedrock within 10 feet of the surface.

Current impacts to soils are primarily displacement and erosion associated with vehicle traffic on existing dirt roads. There would be no change to the soil resources under the No Action alternative, and any impacts to the soil resource from existing uses and activities would continue.

## VEGETATION

Forest stands here are dominated by second growth lodgepole pine. There are few scattered individual second growth ponderosa pine intermixed in the lodgepole clumps and thickets. Forest cover in this parcel is fragmented into clumps and thickets of dense lodgepole pine by trails, skid roads, old forest roads, and newer roads and trails created by the public. These are further augmented by openings, such as old landings. The understory of sagebrush, bitterbrush, and native grasses has been supplemented by non-native species. Tree regeneration, where present, is lodgepole. Timber volumes associated with this stand type and species are relatively low, and no timber harvest activity is currently planned.

The parcel is fairly open, but where timber exists the stands are predominately 50-70 year old lodgepole pine with a very small component of similarly aged ponderosa pine. There are some larger diameter lodgepole pine and a range of size and age classes including seedlings. Most timber harvest activities occurred during the 1920's and 1930's, prior to acquisition by the federal government in 1938. In most cases, all ponderosa pine trees were harvested leaving smaller trees and lodgepole which were of little or no value. Timber sales in 1987, 1988, and 1998 harvested trees on nearly 200 acres. Because of the lack of ponderosa pine, harvests targeted overstory lodgepole pine and included thinning of the younger and smaller lodgepole pine.

The primary damage agent is gall rust in the lodgepole pine. Unless vegetation management activities are prescribed and target infected trees, the level of infestation would slowly increase, with gradual reductions in growth rates and subsequent volume losses. The stands here are currently below the age of susceptibility for mountain pine beetle. Existing stand conditions, particularly high stand densities, the dominance of lodgepole pine, and the presence of older larger lodgepole pine, increase the risk of future bark beetle attack. Without vegetation management activities, these stands would become susceptible to beetle attack within the next several decades, and there would be an increase in the risk of wildfire due to fuel buildups.

A field survey was conducted to identify habitat or the presence of threatened, endangered or sensitive plant species. The site is highly disturbed, and therefore it was determined that habitat did not exist. There would be no impact to any TES species or their habitats in this alternative.

There is a known population of spotted knapweed on Seevers Road at the northwest boundary of the parcel. There is a seedbed of knapweed along South Century Drive as it passes through this parcel, and there are heavy infestations of spotted knapweed in the vicinity of the OWW2 community. This parcel has been rated as a high risk for noxious weeds due to a combination of factors that either currently exist or could exist, including the use of off-road vehicles, the use of heavy equipment, known weeds in or adjacent to the project area, and operations in or adjacent to weed populations. These factors increase the potential for seeds and weeds to be transported to the site. There would be no change in the risk level of this parcel under the No Action alternative. A spray program to control noxious weed infestations along Forest roads or along roads crossing National Forest land has been used for the past several years and would continue.

## FIRE AND FUELS

Fire suppression and exclusion have resulted in denser stands and domination of stands by lodgepole pine, which is more susceptible to damage or mortality when burned. The lack of vegetation management activity on most of the parcel has retained the moderate to high risk of wildfire and crown fires by retaining high stand

densities and ladder fuels. The lack of timber management activity over the next two decades would result in an increased risk of both wildfire and the occurrence of crown fires.

Under continued federal ownership, there would be no immediate change in fuel loading or the risk of wildfire. The trend of increasing development of adjacent private properties coupled with the expected increase in use could increase the risk of a human-caused wildfire occurring.

Fuel loadings associated with increased mortality due to normal stand development processes, and potentially from insect attack, would be expected to increase the risk of wildfire. Risk to adjacent developments, including houses and other physical improvements would increase. The risk of damage or loss of high value resources, particularly residences, is relatively high given the numbers of residences in close proximity to this parcel, and this risk would remain high.

### GEOLOGY AND MINERALS

As there are no known mineral, oil, gas, or geothermal resources associated with this parcel, there would be no effect on those resources under any alternative. These would not contribute to the value or use of the parcel.

## EFFECTS OF ALTERNATIVE B, PROPOSED ACTION: VANDEVERT PARCEL

Under this alternative, 240 acres would be conveyed by sale at market value to the OWW2 Sanitary District. Approximately 20 acres would be cleared to construct three lined storage ponds with a surface area of approximately 15 acres. The remaining five acres would include the berms around the ponds, access roads and a maintenance facility. Approximately 90 additional acres would be cleared and used for a center pivot irrigation system and grass hay field. The remainder of the parcel would be left in a forested condition and would serve as buffers. (Refer to Alternative B Map.) Facilities would be set back 300 feet from Vandevent Road. Ponds would be fenced with chain link, and there would be a 3-strand smooth wire fence around the perimeter of the parcel. Predicted effects are described below.

### LAND USE

After the parcel transfers into private ownership, it would no longer be under the jurisdiction of the Forest Service or managed in accordance with the Deschutes National Forest's 1990 LRMP. Instead, it would be under the jurisdiction of local agencies, and would need to conform to state and county regulations, conditions, and zoning. Uses would need to comply with all applicable regulatory requirements to ensure the environment is not adversely affected. In particular, DEQ and Deschutes County would have regulatory jurisdiction over the property and the planned facilities.

Once in private ownership, local zoning and taxation would apply. According to information from Deschutes County, the Vandevent parcel would be zoned Forest Use Zone F-1. Farm use, which an irrigated hay crop operation would be, is included in the list of uses permitted outright. Reservoirs and water impoundments, which may include the pond structures, are listed as conditional uses permitted. Siting a sewage treatment plant would require an amendment to the county's comprehensive plan and zone change. However, since the sewage treatment plant would continue to be located on the OWW2 property and only the wastewater storage and disposal will be on the new parcel, it may be considered as a conditional use.

If the property is conveyed to OWW2 before the wastewater facility is constructed, a discretionary land use review would likely be required by the county. The county would evaluate the need and options, and their findings would include whether any other options were available. This process is similar to the Forest Service's NEPA and Townsite Act processes, in that they also have to identify whether private or other public land options exist. The county indicates they cannot review the OWW2 proposal in detail until they receive an application from OWW2. However, OWW2 cannot submit an application until they have a decision from the

Forest Service approving the conveyance of a specific parcel of land. OWW2 has been working with the county and has an MOU with Deschutes County which states that the county agrees to "Assist the District in its planning efforts and completion of land use applications to allow the expanded sanitary facility."

If the Forest Service issues a special use permit to OWW2 to authorize construction of the facilities while still in public ownership and later conveys the land, Deschutes County has indicated they would accept the facility without further review because it would be an existing use. This would be similar to what occurred for Sunriver Resort, two miles to the north, when the Forest Service authorized their wastewater facilities to be constructed in 1997 and later conveyed the land to Sunriver Resort in 2000.

### WATER RESOURCES

Elimination of the on-site septic systems coupled with the upgrading of the sewage collection and treatment facilities at OWW2 would reduce the amount of contaminants, especially nitrates, entering the regional groundwater. Although the current rate or amount of contamination is not known, it is known that the existing systems are not acceptable. Removal of this source of contamination will improve the groundwater quality in the local vicinity and in the greater southern Deschutes County region. Overall, groundwater quality would be improved and the risk of contaminating any shallow domestic water wells from existing and failing systems at OWW2 would be greatly reduced or eliminated.

All solids would be removed from the sewage and treated on the existing OWW2 property. Only the wastewater would be transported by pipeline to the Vandevent parcel for temporary storage, natural aerobic treatment, chlorination, and irrigation. During irrigation, the vegetation would utilize the nitrates and other nutrients for plant growth. The effluent would act as an enriched water supply and fertilize the growing plants. The water would be applied at or below agronomic rates, which means at or below the rate that the plants can take up the nitrates. The effluent would provide an estimated 50 percent of the nitrogen needs of the plants and application of a commercial fertilizer to meet the needs of the crop would be needed. This is no different than applying the proper amount of fertilizer to a golf course or lawn. No nitrates would be expected to pass below the root zone or into the groundwater.

Treated effluent would be piped approximately 2½ miles from the OWW2 property to the Vandevent parcel. The plans include installing a pipeline within existing public rights-of-way along roads and across the Little Deschutes River, as easements to cross private land could not be obtained. The pipeline would be encased and constructed to standards that would minimize risk of a break.

The effluent would be treated to the State of Oregon's Level II standards as defined by Oregon Administrative Rules. The state DEQ regulates and restricts the use and application of treated effluent. Level II effluent may be used to irrigate agricultural crops during the growing season, which is approximately May through October. Lined storage ponds would have the capacity to store at least six months of effluent outside of the growing season.

Expansion of the treatment capacity for OWW2 would eliminate the discharge from many failing or problem on-site septic systems by connecting those residences to a new upgraded system. Given the level of treatment and nitrate levels of the effluent, the risks of contamination to domestic water sources, the local aquifer, or the Little Deschutes River would be eliminated. Design of the facility, distance from domestic wells and rivers, depth to the groundwater table, and the fact that the groundwater flows northeast toward National Forest lands all contribute to essentially eliminating any potential risk.

### WILDLIFE RESOURCES

This alternative would remove 110 acres of medium quality hiding cover and low quality forage currently utilized by deer and elk for migration. Approximately 90 acres of improved forage would be created with the conversion to an irrigated crop. Loss of cover and human activity at the facility may deter big game animals from using that immediate area when people are present. However, the grass crop and restricted public access to the property would provide improved forage and an overall decrease in human activity, which would tend to lead to an increase in elk and deer use.

State regulations require posting of signs and fencing to notify or limit public access at the facilities. OWW2 would fence the parcel with a 3-strand smooth wire fence. The height of the top wire would not exceed 40 inches, and the bottom wire would be at least 18 inches above the ground to allow wildlife passage. Most of the fence would be located on the property boundary, but along Vandever Road it would be set back 100 feet from the road. Signs will indicate that public access is limited and by permission only. A 6-foot chain link fence would be constructed around the storage ponds and maintenance building. The chain link fence would cause minimal disruption to both deer and elk, given the small area involved.

This is not a high priority deer or elk migration corridor as identified by either ODFW or Deschutes County. Some short-term disruption of existing migration routes and displacement of animals would be expected during construction of the facilities. Approximately 130 acres of existing dispersal and hiding habitat for both deer and elk would be retained, and existing patterns of use for both migration and hiding cover would remain. Continued development of adjacent private lands would make this site more critical for migration in the future in addition to providing limited hiding cover. Even though it would not have the natural forest vegetation, the parcel would retain an open space landscape.

This alternative would remove approximately 110 acres of existing foraging habitat potentially used by great gray owls and hawk species. However, conversion to an irrigated hay field area would result in an increase in the rodent population that would provide approximately 90 acres of foraging habitat for red-tailed hawks and great gray owls, improving the foraging quality of the site for these species that prefer more open foraging areas.

Approximately 110 acres of medium quality nesting habitat for great gray owls and Cooper's and sharp-shinned hawks and low quality habitat for goshawks would be removed for siting of the ponds, irrigation field, and facilities. Any existing habitat would be retained over the remaining 130 acres. Implementation of Alternative B would not cause a significant reduction of the hawks, great gray owls, or their habitat in this area or across the Deschutes National Forest. There would be no loss of bald eagle nesting sites, as none are present.

The effluent storage ponds would attract blue heron and waterfowl, and pond vegetation and algae would provide a new foraging area for these birds. Waterfowl are prey for eagles, so this would also create a new foraging area for eagles that are using the Deschutes River corridor. Although there are no known osprey nest trees, remaining stands would still provide potential future nest sites.

This alternative would also remove approximately 110 acres of marginal foraging habitat for cavity nesters such as woodpeckers, flickers, sapsuckers and nuthatches and any unknown nest sites from these acres. The storage ponds would provide an added water source and potentially attract neotropical migratory bird species. The remaining 130 acres would continue to maintain habitat for these species.

There would be little or no loss of existing roosting habitat for bats. The water in the storage ponds would attract flying insects and provide new foraging habitat for bat species.

There would be no adverse effect on any of the 11 Region Six sensitive wildlife species.

The irrigated grass field and storage ponds would improve habitat for some species of wildlife, including deer, elk, waterfowl, and other birds. This could provide opportunities for wildlife viewing to people traveling in the area. Additionally, OWW2 would have the option of managing the 130 acres of the remaining forested area to improve habitat for various wildlife species.

#### EFFECTS ON NEARBY PRIVATE PROPERTIES

This site was proposed in the Townsite Application, in part, because of its distance away from homes and developed private lands. The closest housing development, along Blue Eagle Road, begins approximately ¼ mile south of the parcel, across Vandever Road. Proposed areas of no development and setbacks along Vandever Road would increase the distance from the boundary of the subdivision to the proposed facility to

approximately ½ mile. The Vandevent Ranch subdivision is about ¼ mile west of the parcel. There is undeveloped private land adjoining the northwest corner, but no facilities are planned for the 40 acres in that corner of the parcel. The closest developed private land to the northwest is Crosswater Resort, approximately 1 ¼ miles away. Sunriver Resort begins about 1 ½ miles to the north. Oregon Administrative Rules (Chapter 340, Division 55) require a buffer of 70 feet from irrigation spray areas.

Similar facilities have been constructed in LaPine and Sunriver, and another is being constructed in Sisters. In Sunriver, the 18-acre effluent storage pond is within 150 feet of Cottonwood Road and less than ¼ mile from private residences, although the property adjoins private land and homes. The sewage treatment plant for Sunriver Resort is located within the Sunriver community, adjacent to private homes and a golf course.

There is no evidence or experience to suggest or demonstrate that homes or developments on nearby private properties would be adversely affected or that property values would decline because of this type of facility.

### ODORS

Irrigating with treated effluent would not create odors. Properly treated wastewater does not have objectionable odors. As long as the ponds are operated and maintained in a manner which ensures that aerobic bacteria are allowed to thrive, any organic materials would be converted in the ponds and the resulting treated effluent will be clear and odor free. A mechanical aerator would be used to ensure sufficient aeration.

Odors from sewage treatment are generally associated with raw sewage, primary treatment, septic tanks, and the solid matter, none of which would be on the Vandevent parcel. The raw sewage and solid material would be treated and held at facilities on the OWW2 property. Once treated, solid material and sludge would be disposed of at approved facilities or, because of the high organic content, converted into fertilizer or soil enhancers. No sludge or other solid matter would be disposed of on this parcel. Only the effluent would be stored and applied on the parcel to be conveyed.

When properly managed, effluent ponds use natural aerobic bacteria processes (in the presence of oxygen) to treat the organic particles in the effluent. Odors can develop when anaerobic conditions (without oxygen) are created and the aerobic bacteria are removed or killed. Improper design, poor operating conditions, lack of monitoring, or long-term freezing of ponds and lack of circulation, may create such conditions. OWW2's facilities would operate under the conditions and requirements listed in the operating permit issued by DEQ. Sampling, monitoring, and DEQ oversight would ensure that the facility is properly maintained and operated. A certified technician would operate and monitor conditions of the storage ponds and facilities.

### RECREATION, ACCESS, AND PUBLIC USE

State regulations require posting of signs and fencing to notify and limit public access at the facilities. There would be signs indicating that public access, especially vehicle access, is limited and by permission only.

Most of the 2.6 miles of existing roads would be closed and possibly obliterated to discourage trespass. The exception would be the powerline access road, which would be gated to allow access by utility companies. Some vehicle access for maintenance and operations would be needed at the facilities.

The change from public to private ownership and the restrictions on public access would reduce or eliminate illegal firewood cutting, dumping of household garbage, and other unauthorized activities that currently take place. There may be interest from nearby residents and others to watch wildlife on the parcel, especially if birds are attracted to the site.

### SCENIC RESOURCES

Buildings and other similar intrusive structures would be kept to a minimum, as only a small maintenance building is planned. The ponds and irrigated hay field would change the forest landscape to a more agricultural setting. The remainder of the property would remain treed and in natural vegetation, and would still provide a sense of open space and rural landscape.

There would be little visual impact from the facilities. Screening (buffers of undeveloped land retained in the forest landscape) is planned between Vandever Road and the facilities to protect and retain visual qualities and characteristics. No facilities would be located within 300 feet of Vandever Road. The proposed development would have little or no effect on scenic quality, integrity, or landscape character. LRMP standards and guidelines and the desired future condition would be met, even though it would no longer be under Forest Service management. Local requirements and zoning restrictions for visual management would also be met.

Buffers are also proposed for the east, north and west boundaries. Widths would vary from approximately 70 feet on the east to approximately ¼ mile on the west. These locations have limited scenic views and are not readily seen by motorists passing by.

Deschutes County zoning for this parcel would be F-1 Forest Zone which would govern the types and limits of development allowed. Because this parcel is adjacent to a tour route, Deschutes County would require a 100-foot buffer along the road to help maintain the visual character of the area.

### HERITAGE RESOURCES

Sale of this parcel would have no effect on any National Register eligible historic or archaeological sites. Sites have been documented, recorded, and permanent records maintained by the Deschutes National Forest.

### SOIL RESOURCES

Soils in this parcel are excessively well drained and far above the water table. Although it is widely variable, bedrock lava is within an average of 3 feet of the surface, and could cause excavation to be more difficult, depending on the conditions at a particular location.

Application rates of the treated effluent coupled with the application rates of commercial fertilizer would be at rates at or less than what the grass hay crop can take up. There would be no increase in nitrate levels in the soil beyond the root zone, and no nitrates would reach the groundwater.

Reduction in the amount of dirt roads and restrictions on public access would reduce the soil displacement and erosion associated with vehicle traffic.

### VEGETATION

Construction of the storage ponds, maintenance building and hay field would result in the removal of approximately 110 acres of existing timber and forest vegetation and the conversion to an agricultural landscape with grass hay production. There would be no change in the conditions in the remaining 130 acres and stocking levels would continue to increase with an eventual corresponding increase in mortality associated with denser stands. OWW2 would have the option of managing the timber resource to create a healthier forest.

Any timber value from existing trees will be included in the valuation of the parcel. Restriction on public access would reduce the likelihood of illegal firewood cutting on this parcel, but could displace this activity to other public lands.

A preliminary field reconnaissance of the parcel identified habitat for *Castilleja chlorotica*, a sensitive plant species. However, field surveys found no TES species on this parcel, and there would be no direct, indirect or cumulative effects expected to these species.

Although no noxious weeds have been identified on or adjacent to this parcel, it has been rated as a moderate risk for weeds. Construction equipment may move through or park on sites with infestations of spotted knapweed found along South Century Drive or at OWW2 and transport seeds to other disturbed sites along South Century Drive, Vandever Road, or onto the parcel. Heavy equipment would be used during construction and to clear the area for the hay field. These activities would disturb and displace soil and create potentially suitable conditions for the establishment of new weed populations. Weed control and maintenance of the landscape in and around the facilities and the hay crop, would eliminate any unwanted vegetation including noxious weeds. The reduction in public access would also limit the transport of new seeds to the parcel.

Requiring construction vehicles and heavy equipment to be washed prior to entering or leaving the project area would reduce or eliminate the potential of spreading weed populations to new areas. Spraying known populations prior to starting construction would also help to reduce or eliminate the risk of spread by reducing the potential for transporting seeds or plant parts to new locations.

### FIRE AND FUELS

This alternative would remove timber and shrub vegetation from approximately 110 acres. Ninety acres would be converted into an irrigated grass hay field with a center pivot irrigation system and 15 acres would have effluent storage ponds. Development of the facilities would provide fuel breaks and fuel type changes which would help minimize fire risk and intensity.

Grasses and shrubs in the forest cure quickly and fires tend to quickly spread when ignited. Providing fuel breaks and changes in vegetation, such as an irrigated field, would help to limit the rate of spread and provide opportunities for more rapid control. The effluent ponds would also provide an emergency water source, if a fire occurs nearby.

Limiting public access would reduce the number and type of ignition sources that could result in a wildfire. OWW2 would have the option to manage the remaining forest areas on the property to improve forest health and further reduce fire risk.

### MITIGATION MEASURES AND MONITORING

No mitigation measures or monitoring requirements have been identified as being necessary for the Forest Service to require. Any requirements imposed by the Forest Service would likely have to be in the form of deed restriction, and none were determined to be needed. Forest Service policy limits using deed restrictions or encumbrances in land conveyances.

The facility plan and project design proposed by OWW2 incorporates many features to make the project more compatible with the local environment and surrounding landscape. These include setbacks from the road, use of smooth wire fencing, posting of signs, retaining forest landscape where no facilities are planned, and providing buffer areas between adjacent lands.

Monitoring would be accomplished through established DEQ and county processes including permitting, monitoring, and reporting. State and local regulations, zoning, and requirements for operation and maintenance of the facilities would ensure that the project construction and operation meets or exceeds all standards.

## EFFECTS OF ALTERNATIVE C: SECTION 25 PARCEL

Under Alternative C, 520 acres of National Forest land would be conveyed by sale at market value to the OWW2 Sanitary District. Approximately 20 acres of the property would be used for placement of 2 lined storage ponds with a total area of approximately 15 surface acres, access roads, and a maintenance building. Approximately 95 acres would be used for two center pivot irrigation systems and hay fields, one approximately 80 acres and the second approximately 15 acres in size. The facilities would be located on the western portion of the parcel, where there is deeper groundwater and more suitable soil conditions. Facilities would be set back 300 feet from South Century Drive, and approximately 200 feet from Foster Road. Ponds would be fenced with chain link, and the perimeter would have a 3-strand smooth-wire fence. No facilities would be developed in the 40 acres located in the SW $\frac{1}{4}$  SW $\frac{1}{4}$  of the section, nor would any development occur in the 7-acre wetland area in the northwest portion. (Refer to Alternative C Map for locations of the facilities.) The natural forest vegetation would be left on approximately 405 acres which are not needed for facilities, and would serve as buffers between the facilities and adjacent lands. Predicted effects of this alternative are described below.

## LAND USE

After the parcel transfers into private ownership, it would no longer be under the jurisdiction of the Forest Service or managed in accordance with the Deschutes National Forest's 1990 LRMP. Instead, it would be under the jurisdiction of local agencies, and would need to conform to state and county regulations, conditions, and zoning. Uses would need to comply with all applicable regulatory requirements to ensure the environment is not adversely affected. In particular, DEQ and Deschutes County would have regulatory jurisdiction over the property and the planned facilities.

Once in private ownership, local zoning and taxation would apply. According to information from Deschutes County, 480 acres of the 520 acres in the Section 25 parcel would be zoned Forest Use Zone F-2, which is generally less restrictive than F-1. Farm use, which an irrigated hay crop operation would be, is included in the list of uses permitted outright. Reservoirs and water impoundments, which may include the pond structures, are listed as conditional uses permitted. Approval for a conditional use may be required to site a wastewater reuse facility. The remaining 40 acres, located in the southwest area of the parcel, is zoned Rural Residential RR-10, but no facilities are being planned in this area.

If the property is conveyed to OWW2 before the wastewater facility is constructed, a discretionary land use review would likely be required by the county. The county would evaluate the need and options, and their findings would include whether any other options were available. This process is similar to the Forest Service's NEPA and Townsite Act processes, in that they also have to identify whether private or other public land options exist. The county indicates they cannot review the OWW2 proposal in detail until they receive an application from OWW2. However, OWW2 cannot submit an application until they have a decision from the Forest Service approving the conveyance of a specific parcel of land. OWW2 has been working with the county and has a Memorandum of Understanding with Deschutes County which states that the county agrees to "Assist the District in its planning efforts and completion of land use applications to allow the expanded sanitary facility."

If the Forest Service issues a special use permit to OWW2 to authorize construction of the facilities while still in National Forest ownership and later conveys the land, Deschutes County has indicated they would accept the facility without further review because it would be an existing use. This would be similar to what occurred for Sunriver Resort, when the Forest Service authorized construction of their wastewater facilities in 1997 and later conveyed the land to Sunriver in 2000.

## WATER RESOURCES

Although the distance to groundwater in the Section 25 parcel is less than for the Vandeventer parcel, soils investigations show that the parcel would be suitable for the facilities and for irrigation. Preliminary soil studies show that on the west portion of the parcel, the water table is deeper and at least 30 inches below the surface at all times. Facilities would be located in these areas. The eastern portion could also be used for irrigation, as the water table would be low enough during the growing and irrigation system, but no facilities are planned in this area.

Identical to Alternative B, elimination of the in-ground, on-site septic systems coupled with the upgrading of sewage collection and treatment facilities at OWW2 would reduce the amount of contaminants, especially nitrates, entering the regional groundwater. Although the current rate or amount of contamination is not known, it is known that the existing systems are not acceptable. Removing this source of contamination would improve the groundwater quality in the local vicinity and in the greater southern Deschutes County region. Overall, groundwater quality would be improved and the risk of contaminating any shallow domestic water wells from existing and failing systems at OWW2 would be greatly reduced or eliminated.

All solids would be removed from the sewage and treated on the existing OWW2 property. Only the wastewater would be transported by buried pipeline to the Section 25 parcel for temporary storage, natural aerobic treatment, chlorination, and irrigation. During irrigation, the vegetation would utilize the nitrates and other nutrients for plant growth. The effluent would act as an enriched water supply and fertilize the growing plants. The water would be applied at or below agronomic rates, which means at or below the rate that the

plants can take up the nitrates. The effluent would provide only about 50 percent of the nitrogen needs of the plants, and application of a commercial fertilizer to meet the needs of the crop would be needed. This is no different than applying the proper amount of fertilizer to a golf course or lawn. Other similar wastewater facilities, such as the nearby LaPine system, demonstrate that additional fertilizer must be added because the effluent does not provide enough nitrates or other nutrients to satisfy all that the vegetation needs. No nitrates would be expected to pass below the root zone and there would be no contamination of the groundwater.

Treated effluent would be transported by pipeline approximately ¼ mile from the OWW2 property. The pipeline would cross under South Century Drive but would not cross the river. The system and the treated effluent would be in compliance with DEQ regulations.

The effluent would be treated to the State of Oregon's Level II standards, as defined by Oregon Administrative Rules. The state DEQ regulates and restricts the use and application of treated effluent. Level II effluent may be used to irrigate agricultural crops during the growing season. Lined storage ponds would have the capacity to store at least six months of effluent outside of the growing season.

Irrigation at the agronomic rate would result in nitrates and other nutrients in the treated effluent to be taken up by the plants. No contaminants, including nitrates, would reach the groundwater, and there would be no opportunity for either local domestic groundwater sources or rivers to become contaminated from the operation of the facilities.

Expansion of the treatment capacity for OWW2 would eliminate the discharge from many failing or problem on-site septic systems. Given the level of treatment and nitrate levels of the effluent, the risks of contamination to domestic water sources, the water table, or the Deschutes or Little Deschutes rivers would be eliminated due to the facility design and the level of treatment. Even though this parcel is closer to the river and has shallower groundwater than the Vandeventer parcel, there is sufficient depth to groundwater and suitable soils to adequately site the facilities on the western portion of the parcel.

The issue of the unauthorized ponds in the small wetland area would be resolved by the Forest Service prior to the sale of this parcel to OWW2. OWW2 would retain the wetland area as a natural area and no development would occur there. The existing wetland values would be maintained or improved after conveyance. Under private ownership, trespass activities such as digging holes without permission would be less likely to occur or remain undetected if they did occur.

### WILDLIFE RESOURCES

This alternative would remove 115 acres of high quality hiding cover currently used by deer and elk for movement and migration. Approximately 95 acres of high quality forage would be created within these acres with the conversion to an irrigated crop. Loss of cover and human activity at the facility may deter big game animals from using that immediate area when people are present. However, the irrigated grass field and restricted public access would provide improved forage and an overall decrease in human activity which would tend to lead to an increase in elk and deer use.

State regulations require posting of signs and fencing to notify or limit public access at the facilities. OWW2 would fence the parcel with a 3-strand smooth wire fence. The height of the top wire would not exceed 40 inches, and the bottom wire would be at least 18 inches above the ground to allow wildlife passage. Most of the fence would be located on the property boundary, but along Foster Road and South Century Drive it would be set back at least 100 feet from the road. Signs will indicate that public access is limited and by permission only. A 6-foot chain link fence would be constructed around the storage ponds and maintenance building. The chain link fence would cause some displacement of both deer and elk, but this is expected to be minimal given the small area involved.

This parcel is within a high priority deer migration corridor, as identified by ODFW and Deschutes County. Minimal disruption of existing migration routes and displacement of animals would be expected from the placement and operation of the facilities. Existing patterns of use for migration and hiding cover would remain

over 405 acres, as that portion of the site would remain undeveloped. The area that is developed for facilities would continue to provide open space plus improved forage habitat. Continued development of adjacent private lands would make Section 25 more critical for movement and migration of deer and elk in the future. The value and integrity of the property as open space and for migration habitat would be maintained or improved under Alternative C. Once in private ownership, public hunting would not be allowed, which would also make the site more desirable for the animals.

This alternative would retain about 405 acres of low to medium quality foraging habitat potentially used by hawks and great gray owls. Conversion to an irrigated grass crop would increase the rodent population and provide approximately 95 acres of improved foraging habitat for the hawks and owls. Approximately 405 acres of marginal potential nesting habitat for these species would also be retained. There would be no loss of current or potential nesting habitat for goshawks or osprey. Implementation of Alternative C would not cause a reduction of hawks, great gray owls, goshawks, or their habitat in the immediate area or across the Deschutes National Forest.

Since there are no suitable trees on this parcel that could be used by bald eagles for nest sites, this alternative would not affect bald eagle nesting.

The effluent storage ponds would attract blue herons and waterfowl, and the pond vegetation and algae would provide a new foraging area for these birds. Waterfowl are prey for eagles, so this would also create a new foraging area for eagles that are using the Deschutes River corridor.

This alternative would remove approximately 115 acres of potential foraging habitat for cavity nesters such as woodpeckers, flickers, sapsuckers and nuthatches and as a result would eliminate any existing or future nesting habitat from those acres, but would not cause an overall reduction in local populations or habitats of those species. The storage ponds would provide an added water source that would attract neotropical migratory bird species, and the remaining 405 acres would continue to maintain habitat for these birds.

There would be no loss of roosting habitat for bats. The water in the storage ponds would attract flying insects and provide new foraging habitat for bat species.

There would be no adverse effect on any of the 11 Region Six sensitive wildlife species.

The irrigated grass field and storage ponds would improve habitat for wildlife, including deer, elk, waterfowl, and birds. This could provide opportunities for wildlife viewing to neighboring residents and people traveling through the parcel or in the area. Additionally, OWW2 would have the option to manage the remaining 405 acres for forest resources, including wildlife habitat. Habitat for a variety of wildlife species could improve with proper management and vegetation treatments.

#### EFFECTS ON NEARBY PRIVATE PROPERTIES

Private lands surround the parcel on all sides except a quarter mile portion along the southwest corner of the parcel. The existing forest landscape would remain over much of the eastern portion of the property. Setbacks and buffers along the boundaries would result in facilities being 200 to 300 feet from any private property. Oregon Administrative Rules (Chapter 340, Division 55) require a buffer of 70 feet from irrigation spray areas. OWW2's plans include a 300-foot setback from the edge of the irrigated field to the property boundary.

Similar facilities have been constructed in LaPine and Sunriver, and another is being constructed in Sisters. In Sunriver, the 18-acre effluent storage pond is within 150 feet of Cottonwood Road and less than ¼ mile from private residences, although the property boundary adjoins the private land and homes. The sewage treatment plant for Sunriver Resort is located within the Sunriver community, adjacent to private homes and a golf course.

There is no evidence or experience to suggest or demonstrate that homes or developments on nearby private properties would be adversely affected or that property values would decline because of this type of facility.

## ODORS

Irrigating with treated effluent would not create odors. Properly treated wastewater does not have objectionable odors. As long as the ponds are operated and maintained in a manner which ensures that aerobic bacteria are allowed to thrive, any organic materials would be converted in the ponds and the resulting treated effluent would be clear and odor free. Mechanical aerators would be installed to ensure sufficient aeration.

Odors from sewage treatment are generally associated with raw sewage, primary treatment, septic tanks, and the solid matter, none of which would be on the Section 25 parcel. The raw sewage and solid material would be treated and held at facilities on the OWW2 property. Once treated, solid material and sludge would be disposed of at approved facilities or, because of the high organic content, converted into fertilizer or soil enhancers. No sludge or other solid matter would be disposed of on this parcel. Only the effluent would be stored and applied on the parcel to be conveyed.

When properly managed, effluent ponds use natural aerobic bacteria processes (in the presence of oxygen) to treat the organic particles in the effluent. Odors can develop when anaerobic conditions (without oxygen) are created and the aerobic bacteria are removed or killed. Improper design, poor operating conditions, lack of monitoring, or long-term freezing of ponds and lack of circulation, may create such conditions. OWW2's facilities would operate under the conditions and requirements listed in the operating permit issued by the DEQ. Sampling, monitoring, and DEQ oversight would ensure that the facility is properly maintained and operated. A certified technician would operate and monitor conditions of the storage ponds and facilities.

## RECREATION, ACCESS, AND PUBLIC USE

State regulations require posting of signs and fencing to notify or limit public access at the facilities. There would be signs indicating that public access, especially vehicle access, is limited and by permission only.

Most of the 4 miles of existing dirt roads (not including Foster Road) would be closed and possibly obliterated to discourage trespass. Foster Road, which is used to access other National Forest and private lands, would be retained in public ownership, either by an easement to the Forest Service or by transferring it to Deschutes County. Use of Foster Road is not expected to change as a result of this alternative. Some vehicle access for maintenance and operations of the facilities would be needed.

The change from public to private ownership and the restrictions on public access would reduce or eliminate illegal firewood cutting, dumping of household garbage, and other unauthorized activities that currently take place. There may be interest from adjacent and nearby residents and others traveling through the parcel on Foster Road to watch wildlife on the parcel, especially if birds are attracted to the site. Adjacent and nearby landowners would be likely to value the parcel for open space.

## SCENIC RESOURCES

Buildings and other similar intrusive structures would be kept to a minimum, as only a small maintenance building is planned. The ponds and irrigated hay field would change the forest landscape to a more agricultural setting. The remainder of the property would remain forested and in natural vegetation, and would still provide a sense of open space and rural landscape.

There would be little visual impact from the facilities. South Century Drive provides access from Highway 97 to the Cascade Lakes National Scenic Byway, and county and state regulations require buffers of at least 100 feet to protect the scenic quality along the road. This requirement would be met or exceeded in the design of the facilities. Foster Road is neither a scenic corridor or roadway, and county zoning regulations would not require any buffers to protect visual quality along this road. The proposed development would have little or no effect on scenic quality, integrity, or landscape character. LRMP standards and guidelines and the desired future condition would be met, even though it would no longer be under Forest Service management. Local county requirements and zoning restrictions for visual management would be met.

Deschutes County zoning for the area where the facilities would be located would be F-2 Forest Zone. This would govern the types and limits of development allowed.

## HERITAGE RESOURCES

There are no eligible historic or archaeological sites on this parcel. Sale of this parcel would have no effects on any National Register eligible historic or archaeological sites. Ineligible sites have been documented and permanent records maintained by the Deschutes National Forest.

## SOIL RESOURCES

The lack of rock in the soil would be favorable for excavation and construction of the facilities. The water table in the eastern portion of the parcel is high in some areas, although it does drop low enough by the growing season so that the area could be used for irrigation. The west side of the parcel is well suited for the facilities and irrigation, as the groundwater levels stay below 30 inches year-round.

Application rates of the treated effluent coupled with the application rates of commercial fertilizer would be at rates at or less than what the grass hay crop can take up. There would be no increase in nitrate levels in the soil beyond the root zone, and no nitrates would reach the groundwater.

Reduction in the amount of dirt roads and restrictions on public access would reduce the displacement and erosion associated with vehicle traffic.

## VEGETATION

Construction of the storage ponds, maintenance building and hay field would result in the removal of approximately 115 acres of existing timber and forest vegetation and converting it to an agricultural landscape with grass hay production. There would be no change in the conditions of the remaining 405 acres and stocking levels would continue to increase and the mortality would tend to increase in denser stands. OWW2 would have the option of managing the timber resource to create a healthier forest.

Any timber value from existing trees will be included in the valuation of the parcel. Restrictions on public access would reduce the likelihood of illegal firewood cutting on this parcel, but could displace this activity to other public lands.

A field survey determined that because the site was already highly disturbed, there was no habitat for TES species. There would be no direct, indirect or cumulative effects expected on TES species.

Because noxious weeds have been identified near or adjacent to this parcel, it has been rated as a high risk for weeds. Construction equipment may move through or park on sites with infestations of spotted knapweed found along South Century Drive or at OWW2 and transport this species to other disturbed sites along South Century Drive or onto the parcel itself. These activities would disturb and displace soil and create potentially suitable conditions for the establishment of new weed populations. Scheduled spraying of the roadsides would continue and help minimize any new potential risks. Landscape maintenance in and around the facilities and weed control during production of the hay crop would eliminate unwanted vegetation including noxious weeds. The reduction in public access would also limit the transport of new seeds to the parcel.

Requiring construction vehicles and heavy equipment to be washed prior to entering or leaving the project area would reduce or eliminate the potential of spreading weed populations to new areas. Spraying known populations prior to starting construction would also help to reduce or eliminate the risk of spread by reducing the potential for transporting seeds or plant parts to new locations.

## FIRE AND FUELS

This alternative would remove timber and shrub vegetation from approximately 115 acres. Ninety-five acres would be converted into an irrigated grass hay field with a center pivot irrigation system, and 15 acres would have effluent storage ponds. Development of the facilities would provide fuel breaks and fuel type changes which would help minimize fire risk and intensity.

Grasses and shrubs in the forest cure quickly and fires tend to quickly spread when ignited. Providing fuel breaks and changes in vegetation, such as an irrigated field, would help limit the rate of spread and provide

opportunities for more rapid control. The effluent ponds would also provide an emergency water source, if a fire occurs nearby.

Limiting public access would reduce the number and type of ignition sources that could result in a wildfire. The District would have the option to manage the remaining forest areas on the property to improve forest health and further reduce fire risk.

#### MITIGATION MEASURES AND MONITORING

No mitigation measures or monitoring requirements have been identified as being necessary for the Forest Service to require. Any requirements imposed by the Forest Service would likely be in the form of deed restriction, and none were determined to be needed. Forest Service policy limits using deed restrictions or encumbrances in land conveyances.

The facility plan and project design proposed by OWW2 incorporates many features to make the project more compatible with the local environment and surrounding landscape. These include setbacks from the road, use of smooth wire fencing, posting of signs, retaining forest landscape where no facilities are planned, and providing buffer areas between adjacent lands.

Monitoring would be accomplished through established DEQ and county processes including permitting, monitoring, and reporting. State and local regulations, zoning, and requirements for operation and maintenance of the facilities would ensure that the project construction and operation meets or exceeds all standards.

### OTHER EFFECTS NOT PREVIOUSLY MENTIONED

#### REASONABLY FORSEEABLE FUTURE ACTIONS

Under either Alternative B or Alternative C, it is expected that the property conveyed to OWW2 would be developed as proposed for wastewater facilities to meet the needs of the OWW2 community. No other developments or uses are planned by the OWW2 Sanitary District, and it is expected to remain under OWW2 ownership and management into the future. Once in private ownership OWW2 may need to modify their proposed plans, but there is no indication that there would be any significant deviations due to their demonstrated need for the property for this use and their limitations as a sanitary district. The predicted effects would be expected to be the same, even with minor adjustments or modifications.

Either parcel not sold to OWW2 would be evaluated in the near future for sale or exchange as part of Tract C of the Bend Pine Nursery Land Conveyance Act. The BPNLCA gives the Forest Service authority to sell a number of identified isolated parcels and retain the funds for acquisition of new administrative offices and facilities for the Deschutes National Forest. After a decision is made on the OWW2 Townsite Application, the remaining portions of Tract C will be evaluated for disposal in a new environmental analysis. Evaluation of Tract C is outside the scope of this OWW2 Townsite Act application analysis. Although it cannot be predicted to whom the property would be sold or exchanged to under the BPNLCA, it is likely that a buyer or buyers would acquire either property with the intent of using the land for housing or a resort development or another income producing project.

#### CIVIL RIGHTS AND ENVIRONMENTAL JUSTICE

There would be no known direct, indirect, or cumulative effects on Native Americans, minority groups, women, or civil rights as a result of a land exchange. Scoping letters were sent to the Confederated Tribes of the Warm Springs Reservation, the Burns Paiute Tribe, and the Klamath Tribes, the three federally recognized tribes in Central Oregon, to provide information about the OWW2 proposal and to request any input regarding tribal interests, concerns, or issues. Additional follow up contacts were made through the Forest's tribal liaison. No responses were received, nor were any tribal issues, concerns, or current uses identified that would be affected by the alternatives.

Executive Order 12898 directs each federal agency to make achieving Environmental Justice part of its mission by addressing effects of its programs, policies, and activities on minority populations and low-income populations. A presidential memorandum emphasizes the need to consider and disclose these types of effects during an environmental analysis. The memorandum clarifies that the order is also intended to promote nondiscrimination in federal programs substantially affecting human health and the environment.

The purpose of Alternative B or C is to provide for proper waste disposal facilities for OWW2 residents and to ensure that the existing facilities do not further contaminate the groundwater. Either of these alternatives would help promote and provide for the health and safety of the residents of OWW2 and of the residents and resources in the larger Deschutes Basin area of southern Deschutes County. In 1997, the USDA Rural Utilities Service identified the Oregon Water Wonderland Unit II community as being a low-income community, with a median household income of \$21,163. Alternative B or C would help the community and benefit this low-income population by conveying federal land to allow new wastewater facilities to be constructed. This would also allow the other needed sewage treatment facilities to be constructed on OWW2 lands, to be used in conjunction with the newly acquired land. Alternative B or C would allow proposed developments to be constructed and operated within the budget approved by the residents, and at a rate that they can afford.

Alternative A, the No Action alternative, would disproportionately and adversely affect this low-income community by denying a viable and affordable solution to their sanitation and environmental needs. Property values could decline due to the lack of acceptable sewage disposal facilities.

#### WILD AND SCENIC RIVERS

The Vandeventer parcel is approximately one mile from the Upper Deschutes Wild and Scenic River corridor, and the Section 25 parcel is just outside the boundary. However, the OWW2 community itself is located within the designated boundaries of the corridor. Alternative B or C would have a beneficial and desirable effect of improving groundwater quality within the corridor by eliminating the problem sewage systems that currently provide contaminates. Selection of the No Action alternative (Alternative A) would adversely affect the groundwater quality within the wild and scenic corridor because the existing conditions and contamination would remain and continue to worsen over time.

#### TOXIC SUBSTANCES

Chlorine is used in the final treatment of the effluent before it is used for irrigation. OWW2 would use chlorine in a tablet form or in a liquid form, in containers similar to those for household bleach. A hazardous materials plan would be prepared and adopted prior to the operation of the facility, and coordinated with local authorities.

#### PRIME LANDS

A land conveyance would have no effect on prime farmlands, forestlands, or rangelands.

## SECTION V. LIST OF PREPARERS AND CONSULTATION WITH OTHERS

### 1) INTERDISCIPLINARY TEAM

The following Forest Service employees were involved in the environmental analysis and preparation of the Environmental Assessment:

Alice Doremus – Project Leader, Lands  
John Davis – Writer/Editor, Timber Resources, Fuels  
Larry Chitwood – Geology, Minerals, Groundwater  
Monty Gregg – Wildlife  
Ronnie Yimsut – Scenic Resources  
Charmane Levack – Botany  
Marc Wilcox – Hydrology and Wetlands  
Dana Butler – Hydrology and Wetlands  
Walt Miller – Easements and Landline  
Dale Putman – Roads and Hazardous Materials  
Linda Carlson – Special Uses  
Paul Claeysens – Heritage Resources  
Lucy Hamilton – Heritage Resources

### 2) CONSULTATION WITH OTHERS











Individuals who were contacted, involved, or provided information for this EA include the following:

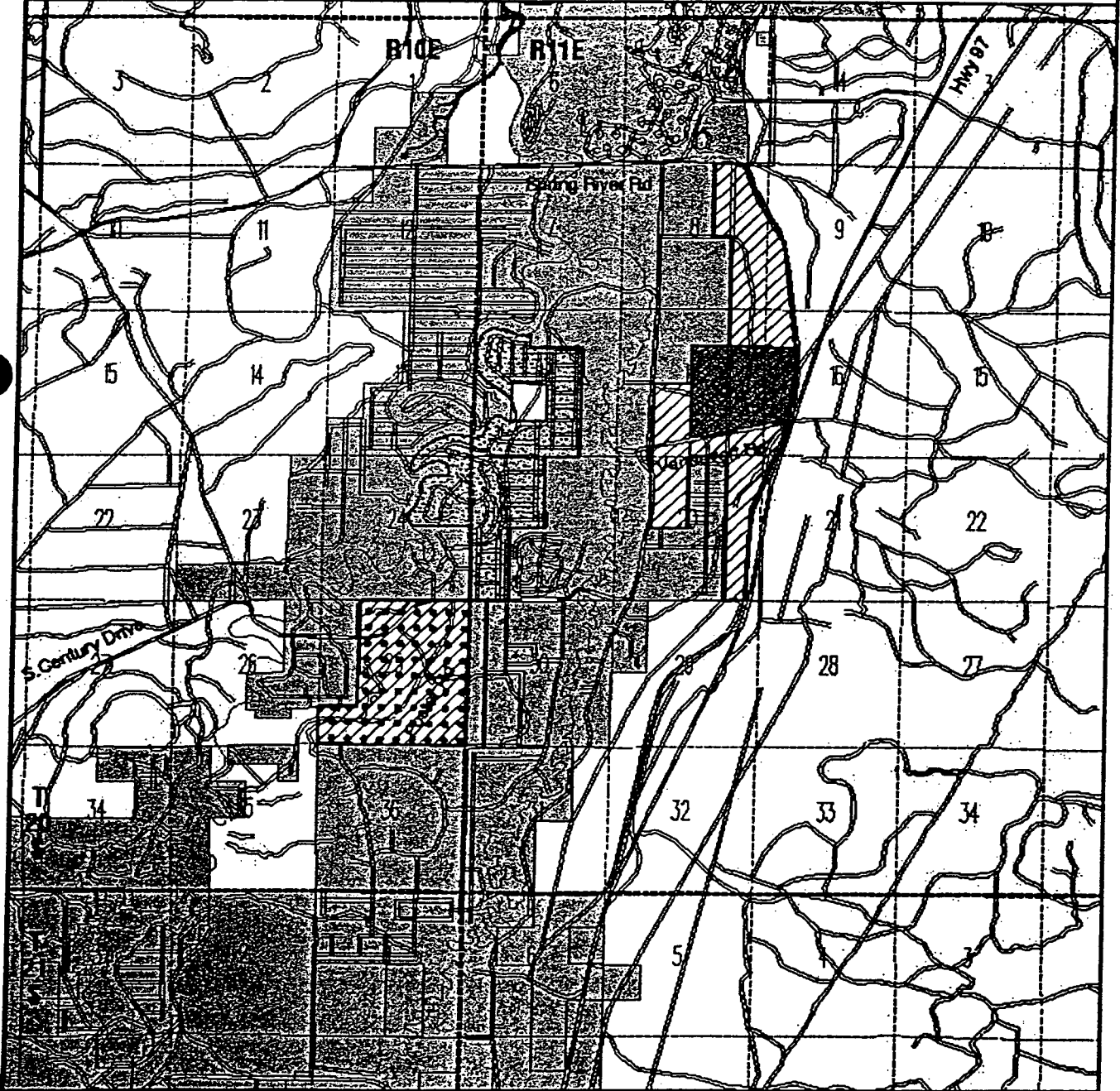
Jim Sollenberger, Erv Remmele, George Oldham – OWW2 Sanitary District  
William Tye, P.E. – Consulting Engineer, Tye Engineering & Surveying Inc.  
Steve Wert – Consulting Soil Scientist and Wastewater Sanitarian, Wert & Associates  
Dick Nichols, Walt West, Jayne West - Oregon Department of Environmental Quality  
Dave Leslie, George Read - Deschutes County  
MerrieSue Carlson – Office of the Governor  
Steve George - Oregon Department of Fish and Wildlife  
Kyle Gorman, Bob Main – Oregon Water Resources Department  
Jim Coburn – BLM/Forest Service Tribal Liaison

# AREA MAP

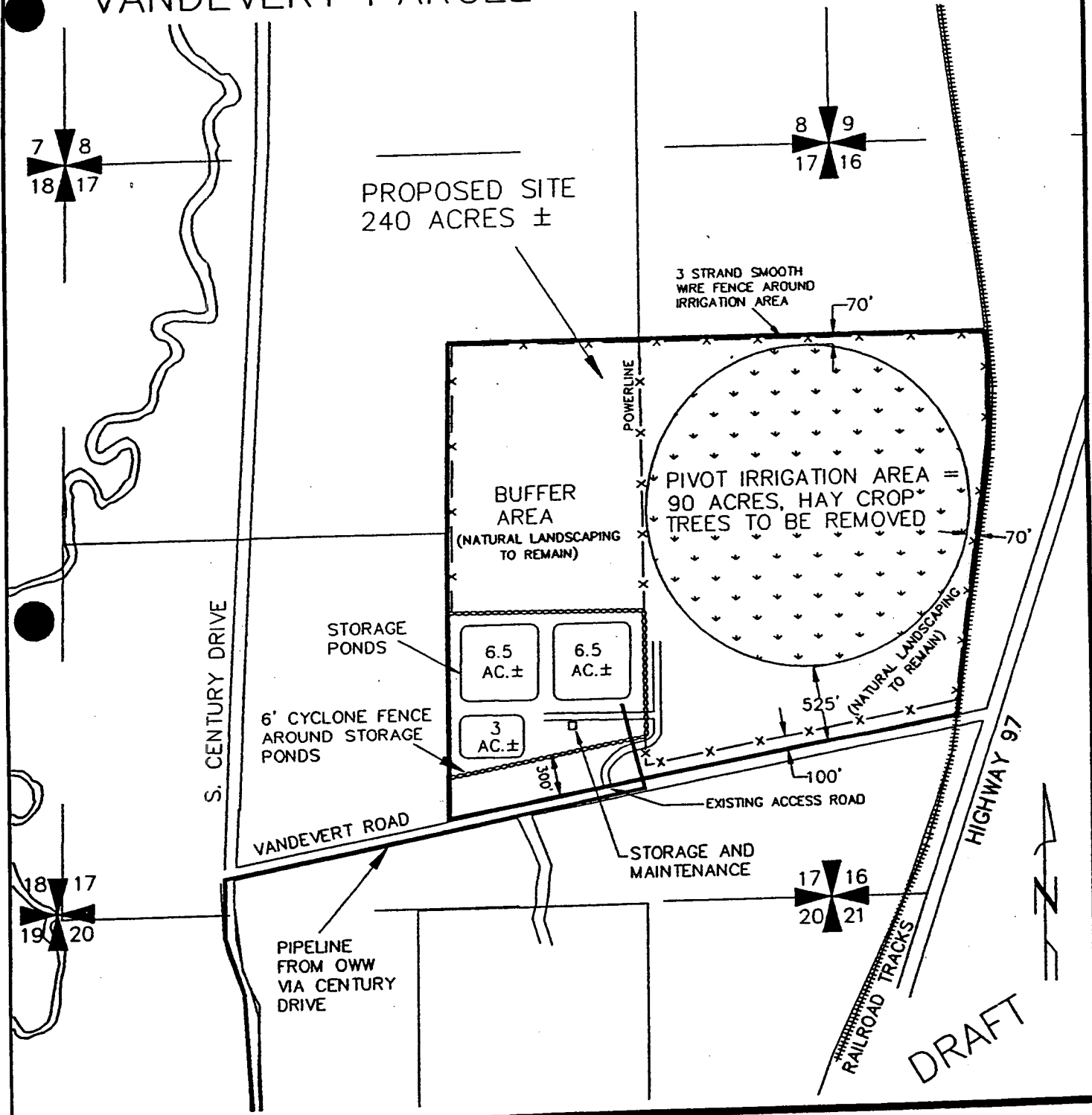
## OWW2 Environmental Assessment



-  Township and Range
-  Sections
-  Major Roads
-  Other Roads
-  Forest Service Lands
-  Other Ownership
-  Oregon Water Wonderland Unit 2
-  BFN Land Conveyance Act Tract C Lands
-  Oregon Water Wonderland Townsite Act Proposal
-  Section 26 Parcel (Alternate Site)



# PROPOSED IMPROVEMENTS VANDEVERT PARCEL - ALTERNATIVE B



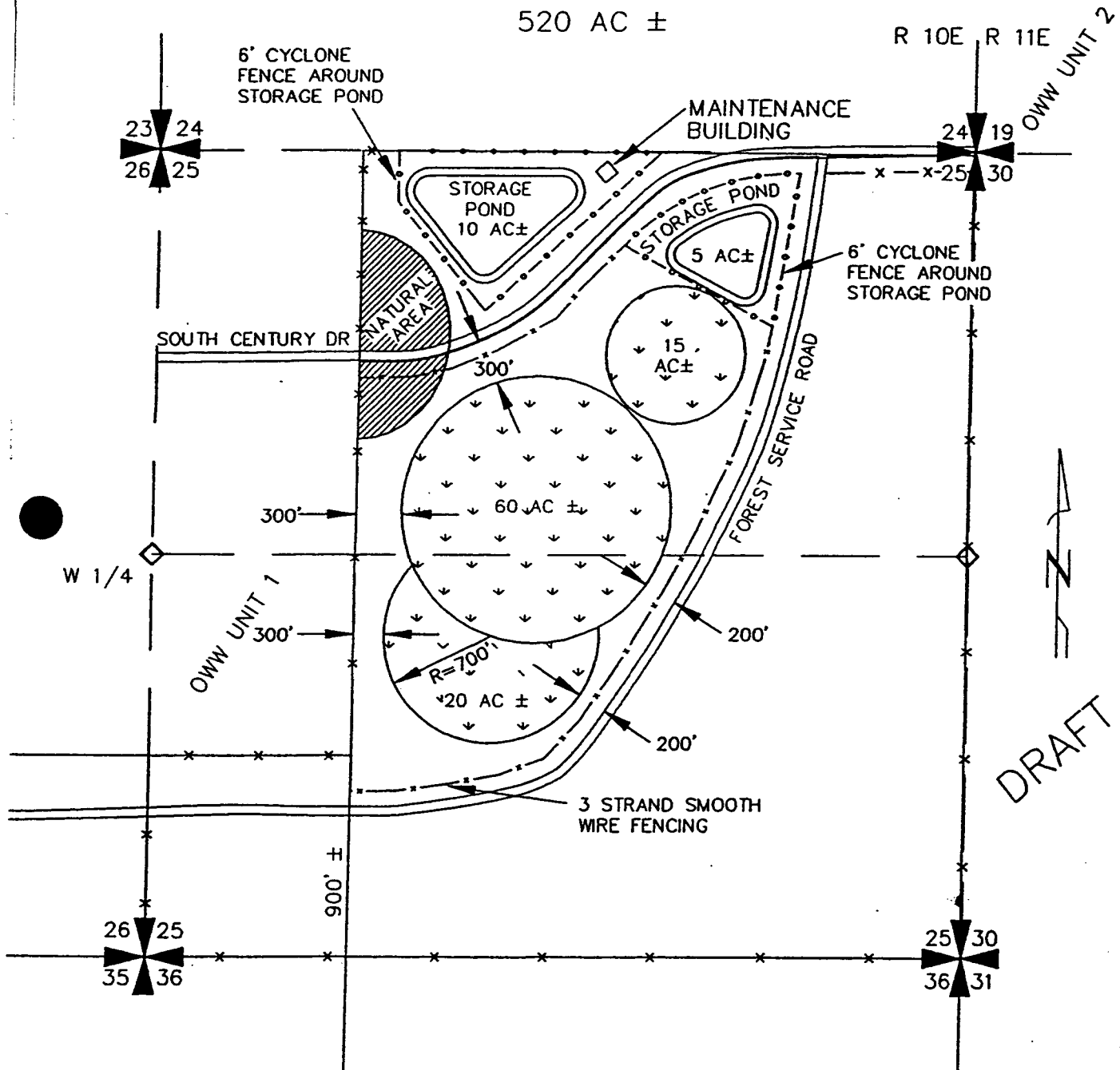
## TYE ENGINEERING, INC.

725 NW HILL, BEND, OREGON 97701 (541) 389-6959

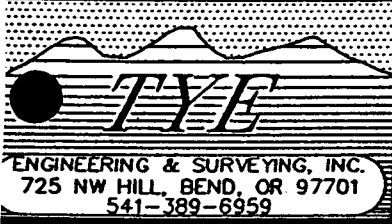
DATE: 9/28/01	SCALE: 1"=1000'	DRAWN BY: P.A.T.	DWG #:476-07Z
---------------	-----------------	------------------	---------------

# PROPOSED IMPROVEMENTS SECTION 25 PARCEL ALTERNATIVE C

TOTAL AREA  
520 AC ±



N  
DRAFT



TITLE: PROPOSED DISPOSAL SITE	
JOB NO: 476	
SCALE: 1"=1000'	DRAWN BY: P.A.T.
FIELD BOOK NO:	DATE: 9/28/01
DWG NAME: 476-07E	SHEET: 1 OF 1

**Chapter 18.60. RURAL RESIDENTIAL  
ZONE - RR-10**

**18.60.010. Purposes.**

**18.60.020. Uses permitted outright.**

**18.60.030. Conditional uses permitted.**

**18.60.035. Destination resorts.**

**18.60.040. Yard and setback requirements.**

**18.60.050. Stream setback.**

**18.60.060. Dimensional standards.**

**18.60.070. Limitations on conditional uses.**

**18.60.080. Rimrock setback.**

**18.60.090. Oregon Water Wonderland Unit 2  
Sewer District Limited Use  
Combining Zone.**

\*\*\*

**18.60.090. Oregon Water Wonderland Unit 2  
Sewer District Limited Use  
Combining Zone.**

- A. Uses Permitted Outright.**  
In the Oregon Water  
Wonderland Unit 2 Sewer  
District Limited Use Combining  
Zone, uses shall be permitted as  
follows, the following uses and  
their accessory uses are allowed  
outright:
- a. Agricultural use as  
defined in DCC Title 18.**
  - b. Propagation or  
harvesting of a forest  
product.**
  - c. Ground application of  
treated effluent.**
- B. Uses Permitted Subject to Site  
Plan Review.** In the Oregon  
Water Wonderland Unit 2 Sewer  
District Limited Use Combining  
Zone, uses shall be permitted as  
follows, the following uses and  
their accessory uses are  
permitted subject to applicable

provisions of DCC 18.116,  
Supplementary Provisions, and  
DCC 18.124, Site Plan Review:

- a. Sewage Treatment  
Facility**
- b. Treated Effluent Ponds**

**C. Definitions.** For the purpose of  
this section, the use Sewage  
Treatment Facility includes any  
buildings or structures  
associated with the operations of  
a sewer treatment plant  
including, but not limited to,  
treatment station or pump  
station.

**D. Special Conditions.** Pursuant to  
DCC Section 23.120.170, an  
application for site plan review  
to establish a sewage treatment  
facility must include a  
conservation easement and a  
plan of implementing the  
conservation easement that  
provides standards and  
implementation methods for  
managing the conservation  
easement, along with a recorded  
road maintenance agreement  
between Oregon Water  
Wonderland Unit 2 Sewer  
District and the Beaver Special  
Road District, with the site plan  
review application. The road  
maintenance agreement between  
the applicant and the Beaver  
Special Road District shall  
include Oregon Water  
Wonderland Unit 2 Sewer  
District's pro rata share for the  
maintenance cost of Foster Road  
through Section 25.  
(Ord. 2003-012 § 1, 2003)